STATE OF CALIFORNIA

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DEPARTMENT OF CONSUMER AFFAIRS

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State of California

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Business, Consumer Services
and Housing Agency

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Department of Consumer Affairs

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Judy McKeever, RCP
Vice-President

Mary Ellen Early
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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

Respiratory Care Board of California

3750 Rosin Court, Suite 100, Sacramento, CA 95834

Board Meeting Agenda

May 15, 2015

10:00 a.m. - 12:30 p.m.

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

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. **Introduction of New Legal Counsel, Kelsey Pruden, Esq.**
3. **Approval of November 7, 2014 Minutes** *(Alan Roth)*
4. **Executive Officer's Report** *(Stephanie Nunez)*
   a. RRT Examination Implementation
   b. Regulations Concerning Continuing Education, Military and O-O-S Practitioner Exemptions, Sponsored Free Health Care Events, and Fee Schedule
   c. Continuing Education Hours Increase Effective July 1, 2015
   d. SB 850 Baccalaureate Degree Pilot Program
   e. RCP Workforce Study
5. **BreEZe Fiscal Impact**
6. **Enforcement Performance Measures**
7. **Request to Sponsor Proclamation for "Congenital Diaphragmatic Hernia (CDH) Action Day"- April 19th**
8. **Pulmonary Function Testing: Request for Attorney General Legal Opinion - Status/Action** *(Stephanie Nunez)*
9. **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, SB 800, and other newly discovered bills of interest
   b. 2015 Board-Cosponsored Legislation: AB 923 and SB 525 *(Stephanie Nunez)*

• 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: Tracy Robyn Thornton, RCP 20517
II. Consideration of ALJ Proposed Decision: Joshua Douglas Scott, RCP 31620
III. Consideration of ALJ Proposed Decision: Stephanie V. German, RCP 24463

10. **Public Comment on Items Not on the Agenda**
11. **Future Agenda Items**

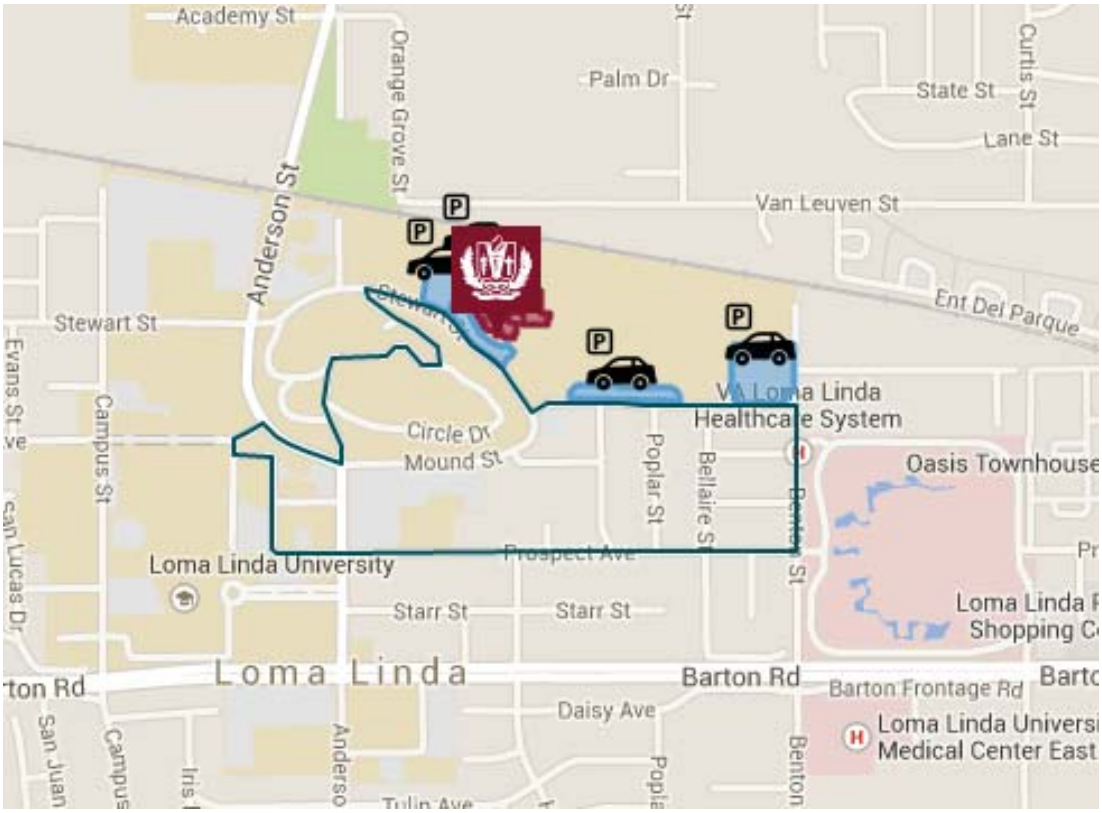
12:30 p.m. **Adjournment**

Directions to the Drayson Center at Loma Linda University

From San Bernardino
I-215 South, I-10 East, exit Anderson Street, right onto Anderson, left onto Stewart Street. The Drayson Center will be on your left.

From Riverside
CA-91 East, I-215 North, I-10 East, exit Anderson Street, right onto Anderson, left onto Stewart Street. The Drayson Center will be on your left.

From Redlands
I-10 West, exit Tippecanoe Avenue/Anderson Street, left onto Anderson Street, left onto Stewart Street. The Drayson Center will be on your left.



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.

Agenda Item: 3
Meeting Date: 5/15/15

PUBLIC SESSION MINUTES

Friday, November 7, 2014

1625 North Market Blvd.
South Building, Room S-102
Sacramento, CA 95834

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

Staff Present: Dianne Dobbs, Legal Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager

CALL TO ORDER

The Public Session was called to order at 10:33 a.m. by President Roth. A quorum was present.

President Roth welcomed new Board member Thomas Wagner, BS, RRT, FAARC.

Mr. Wagner stated he was happy to be a member of the Board and provided a brief history of his background and experience which includes: possessing the RRT credential; serving as Director of most East Bay hospitals; serving as Past President of the California Society for Respiratory Care (CSRC); active member of the American Association for Respiratory Care's (House of Delegates); current instructor with Ohlone college; and Commissioner of Parks & Recreation in San Leandro.

DRAFT

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.

Mr. Awet Kidane, Director of the Department of Consumer Affairs, congratulated Mr. Wagner on his appointment and thanked the Board and staff for the leadership and steadfastness it has shown through the recent and ongoing major information technology project implementation. Mr. Kidane offered the Department's assistance on any policy positions or technical advice the Board may need on future endeavors.

Michael Monasky alleged that a conversation between the Director and members, that took place before the meeting began, was a violation of the Brown Act (sic). He added it is critical the Board has transparency and operate as a democracy.

2. APPROVAL OF APRIL 4, 2014 MINUTES

Dr. Lewis moved to approve the April 4, 2014, Public Session Minutes as written.

M/Lewis /S/McKeever
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero
Abstain: Wagner
MOTION PASSED

3. RCP WORKFORCE STUDY PRESENTATION

(Goldstein)

Mr. Goldstein stated this study proposal meets many of the objectives established in the current Strategic Plan. Mr. Goldstein then welcomed Joanne Spetz, PhD, Professor, Philip R. Lee Inst. for Health Policy Studies Associate Director of Research Strategy, Center for the Health Professions University of California, San Francisco, and asked her to review the workforce study proposal for the Board.

Dr. Spetz introduced her colleague, Tim Bates, Senior Research Analyst who completes project work for a variety of studies. Dr. Spetz indicated that the Center for Health Professions has been around for 22 years doing research on various health workforce issues across all of the professions with much of the work focused on California. Dr. Spetz stated that the center was asked about approaches it would take to address a set of questions that the Respiratory Care Board was facing regarding future strategic directions related to the workforce in California, to ensure the workforce could meet the needs of future healthcare delivery in the State.

The questions outlined were:

1. What was the feasibility and what would be the impact of establishing a requirement for baccalaureate level education for respiratory therapists?
2. What are the curricular needs and the implications of allowing respiratory care practitioners to exercise prescriptive authority under protocol?
3. Are current requirements concerning clinical supervision of students adequate and should there be modifications to these requirements?

DRAFT

4. How effective are the professional ethics of the law courses that RCP's currently have to take and should they continue to be mandated?
5. Should there be an increase in the number of CE hours expected or should there be changes in that requirement in some way?

Dr. Spetz reviewed the activities proposed to answer the identified questions:

1. Conduct and summarize interviews with 10 Respiratory Care/Pulmonary Services Directors at selected general acute care hospitals:

   Dr. Spetz proposed a mixed method study be conducted by taking a variety of different approaches to get a broad holistic answer to these questions. The first activity proposed was that interviews be conducted and summarized with approximately 10 directors at selected hospitals to get a sense about what workforce challenges they are facing.

2. Conduct and analyze a survey of Directors of Respiratory Care/Pulmonary Services at general acute care hospitals in California:

   Dr. Spetz plans to use those interviews to help build out a survey of respiratory care directors or pulmonary services directors at general acute care hospitals in California. Specialty hospitals could also be included in the survey.

3. Complete a comprehensive literature review of scholarly work that examines the relationship between the education level of respiratory care practitioners and patient outcomes:

   Dr. Spetz explained this area of research is in its infancy and that only recently has there been evidence in the registered nursing field that suggests that it is becoming convincing that those with bachelor's degrees performing differently. It is expected that the literature field will be limited but illuminating about what some of the different factors are associated with differences in practice. Employer perspectives in combination with this information will tell the Center a lot about how employers on the ground in California perceive differences and what their preferences are and what the evidence is related to that.

4. Collect and analyze the curricula currently used to train RCPs and other health care professionals to identify content related to the potential for RCPs to have prescriptive authority:

   Dr. Spetz added they will also look, to the extent possible, into international literature to determine if there is precedent for this kind of work in other countries.

5. Conduct and summarize 10 interviews with Respiratory Care Program Directors to get their sense about:

   - What's happening in clinical education?
   - Do they feel that their students are adequately supervised?
   - What are some of the challenges that they might face in identifying people to supervise their students when they are receiving their clinical training?
   - Do they think that there is additional training needed with respect to things like prescriptive authority and basically what does that training look like from their perspective and what do they see the needs as being?

6. Conduct and analyze 5 focus groups with RCPs at different locations in California:

DRAFT

The Center proposes to do five focus groups across the state. They would expect to obtain information on the following:

- Get a sense about the range of practice exists in the state.
- How RCPs perceive their own work.
- The kinds of continuing education RCPs feel they might need to be better at their practice.
- What role they see the professional ethics and law courses as having in their practice.

Dr. Spetz stated the proposed timeline for this study is about 18 months, which would be an expedited study.

President Roth asked, concerning the 10 directors, who would be interviewed and how the Center would divide the proportion of academic medical institutions versus community hospitals on the acute care side.

Dr. Spetz indicated that geography would play a factor and that the number would most likely be something resembling 3 on the academic medical institution side versus 7 on the community hospital acute care side. She also indicated that the number of directors was not set at 10 but could vary depending on the recommendation of the advisory board.

President Roth then inquired if there was room in the study for other types of stakeholders that are involved in the field of respiratory care, specifically COARC, NBRC, AARC or the CSRC. Would they be included in any of the focus groups?

Dr. Spetz indicated that the groups would consist of actual RCPs and not necessarily representatives of an organized group. She would not mix the two. She indicated that the organized groups would be useful as an advisory board and certainly people that they would want to communicate with throughout the study.

Dr. Lewis requested clarification about the term “prescriptive authority” used during the presentation when describing the curricular needs and implications that might allow RCPs to exercise prescriptive authority.

Dr. Spetz explained this as “prescriptive authority” under protocol which can be defined in different ways. One option would be independent prescribing authority which can open up the scope of practice and can be complex. She added, another however, would be minor changes to the code and the way practice functions may permit a broader scope within the current legal authority.

Dr. Lewis warned about possible issues and cautioned that care needs to be taken when opening up the Scope of Practice.

Dr. Lewis emphasized the importance of communicating the progress of the study during the process and inquired as to how the deliverables would be reported to the Board and staff during the 18 month study.

Dr. Spetz responded that a report would be delivered to the Board at the conclusion of each step through the stages. In this case, this should come out to be about 1 or 2 reports every 4 or 5 months.

Ms. McKeever inquired how many people would be included in the RCP focus groups and requested they include both dayshift and night shift therapists as their views can sometimes be different.

Dr. Spetz stated groups around 8 – 12 individuals allow for the best discussions and ideally, focus groups participants would be staggered to include various shifts from various communities.

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Dr. Romero inquired how the interviews and focus groups would be conducted.

Dr. Spetz responded most of the interviews would be over the phone but they would take advantage of any opportunities to conduct face to face interviews whenever possible. The focus groups, however, would take place in person and would not be as effective over the telephone.

Mr. Goldstein stated there was no mention of home care delivery in this proposal and emphasized the need to include it in the study.

Public Comment: Mr. Monasky inquired if the Board had received the remarks he sent prior to the meeting. He mentioned the cost of private colleges versus the community college system, the lack of budget funding for community colleges and the employment rates for graduating RCPs . He covered the need for emphasis on public health, home health care, and the roles of RCPs in the future of Respiratory Care. Concerning the workforce study, Mr. Monasky voiced a preference for regional public meetings versus focus groups stating it would be, in his opinion, more inclusive.

4. FISCAL REVIEW

(Nunez)

Ms. Nunez stated the Board is in a stable fiscal condition with revenues close to expenditures each year. The Board is budgeted for 3.4 million but projects to spend around 2.9 million and can, therefore, absorb the cost of the proposed workforce study should the Board choose to move forward with it.

5. CONSIDERATION FOR APPROVAL OF RCP WORKFORCE STUDY

(Goldstein)

Mr. Goldstein moved to approve the RCP Workforce proposal with the modification that it include alternate care delivery systems within its scope.

Ms. Franzoia inquired whether other proposals were received.

Ms. Nunez responded yes, however, none were comparable. She added, because this would be considered an inter-agency agreement, multiple bids are not a requirement. Ms. Nunez did offer to obtain additional proposals, if requested.

Discussion ensued.

Public Comment:
Robbie Nijar requested the Board ensure there is no conflict of interest as the center represents nursing, physician assistants, and nurse practitioners as well.

Michael Monasky voiced concerns about the final report being intended only for internal review and not shared with the public. However, Ms. Dobbs indicated the Board would have the option to share the finding of the study as it chooses.

M/Lewis /S/McKeever
Unanimous: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
MOTION PASSED

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6. VOTE TO ADOPT/NON ADOPT FINAL REGULATORY PACKAGE INCLUDING NEW AND AMENDED SECTIONS OF THE CALIFORNIA CODE OF REGULATIONS CONCERNING CONTINUING EDUCATION, MILITARY AND O-O-S PRACTITIONER EXEMPTIONS, SPONSORED FREE HEALTH CARE EVENTS, AND FEE SCHEDULE

(Nunez)

Ms. Nunez reviewed the Order of Adoption for the final language of the regulatory package which was previously presented to Board at the April 4, 2014 meeting. Ms. Nunez stated a public hearing was held August 15, 2014, with no public attending. She added there were no public inquiries or comments received, and that one section was deleted after it was determined to be duplicative and unnecessary.

Dr. Lewis moved to adopt the final regulatory package as presented, and allow the Executive Officer to make any non-substantive changes as needed.

M/Lewis /S/Roth
Unanimous: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
MOTION PASSED

7. RCB RESOLUTION APPROVAL: DELEGATION TO DEPARTMENT OF CONSUMER AFFAIRS FOR THE REVIEW AND REGISTRATION OF SPONSORING ENTITIES

(Nunez)

Ms. Nunez explained the Resolution before the Board is the formal process to delegate to the Department the authority to receive registration forms and register sponsoring entities, for sponsored health care events that utilize the services of respiratory care practitioners. Currently, the entity desiring to sponsor a health care event must register with the Board, as well as the licensee.

Ms. McKeever moved to approve the Resolution.

M/McKeever /S/Lewis
Unanimous: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
MOTION PASSED

8. PULMONARY FUNCTION TESTING: REQUEST FOR ATTORNEY GENERAL LEGAL OPINION-STATUS/ACTION

(Nunez)

Ms. Nunez stated there were no updates. The AG's office is still working on the legal opinion which is currently in the review process.

9. LEGISLATIVE ACTION

9a. 2014 Legislation of Interest

(Molina)

Ms. Molina reviewed and provided updates regarding the 2014 Legislation of Interest:

AB 186: Professions and Vocations: Military Spouses: Temporary Licenses
Status: Approved by the Governor (9/27/14)

AB 259: Health and Care Facilities: CPR
Status: Bill has died
AB 809: Healing Arts: Telehealth
Status: Approved by the Governor (9/18/14).
AB 1827: State Bodies: Administrative and Civil Penalties
Status: Bill has died
AB 1972: Respiratory Care Practitioners
Status: Approved by the Governor (7/23/14)
Board's Position: Support
AB 2102: Licensees: Data Collection
Status: Approved by the Governor
AB 2484: Healing arts: Telehealth
Status: Bill has died
AB 2720: State Agencies: Meetings: Record of Action Taken
Status: Approved by Governor (9/21/14)
AB 2396: Convictions: expungement: licenses
Status: Approved by Governor (9/28/14)
Board's Position: Oppose
SB 850: Public postsecondary education: community college districts: baccalaureate degree pilot program
Status: Approved by the Governor (9/28/14)
Board's Position: Support

Ms. Molina commented that Skyline College is seeking participation in the baccalaureate degree pilot program. President Roth added Modesto Community College's President will be submitting an application to the chancellor's office for its respiratory program, as well.

Ms. Nunez stated Fresno City College has also mentioned interest in the pilot program.

Dr. Lewis inquired about the Board's approach on taking positions related to, or in support of other boards and their positions. He added he would have chosen to support Assembly Bill 809 (the Telehealth bill) even though it doesn't directly affect respiratory care.

9b. 2015 Board Legislative Proposals for Approval
(Nunez)

Ms. Nunez reviewed the following legislative proposals for 2015:

<u>#1 – Interim Suspension Order</u>: The goals of this legislation are to provide a means to swiftly secure an Interim Suspension Order for licensed RCPs who are arrested or convicted for malicious and egregious crimes and provide authority for the Board to inform employers and the public of such an arrest.

Mr. Hardeman moved to move forward with this proposal. President Roth seconded the motion.

<u>Public comment</u>: Robby Nijar, Governor Affairs Chair for CSRC, stated the CSRC fully endorses and is in favor of Proposal #1 and feels it is within the appropriate scope and range of powers for the Respiratory Care Board.

M/Hardeman /S/Roth
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous
MOTION PASSED

#2 – Probation Stipulations: This proposal would grant the Board the authority to directly issue "conditional probationary licenses" to applicants and aims to achieve significant cost savings and reduction in disciplinary processing times.

Mr. Wagner moved to move forward with this proposal. Ms. McKeever seconded the motion.

Public comment: Robby Nijar, CSRC, stated the CSRC endorses Legislative Proposal #2

M/Wagner /S/McKeever
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous
MOTION PASSED

#3 – Sex Crimes/Unprofessional Conduct: This proposal would add all crimes identified in the Sex Offender Registration Act to section 3752.7 which requires an ALJ who makes a finding of fact that a respondent has committed one or more of those acts, to issue a decision that includes an order for revocation. This proposal would also amend section 3755 to include as unprofessional conduct any verbally or physically abusive behavior, sexual harassment, abusive infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or any other conduct which is inimical to health, morals, welfare, or safety of a person while in the health care setting.

Dr. Lewis moved to approve this proposal. Ms. McKeever seconded the motion.

Public comment: Robby Nijar, CSRC, stated the CSRC endorses Legislative Proposal #3 because it focuses primarily on safety.

M/Lewis /S/McKeever
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous
MOTION PASSED
#4 – Endangering Vulnerable Population/Continuing Jurisdiction: This proposal will make the commission of an act of abuse or neglect against a child, dependent adult, or the elderly, by an RCP grounds for discipline. This proposal will also ensure the Board continues to maintain jurisdiction in all disciplinary matters that are finalized after a license has cancelled.

Dr. Lewis moved to move forward with this proposal. Mr. Goldstein seconded the motion.

Public comment: Robby Nijar, CSRC, stated the CSRC endorses Legislative Proposal #4

M/Lewis /S/Goldstein
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous
MOTION PASSED

#5 – Scope of Practice: This proposal clarifies areas of the respiratory scope of practice that were not initially drafted to accommodate advancements in technology and changes in patient care for future interpretation. Those areas are: conscious/deep sedation, extracorporeal life support, cardiovascular system, respiratory care education, and overlapping functions.

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Dr. Lewis questioned whether the Board should get more detailed information before moving forward with this proposal. Ms. Dobbs indicated that should the proposal become part of a bill, any interested parties would have the opportunity to express their support or opposition as part of the legislative process.

Ms. Franzoia inquired if this was clarification for language already in place.

Ms. Nunez responded this is clarification for the Scope of Practice as provided in Business and Professions Code section 3702.

Mr. Goldstein stated this clarifies key issues that have arisen over time and allow those who are already performing these tasks to continue.

President Roth added RCPs work under the direction of a medical director, and relative to these tasks would be under the guidance and direct supervision of a licensed physician.

Further discussion ensued.

Mr. Wagner moved to move forward with this proposal. Ms. McKeever seconded the motion.

Public comment:
Robby Nijar, CSRC, stated the CSRC endorses and would like to co-sponsor Legislative Proposal #5.

Mr. Bruce, a licensed RCP stated consideration needs to be taken into how this would be managed in clinical practice.

Discussion ensued.

M/Wagner /S/McKeever
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous
MOTION PASSED

10. ENFORCEMENT STATISTICS

Ms. Nunez reviewed Enforcement Statistics data through June 30, 2014 highlighting the increase in collections retrieved by the collection agency.

Ms. Early suggested the data be represented as a percentage of the total number of active licensed RCPs.

11. ELECTION OF OFFICERS FOR 2015

a. Vice President

President Roth opened the floor for Nominations for Respiratory Care Board Vice President.

A movement to nominate Ms. McKeever was made by Mr. Wagner, seconded by Mr. Hardeman. Ms. Early requested that Ms. McKeever's nomination for Vice President be moved by acclamation.

M/Wagner /S/Hardeman

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous
MOTION PASSED

b. President

Vice President Elect McKeever opened the floor for Nominations for Respiratory Care Board President.

A movement was made by Ms. McKeever, and Ms. Early seconded the motion for Mr. Roth's nomination for President and asked that it be moved by acclamation.

M/McKeever /S/Early
In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous
MOTION PASSED

12. 2015 MEETING DATES: CALENDAR

The following Public Meetings were scheduled for 2015:

February 6, 2015 (tentative) in Sacramento
May 15, 2015 in Loma Linda
November 6, 2015 in Southern California

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CLOSED SESSION

The Board convened into Closed Session, as authorized by Government Code Section 11126c, subdivision (3) at 12:30 p.m. and reconvened into Public Session at 1:15 p.m.

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PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No public comment was provided at this time.

FUTURE AGENDA ITEMS

No future items were identified.

ADJOURNMENT

The Public Session Meeting was adjourned by President Roth at 2:15 p.m.

ALAN ROTH, MS, MBA, RRT-NPS, FAARC	STEPHANIE A. NUNEZ
President	Executive Officer

DRAFT

Timeline: California Respiratory Care Workforce Study.

Activity	Mar 15	Apr 15	May 15	Jun 15	Jul 15	Aug 15	Sep 15	Oct 15	Nov 15	Dec 15	Jan 16	Feb 16	Mar 16	Apr 16	May 16	Jun 16	July	Aug
Start-up activities IRB approval, kick off meeting.	x																	
Task 1. Interviews with hospital directors of respiratory care/pulmonary services.		x	x	x	X													
Task 2. Survey of hospital directors of respiratory care / pulmonary services.						x	x	x	x	x	X							
Task 3. Literature review.		x	x	x	x													
Task 4. Curriculum Review.						x	x	x	x	x	x	x						
Task 5. Interviews with education program directors.													x	x	x	x		
Task 6. Focus groups with RCPs												x	x	x	x	x	x	x

California Respiratory Care Workforce Study

March 15, 2015 - September 15, 2016

Principal Investigator: Joanne Spetz, PhD, Philip R. Lee Institute for Health Policy Studies, UCSF

The University of California, San Francisco, under the direction of Dr. Joanne Spetz, Professor, Philip R. Lee Institute for Health Policy Studies, will complete a comprehensive analysis of key issues regarding California's Respiratory Care workforce. Five research questions will be addressed in this study:

1) What is the feasibility and what would be the impact of establishing the requirement that respiratory therapists have a baccalaureate degree in California?

2) What are the curricular needs and implications of allowing RCPs to exercise prescriptive authority under protocol?

3) Are the current requirements regarding clinical supervision of RCP students adequate? Should there be modifications?

4) How effective are the Professional Ethics and Law courses that RCPs are currently required to take? Should they continue to be mandated?

5) Should the number of continuing education (CE) hours be increased or should the curricular requirements be changed?

To answer these five questions, we propose the following activities.

1. Conduct and summarize interviews with 10 Respiratory Care / Pulmonary Services Directors at selected general acute care hospitals.

2. Conduct and analyze a survey of Directors of Respiratory Care / Pulmonary Services at general acute care hospitals in California.

3. Complete a comprehensive literature review of scholarly work that examines the relationship between the education level of respiratory care practitioners (RCPs) and patient outcomes.

4. Collect and analyze the curricula currently used to train RCPs and other health care professionals (such as registered nurses, nurse practitioners, and physician assistants) to identify content related to the potential for RCPs to have prescriptive authority.

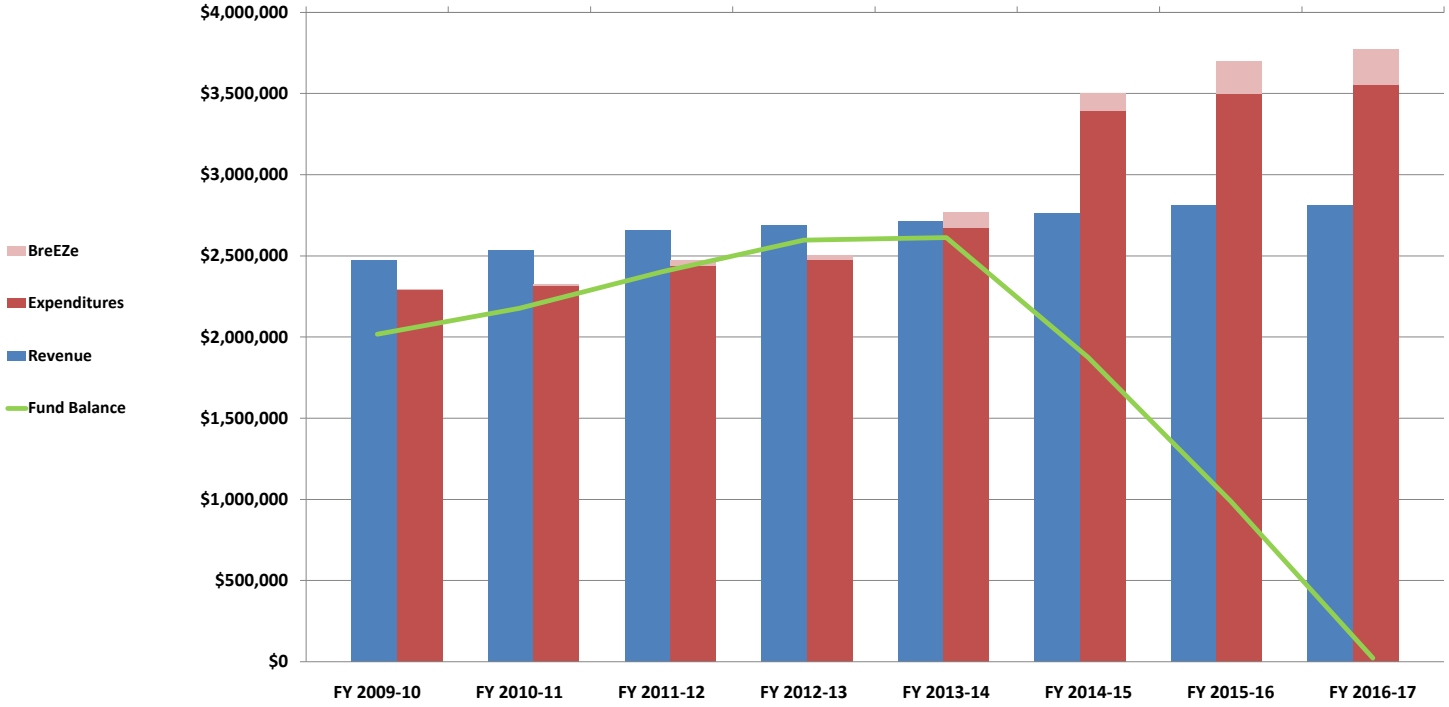
5. Conduct and summarize 10 interviews with Respiratory Care education program Directors.

6. Conduct and analyze 5 focus groups with RCPs at different locations in California.

As Principal Investigator of the project, Dr. Spetz will be involved in all aspects of the research design, interview and survey analyses, organization of the project, and publications.

Respiratory Care Board
Fund Analysis: Governor's Budget w/BreEZe SPR 3.1
Release 1

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
	Actual					Projected*		
Beginning Fund Balance (Incl. Prior Year Adj.)	$ 1,840,000	$ 1,968,000	$ 2,213,000	$ 2,412,000	$ 2,672,000	$ 2,613,000	$ 1,873,000	$ 988,000
Total Revenue	$ 2,472,000	$ 2,532,000	$ 2,659,000	$ 2,688,000	$ 2,711,000	$ 2,763,000	$ 2,813,000	$ 2,810,000
Transfers/General Fund Loans	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Expenditures	$ 2,295,000	$ 2,323,000	$ 2,471,000	$ 2,504,000	$ 2,770,000	$ 3,503,000	$ 3,698,000	$ 3,775,000
BreEZe Cost	$ 2,671	$ 9,397	$ 30,957	$ 28,149	$ 95,950	$ 107,545	$ 204,120	$ 216,682
Expenditures (less BreEZe)	$ 2,292,329	$ 2,313,603	$ 2,440,043	$ 2,475,851	$ 2,674,050	$ 3,395,455	$ 3,493,880	$ 3,558,318
Ending Fund Balance	$ 2,017,000	$ 2,177,000	$ 2,401,000	$ 2,596,000	$ 2,613,000	$ 1,873,000	$ 988,000	$ 23,000
Months in Reserve	10.4	10.6	11.5	11.2	9.0	6.1	3.1	0.1



* Projected years assume full budget appropriation is expended

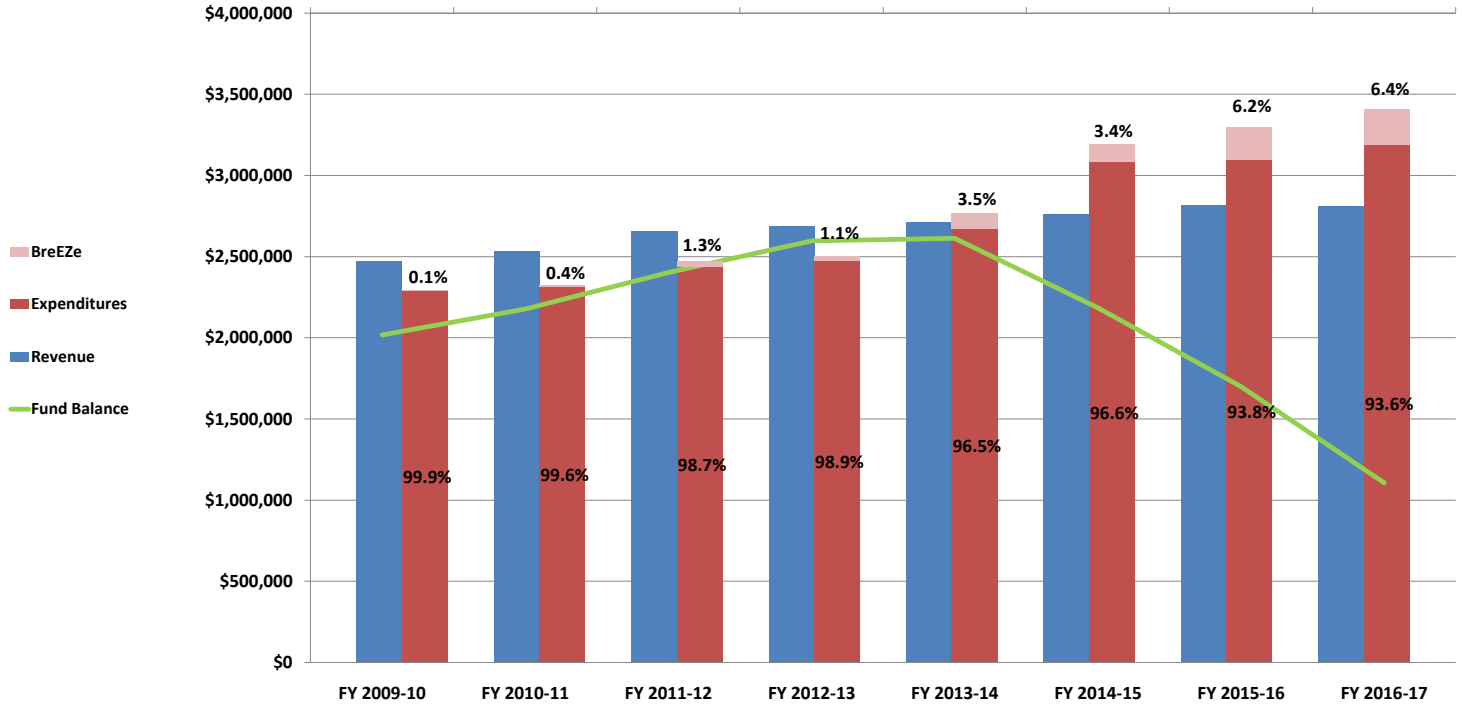
Highlights

o Historical expenditure savings maintain fund balance/solvency

Agenda Item: 5
Meeting Date: 5/15/15

Respiratory Care Board
Fund Analysis: Governor's Budget w/BreEZe SPR 3.1 (revised)
Release 1

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
	Actual					Projected*		
Beginning Fund Balance (Incl. Prior Year Adj.)	$ 1,840,000	$ 1,968,000	$ 2,213,000	$ 2,412,000	$ 2,672,000	$ 2,613,000	$ 2,184,000	$ 1,701,000
Total Revenue	$ 2,472,000	$ 2,532,000	$ 2,659,000	$ 2,688,000	$ 2,711,000	$ 2,763,000	$ 2,815,000	$ 2,813,000
Transfers/General Fund Loans	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Expenditures	$ 2,295,000	$ 2,323,000	$ 2,471,000	$ 2,504,000	$ 2,770,000	$ 3,192,000	$ 3,298,000	$ 3,407,000
BreEZe Cost	$ 2,671	$ 9,397	$ 30,957	$ 28,149	$ 95,950	$ 107,545	$ 204,120	$ 216,682
Expenditures (less BreEZe)	$ 2,292,329	$ 2,313,603	$ 2,440,043	$ 2,475,851	$ 2,674,050	$ 3,395,455	$ 3,493,880	$ 3,558,318
Forecasted Savings**	$ -	$ -	$ -	$ -	$ -	$ -311,000	$ -400,000	$ -368,000
Ending Fund Balance	$ 2,017,000	$ 2,177,000	$ 2,401,000	$ 2,596,000	$ 2,613,000	$ 2,184,000	$ 1,701,000	$ 1,107,000
Months in Reserve	10.4	10.6	11.5	11.2	9.8	7.9	6.0	3.7



* Projected years assume full budget appropriation is expended

** Assumes three-year average of historical savings

Highlights

o Historical expenditure savings maintain fund balance/solvency

Prepared 3/4/2015

Agenda Item: 5
Meeting Date: 5/15/15

Department of Consumer Affairs

Respiratory Care Board of California

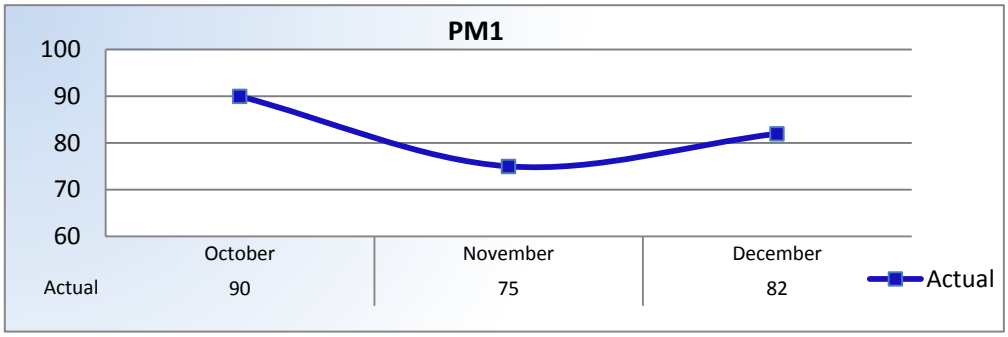
Performance Measures

Q2 Report *(October - December 2014)*

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.

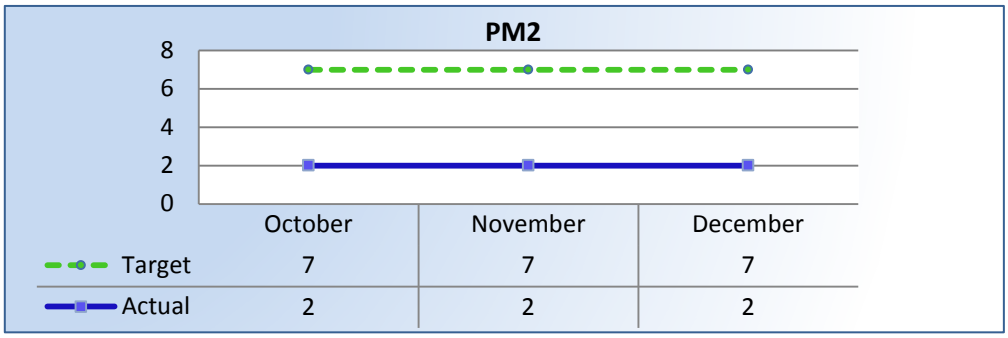


Total Received: 247 Monthly Average: 82

Complaints: 85 | **Convictions**: 162

PM2 | Intake

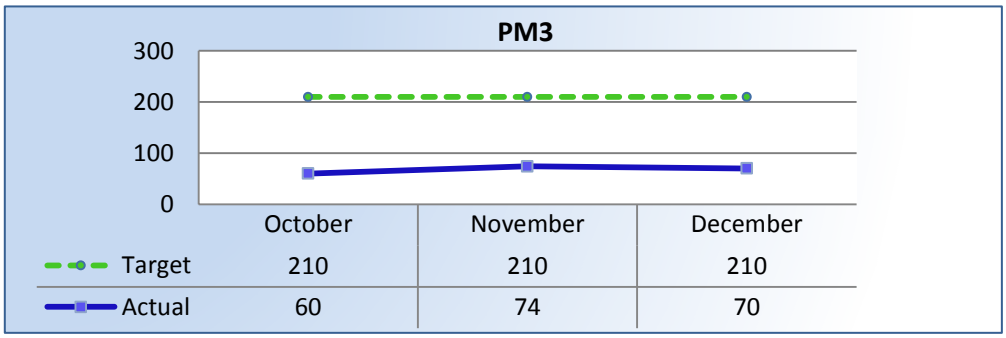
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



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

PM3 | Intake & Investigation

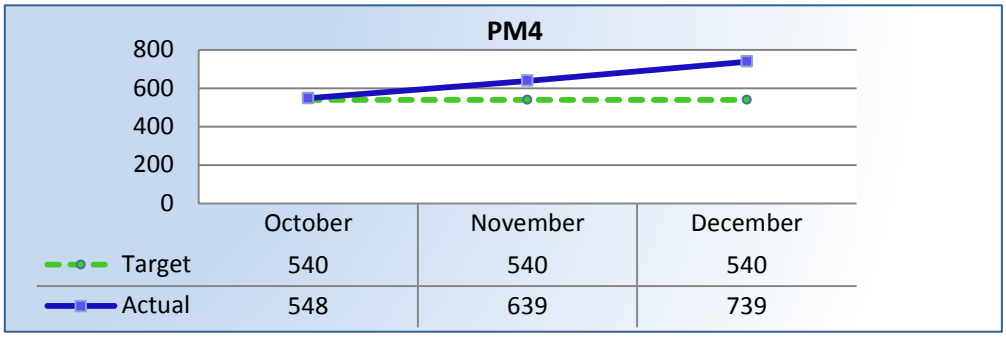
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 210 Days | **Actual Average:** 67 Days

PM4 | Formal Discipline

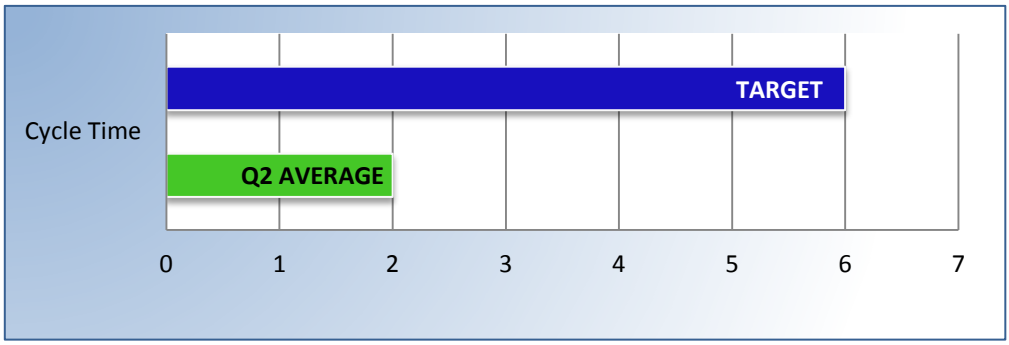
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | **Actual Average:** 642 Days

PM7 |Probation Intake

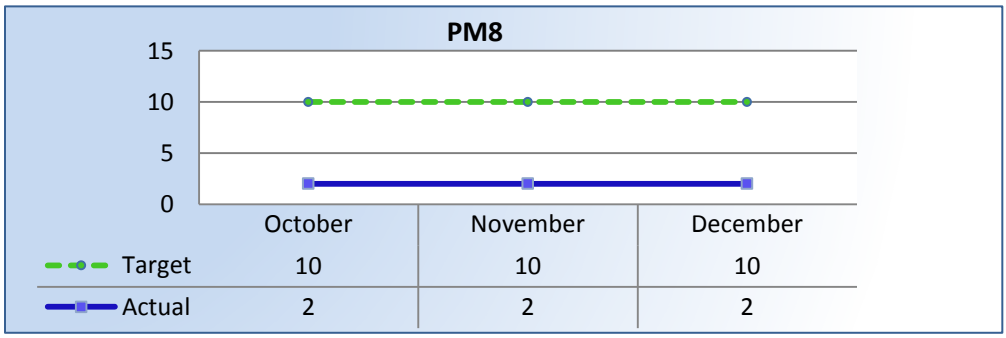
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



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

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:** 2

CHERUBS

Photo of: Cherub Lucie Photo by: Hillary Frost Photographer

Congenital Diaphragmatic Hernia

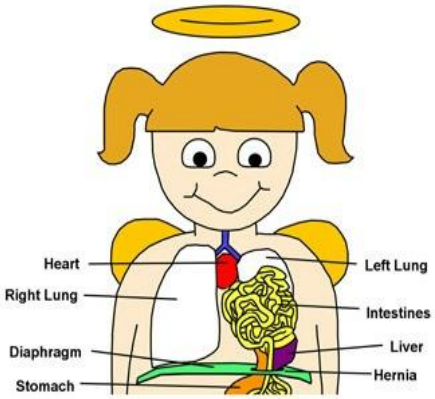
FACTS

Congenital Diaphragmatic Hernia (CDH) occurs in approximately 1 in every 2,500 births (1,600 cases in the U.S. each year). The cause of CDH is not yet known. The diaphragm is formed in the first trimester of pregnancy and controls the lungs' ability to inhale and exhale. CDH occurs when the diaphragm fails to form or to close totally and an opening allows abdominal organs into the chest cavity. This inhibits lung growth.

Every patient diagnosed with CDH is different. Survival rates depend on the types and number of organs involved in the herniation and the amount of lung tissue available. There are many surgical procedures and complications that may or may not occur with each individual, including in utero surgery.

Roughly 50% of babies born with CDH do not survive. Of the 50% that do survive, most will endure long hospital stays, feeding issues, asthma and other problems. A few of the survivors suffer from severe long-term medical issues.

CDH occurs as frequently as Spina Bifida & Cystic Fibrosis, yet there is very little research being done and virtually no media coverage.



Global CDH Stats

147 babies will be born with CDH every day.

The World Census Bureau estimates that in 2008 over 350,000 babies are born in the world every day.

Every 10 minutes a baby is born with Congenital Diaphragmatic Hernia.

IDB (International Database) from the U.S. Census site, 257 people are born every minute globally.

Over 700,000 babies have been born with CDH since January 1, 2000!

No one knows how to prevent Congenital Diaphragmatic Hernia.

The cause of CDH is still unknown.

Agenda Item: 7
Meeting Date: 5/15/15

Funding Statistics on 3 Similar Birth Defects

			Spina Bifida
Occurrence	1 in 2500	1 in 2500	1 in 2000
Approximate of new ca U.S. an	1600	1600	2000
Survival	50%	Average life span 30 yrs	75%
Cause	Unknown	Genetic	Unknown, Probable Folic Acid Deficiency
NIH Fundin	$4 Million	$79 Million	$11 Million
2010 Charity Rev (from largest char for this cause)	$59,280 CHERUBS	$313,308,873 Cystic Fibrosis Foundation	$517,001 1 chapter of the Spinda Bifida Association
Number of Guidestar Registered charities for each cause	4	275	197

[1] CHERUBS - The Association of Congenital Diaphragmatic Hernia Research, Awareness and Support
[2] http://www.cff.org/AboutCF/
[3] http://www.ninds.nih.gov/disorders/spina_bifida/detail_spina_bifida.htm
[4] http://www.lung.org/assets/documents/publications/solddc-chapters/cf.pdf
[5] http://report.nih.gov/categorical_spending.aspx
[6] Guidestar
[7] Guidestar

Agenda Item: 7
Meeting Date: 5/15/15

PROCLAMATION VERBIAGE:

WHEREAS, one in every 2,500 pregnancies are diagnosed with a congenital diaphragmatic hernia (CDH); and

WHEREAS, since 2000, it is estimated that over 500,000 babies have been born with CDH; however, only 50 percent of those babies survived; and

WHEREAS, CDH is as common as spina bifida and cystic fibrosis; however, very few people know about it or are aware of it; and

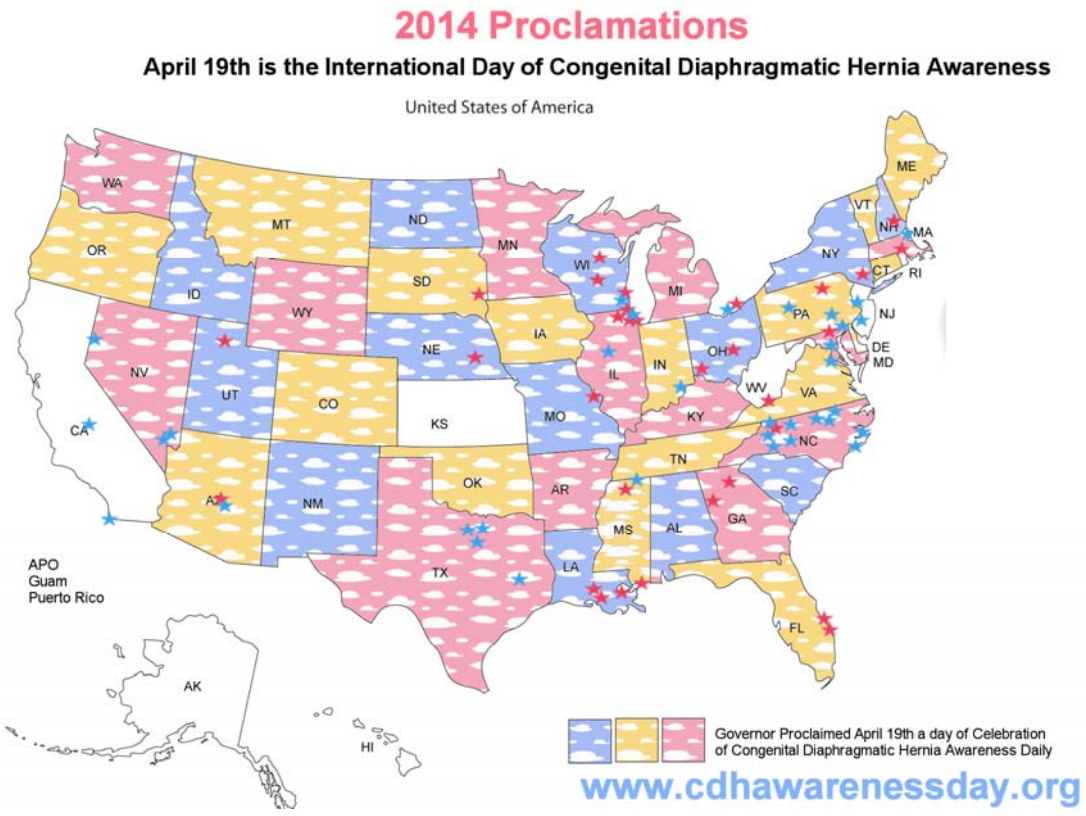
WHEREAS, 1,600 babies are born with CDH every year in the United States each year; and

WHEREAS, there are many people living in _____ who have been diagnosed with and have survived their CDH; although many families in _____ have endured the horrible pain and grief associated with the loss of loved ones with CDH; and

WHEREAS, those with CDH often endure multiple surgeries and possible medical complication beyond their diagnosis that include heart defects, pulmonary complications, gastric and intestinal problems, developmental delays, and may require respiratory and medicinal support for years; and

WHEREAS, raising awareness of this congenital defect will help bring about acceptance and support for those suffering with it and will help advocate for urgently needed medical research and advances;

Therefore, I proclaim April 19 as Congenital Diaphragmatic Hernia Action Day



2015 LEGISLATION OF INTEREST

[AS OF MAY 1, 2015]

ASSEMBLY BILL 12	
Author:	Cooley [D]
Title:	State government: administrative regulations: review
Introduced:	December 1, 2014
Amended:	April 22, 2015
Status:	April 29, 2015: Re-referred to Assembly Appropriations.
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.
Staff Recommended Position: **WATCH**	

ASSEMBLY BILL 85	
Author:	Wilk [R]
Title:	Open Meetings
Introduced:	January 6, 2015
Amended:	April 15, 2015
Status:	April 22, 2015: Referred to Assembly Appropriations Suspense File.
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: **OPPOSE**	

ASSEMBLY BILL 333	
Author:	Melendez [R]
Title:	Healing arts: continuing education
Introduced:	February 13, 2015
Last Amended:	April 30, 2015
Status:	April 29, 2015: Re-referred to Assembly Appropriations (as amended).
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.
Staff Recommended Position: **WATCH**	

ASSEMBLY BILL 507	
Author:	Olsen [R]
Title:	Department of Consumer Affairs: BreEZe system: annual report
Introduced:	February 23, 2015
Last Amended:	March 26, 2015
Status:	April 29, 2015: Referred to Assembly Appropriations Suspense File.
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 January 31, 2016, 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's 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation.
Staff Recommended Position: **WATCH**	

ASSEMBLY BILL 611	
Author:	Dahle [R]
Title	Controlled Substances: prescriptions: reporting
Introduced:	February 24, 2015
Last Amended:	April 15, 2015
Status:	April 21, 2015: Hearing before Assembly B&P cancelled at the request of the author. Will likely become a 2-year bill.
Summary:	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.
Staff Recommended Position: WATCH	

ASSEMBLY BILL 860	
Author:	Daly [D]
Title:	Sex crimes: professional services
Introduced:	February 26, 2015
Amended:	March 25, 2015
Status:	April 23, 2105: Referred to Senate Rules Committee.
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. 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. The bill would make the crime punishable by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding $10,000. By expanding the scope of a crime and increasing the punishment for a 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 crimes, the bill would impose a state-mandated local program.
Staff Recommended Position: **WATCH**	

ASSEMBLY BILL 1060	
Author:	Bonilla [D]
Title:	Professions and vocations: licensure
Introduced:	February 26, 2015
Amended:	March 26, 2015
Status:	April 30, 2015: To Assembly Floor with recommendation for consent.
Summary:	Existing law authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires the board, upon suspension or revocation of a license, to provide the ex-licensee 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-licensee.
Staff Recommended Position: **WATCH**	

SENATE BILL 390	
Author:	Bates [R]
Title:	Home health agencies: skilled nursing services
Introduced:	February 25, 2015
Status:	April 22, 2015: Hearing before Senate Health Committee cancelled at the request of author.
Summary:	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.
Staff RecommendedPosition: **WATCH**	

SENATE BILL 467	
Author:	Hill [D]
Title:	Professions and Vocations
Introduced:	February 25, 2015
Amended:	April 21, 2015
Status:	April 28, 2015: Re-referred to Committee on Appropriations
Summary:	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 authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance. This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature. 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, 2017, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusations and cases 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 commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. This bill would, in order to implement specified complaint prioritization guidelines, require the Director of Consumer Affairs, through the Division of Investigation, to work cooperatively with the health care boards to standardize referral of complaints to the division and those that are retained by the health care boards for investigation. This bill also includes various provisions related to the Board of Accountancy.
Staff Recommended Position: **WATCH**	

SENATE BILL 800	
Author:	Committee on Business, Professions and Economic Development
Title:	Healing Arts
Introduced:	March 18, 2015
Amended:	April 20, 2015
Status:	April 28, 2015: Referred to Senate Appropriations with recommendation for consent.
Summary:	This is the DCA Health Board Omnibus bill (contains various provisions not specific to the RCB).
Staff Recommended Position: **WATCH**	

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 12

Introduced by Assembly Member Cooley
(Coauthors: Assembly Members Chang, Daly, and Wilk)

December 1, 2014

An act ~~to amend Section 11349.1.5 of, and~~ to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 ~~of,~~ *of* the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Cooley. State government: administrative regulations: review.

~~(1) Existing~~

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, ~~and after a noticed public hearing, review and revise that agency's regulations to eliminate any inconsistencies, overlaps, or outdated provisions in the regulations, adopt the revisions as emergency regulations,~~ *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. ~~The bill would further~~

~~require each agency to, on or before January 1, 2017, compile an overview of the statutory law that agency administers.~~

~~(2) The act requires a state agency proposing to adopt, amend, or repeal a major regulation, as defined, to prepare a standardized regulatory impact analysis of the proposed change. The act requires the office and the Department of Finance to, from time to time, review the analyses for compliance with specific department regulations. The act further requires the office to, on or before November 1, 2015, submit a report on the analyses to the Senate and Assembly Committees on Governmental Organization, as specified.~~

~~This bill would instead require the office and department to annually review the analyses. The bill would also require the office to annually submit a report on the analyses to the Senate Committee on Governmental Organization and the Assembly Committee on Accountability and Administrative Review.~~

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

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

~~SECTION 1. Section 11349.1.5 of the Government Code is amended to read:~~

~~11349.1.5. (a) The Department of Finance and the office shall annually review the standardized regulatory impact analyses required by subdivision (c) of Section 11346.3 and submitted to the office pursuant to Section 11347.3, for adherence to the regulations adopted by the department pursuant to Section 11346.36.~~

~~(b) (1) On or before November 1, 2015, and annually thereafter, the office shall submit to the Senate Committee on Governmental Organization and the Assembly Committee on Accountability and Administrative Review a report describing the extent to which submitted standardized regulatory impact analyses for proposed major regulations for the fiscal year ending in June 30, of that year adhere to the regulations adopted pursuant to Section 11346.36. The report shall include a discussion of agency adherence to the regulations as well as a comparison between various state agencies on the question of adherence. The report shall also include any recommendations from the office for actions the Legislature might consider for improving state agency performance and compliance~~

~~in the creation of the standardized regulatory impact analyses as described in Section 11346.3.~~

~~(2) The report shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(c) In addition to the annual report required by subdivision (b), the office shall notify the Legislature of noncompliance by a state agency with the regulations adopted pursuant to Section 11346.36, in any manner or form determined by the office and shall post the report and notice of noncompliance on the office's Internet Web site.~~

~~SEC. 2.~~

SECTION 1. Chapter 3.6 (commencing with Section 11366) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

Chapter 3.6. Regulatory Reform

Article 1. Findings and Declarations

11366. The Legislature finds and declares all of the following:

(a) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)) requires agencies and the Office of Administrative Law to review regulations to ensure their consistency with law and to consider impacts on the state's economy and businesses, including small businesses.

(b) However, the act does not require agencies to individually review their regulations to identify overlapping, inconsistent, duplicative, or out-of-date regulations that may exist.

(c) At a time when the state's economy is slowly recovering, unemployment and underemployment continue to affect all Californians, especially older workers and younger workers who received college degrees in the last seven years but are still awaiting their first great job, and with state government improving but in need of continued fiscal discipline, it is important that state agencies systematically undertake to identify, publicly review, and eliminate overlapping, inconsistent, duplicative, or out-of-date regulations, both to ensure they more efficiently implement and

enforce laws and to reduce unnecessary and outdated rules and regulations.

~~(d) The purpose of this chapter is to require each agency to compile an overview of the statutory law that agency oversees or administers in its regulatory activity that includes a synopsis of key programs, when each key program was authorized or instituted, and any emerging challenges the agency is encountering with respect to those programs.~~

Article 2. Definitions

11366.1. For the ~~purpose~~ *purposes* of this chapter, the following definitions shall apply:

(a) "State agency" means a state agency, as defined in Section 11000, except those state agencies or activities described in Section 11340.9.

(b) "Regulation" has the same meaning as provided in Section 11342.600.

Article 3. State Agency Duties

11366.2. On or before January 1, 2018, each state agency shall do all of the following:

(a) Review all provisions of the California Code of Regulations applicable to, or adopted by, that state agency.

(b) Identify any regulations that are duplicative, overlapping, inconsistent, or out of date.

(c) Adopt, amend, or repeal regulations to reconcile or eliminate any duplication, overlap, inconsistencies, or out-of-date ~~provisions.~~ *provisions, and shall comply with the process specified in Article 5 (commencing with Section 11346) of Chapter 3.5, unless the addition, revision, or deletion is without regulatory effect and may be done pursuant to Section 100 of Title 1 of the California Code of Regulations.*

(d) Hold at least one noticed public hearing, that shall be noticed on the Internet Web site of the state agency, for the purposes of accepting public comment on proposed revisions to its regulations.

(e) Notify the appropriate policy and fiscal committees of each house of the Legislature of the revisions to regulations that the state agency proposes to make at ~~least 90 days prior to a noticed~~

~~public hearing pursuant to subdivision (d) and at least 90 days prior to the proposed adoption, amendment, or repeal of the regulations pursuant to subdivision (f), for the purpose of allowing those committees to review, and hold hearings on, the proposed revisions to the regulations.~~

~~(f) Adopt as emergency regulations, consistent with Section 11346.1, those changes, as provided for in subdivision (c), to a regulation identified by the state agency as duplicative, overlapping, inconsistent, or out of date.~~ *least 30 days prior to initiating the process under Article 5 (commencing with Section 11346) of Chapter 3.5 or Section 100 of Title 1 of the California Code of Regulations.*

(g) (1) Report to the Governor and the Legislature on the state agency's compliance with this chapter, including the number and content of regulations the state agency identifies as duplicative, overlapping, inconsistent, or out of date, and the state agency's actions to address those regulations.

(2) The report shall be submitted in compliance with Section 9795 of the Government Code.

11366.3. (a) On or before January 1, 2018, each agency listed in Section 12800 shall notify a department, board, or other unit within that agency of any existing regulations adopted by that department, board, or other unit that the agency has determined may be duplicative, overlapping, or inconsistent with a regulation adopted by another department, board, or other unit within that agency.

(b) A department, board, or other unit within an agency shall notify that agency of revisions to regulations that it proposes to make at least 90 days prior to a noticed public hearing pursuant to subdivision (d) of Section 11366.2 and at least 90 days prior to adoption, amendment, or repeal of the regulations pursuant to ~~subdivision (f) of~~ *subdivision (c) of* Section 11366.2. The agency shall review the proposed regulations and make recommendations to the department, board, or other unit within 30 days of receiving the notification regarding any duplicative, overlapping, or inconsistent regulation of another department, board, or other unit within the agency.

11366.4. An agency listed in Section 12800 shall notify a state agency of any existing regulations adopted by that agency that

may duplicate, overlap, or be inconsistent with the state agency's regulations.

~~11366.43. On or before January 1, 2017, each state agency shall compile an overview of the statutory law that state agency oversees or administers. The overview shall include a synopsis of the state agency's key programs, when each program was authorized or instituted, when any statute authorizing a program was significantly revised to alter, redirect, or extend the original program and the reason for the revision, if known, and an identification of any emerging challenges the state agency is encountering with respect to the programs.~~

11366.45. This chapter shall not be construed to weaken or undermine in any manner any human health, public or worker rights, public welfare, environmental, or other protection established under statute. This chapter shall not be construed to affect the authority or requirement for an agency to adopt regulations as provided by statute. Rather, it is the intent of the Legislature to ensure that state agencies focus more efficiently and directly on their duties as prescribed by law so as to use scarce public dollars more efficiently to implement the law, while achieving equal or improved economic and public benefits.

Article 4. Chapter Repeal

11366.5. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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RESPIRATORY CARE BOARD OF CALIFORNIA

April 2, 2015

The Honorable Scott Wilk
California State Assembly, District 38
State Capitol, Room 4158
Sacramento, CA 95814

RE: AB 85: Open Meetings.

Dear Assemblyman Wilk:

The Respiratory Care Board (Board) has reviewed AB 85 which proposes that representation of ***any*** number of board members, acting in their official capacity on any multimember body which is in any way funded by state funds requires compliance with the Bagley-Keene Open Meeting Act. The Board has respectfully taken an oppose position on the bill.

The Board supports the overall intent of AB 85 to encourage increased transparency, public participation, and oversight of state entities that form advisory bodies. However, advisory bodies are generally formed to investigate specific issues and advise a full board at public meetings. These advisory bodies cannot take official actions independent of the full board at a noticed, public meeting.

As proposed, if even a single board member participates on a private and/or national multi-state body, and does so in his or her official capacity, the Board would be required to adhere to the all Bagley-Keene requirements, for a meeting it has no control over. AB 85 would impose increased duties on state entities to comply with the open meeting requirements of the Bagley-Keene Open Meeting Act, including:

- publically noticing all meetings;
- preparing formal agendas;
- accepting public testimony;
- conducting meetings in public; and
- recording proceedings.

Based on the foregoing, the Board is opposing AB 85. Should you have any questions, please contact Stephanie Nunez, Executive Officer at (916) 999-2190.

Respectfully,

Alan Roth

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

3750 Rosin Court, Suite 100 , Sacramento, CA 95834 T 916.999.2190 TF 866.375.0386 F 916.263.7311 E rcbinfo@dca.ca.gov W www.rcb.ca.gov

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 85

Introduced by Assembly Member Wilk

January 6, 2015

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 85, as amended, Wilk. Open meetings.

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.

~~This bill would make legislative findings and declarations, including, but not limited to, a statement of the Legislature's intent that this bill is declaratory of existing law.~~

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

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) The unpublished decision of the Third District Court of Appeals in Funeral Security Plans v. State Board of Funeral Directors (1994) 28 Cal. App.4th 1470 is an accurate reflection of legislative intent with respect to the applicability of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) to a two-member standing advisory committee of a state body.~~

~~(b) A two-member committee of a state body, even if operating solely in an advisory capacity, already is a "state body," as defined in subdivision (d) of Section 11121 of the Government Code, if a member of the state body sits on the committee and the committee receives funds from the state body.~~

~~(c) It is the intent of the Legislature that this bill is declaratory of existing law.~~

~~SEC. 2.~~

SECTION 1. Section 11121 of the Government Code is amended to read:

11121. As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory

body so created consists of three or more persons, except as in subdivision (d).

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section 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.

~~SEC. 3.~~

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid unnecessary litigation and ensure the people's right to access the meetings of public bodies pursuant to Section 3 of Article 1 of the California Constitution, it is necessary that *this* act take effect ~~immediately~~ *immediately.*

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AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 333

Introduced by Assembly Member Melendez

February 13, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 333, as amended, 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 ~~a course~~ *certain courses* that ~~results~~ *result* in the licensee becoming a certified instructor of cardiopulmonary resuscitation (CPR) or the proper use of an automated external defibrillator ~~(AED),~~ *(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.

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

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~~ *may, once per renewal cycle,* apply one unit of continuing education ~~credit~~ *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) *(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~~ *may, once per renewal cycle,* apply up to two units of continuing education ~~credit~~ *credit, pursuant to paragraph (2),* towards that requirement for conducting CPR or AED training sessions for employees of school districts and community college districts in the state.

(2) A licensee may only apply continuing education credit for holding a training session if the training session is approved by the applicable licensing board.

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

(d) This section shall not apply to a person licensed under this division if the applicable licensing board's laws or regulations establishing continuing education requirements exclude the courses or activities described in subdivisions (a) and (b).

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AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 507

Introduced by Assembly Member Olsen
(Principal coauthor: Assembly Member Gray)

February 23, 2015

An act to ~~amend~~ *add* Section ~~106 of~~ *210.5 to* the Business and Professions Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 507, as amended, Olsen. Department of Consumer ~~Affairs.~~ *Affairs: BreEZe system: annual report.*

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 January 31, 2016, 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's 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation.

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

~~Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her for, among other things, unprofessional or dishonorable conduct.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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

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

SECTION 1. Section 210.5 is added to the Business and Professions Code, immediately following Section 210, to read:

210.5. (a) On and after January 31, 2016, the department shall submit an annual report to the Legislature and the Department of Finance that includes all of the following:

(1) The department's plan for implementing the BreEZe system at the regulatory entities in the department's third phase of the implementation project, including, but not limited to, a timeline for implementation.

(2) The total estimated costs of implementation of the BreEZe system at the regulatory entities in the department's third phase of the implementation project and the results of any cost-benefit analysis the department conducted for the third phase of the implementation project.

(3) A description of whether and to what extent the BreEZe system will achieve any operational efficiencies resulting from implementation by the boards and regulatory entities within the department's jurisdiction.

(b) The report described in subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) For purposes of this section, "the regulatory entities in the department's third phase of the implementation project" includes all of the following:

(1) Acupuncture Board.

(2) Board for Professional Engineers, Land Surveyors, and Geologists.

(3) Bureau of Automotive Repair.

(4) Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

(5) Bureau for Private Postsecondary Education.

(6) California Architects Board.

(7) California Board of Accountancy.
(8) California State Board of Pharmacy.
(9) Cemetery and Funeral Bureau.
(10) Contractors' State License Board.
(11) Court Reporters Board of California.
(12) Landscape Architects Technical Committee.
(13) Professional Fiduciaries Bureau.
(14) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(15) State Athletic Commission.
(16) State Board of Chiropractic Examiners.
(17) State Board of Guide Dogs for the Blind.
(18) Structural Pest Control Board.
(19) Telephone Medical Advice Services Bureau.

~~SECTION 1. Section 106 of the Business and Professions Code is amended to read:~~

~~106. The Governor has power to remove from office at any time, any member of any board appointed by him or her for continued neglect of duties required by law, for incompetence, or unprofessional or dishonorable conduct. This section shall not be construed as a limitation or restriction on the power of the Governor, conferred on him or her by any other law, to remove any member of any board.~~

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AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 611

Introduced by Assembly Member Dahle

February 24, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as amended, Dahle. Controlled substances: prescriptions: reporting.

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.

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

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

SECTION 1. Section 11165.1 of the Health and Safety Code is amended to read:

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

(ii) A pharmacist shall, before January 1, 2016, or upon licensure, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that pharmacist the electronic history of controlled

substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.

(iii) *(I)* An individual designated by a board, bureau, or program within the Department of Consumer Affairs to investigate a holder of a professional license may, for the purpose of investigating the alleged substance abuse of a licensee, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a licensee that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that individual the electronic history of controlled substances dispensed to the licensee based on data contained in the CURES PDMP. ~~An application for an individual designated by a board, bureau, or program that does not regulate health care practitioners authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150~~ *The application* shall contain facts demonstrating the probable cause to believe the licensee has violated a law governing controlled substances.

(II) This clause does not require an individual designated by a board, bureau, or program within the Department of Consumer Affairs that regulates health care practitioners to submit an application to access the information stored within the CURES PDMP.

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

(i) Materially falsifying an application for a subscriber.

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

(iii) Suspended or revoked federal DEA registration.

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

(v) Any subscriber described in clause (i) or (ii) of subparagraph (A) accessing information for any other reason than caring for his or her patients.

(vi) Any subscriber described in clause (iii) of subparagraph (A) accessing information for any other reason than investigating the holder of a professional license.

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

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

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

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

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

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

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AMENDED IN ASSEMBLY MARCH 25, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 860

Introduced by Assembly Member Daly

February 26, 2015

An act to amend ~~Section 422.55 of the Penal Code, relating to hate crimes.~~ *Sections 243.4, 261, 286, 288a, and 289 of the Penal Code, relating to sex crimes.*

LEGISLATIVE COUNSEL'S DIGEST

AB 860, as amended, Daly. ~~Hate crimes: political affiliation.~~ *Sex crimes: professional services.*

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.

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. The bill would make the crime punishable by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding $10,000. By expanding the scope of a crime and increasing the punishment for a 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 crimes, 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.

~~Existing law defines "hate crime" as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. Under existing law, that definition applies unless an explicit provision of law or the context clearly requires a different meaning. Existing law provides punishments for hate crimes that range from misdemeanors with specified penalties to felonies with additional terms of one to 3 years in state prison, depending on the underlying criminal act and other circumstances. Existing law requires, with conditions, the Attorney General to direct local law enforcement agencies to report specified information relative to hate crimes to the Department of Justice. Existing law requires the department to annually submit a report to the Legislature that analyzes the results of information obtained from local law enforcement pursuant to these provisions. Local law enforcement entities are required by existing law to provide a brochure on hate crimes to victims of these crimes and to the public, and the Department of Fair Employment and Housing is required by existing law to revise those brochures as needed and to provide those brochures to local law enforcement agencies upon request.~~

~~This bill would add political affiliation to the list of actual or perceived characteristics necessary to determine whether a criminal act qualifies as a hate crime. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. By expanding the information that local law enforcement agencies are required to report~~

~~to the Department of Justice, this 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual

abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(e) Any person who performs professional services that entail having access to another person's body, who touches an intimate part of that person while performing those services, and the touching is against the will of the person touched and for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

~~(e)~~

(f) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both

that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars ($2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

~~(f)~~

(g) As used in subdivisions (a), (b), (c), ~~and (d),~~ *(d), and (e),* "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

~~(g)~~

(h) As used in this section, the following terms have the following meanings:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) "Sexual battery" does not include the crimes defined in Section 261 or 289.

(3) "Seriously disabled" means a person with severe physical or sensory disabilities.

(4) "Medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) "Institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) "Minor" means a person under 18 years of age.

~~(h)~~

(i) This section ~~shall not be construed to~~ *does not* limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

~~(i)~~

(j) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

~~(j)~~

(k) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars ($10,000).

SEC. 2. Section 261 of the Penal Code is amended to read:

261. (a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(8) Where the act is accomplished against the victim's will by a person while that person is performing professional services that entail having access to the victim's body.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act which shows an intention to inflict an injury upon another.

SEC. 3. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate

in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(4) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) *(1)* Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act"

means incapable of resisting because the victim meets one of the following conditions:

~~(1)~~

(A) Was unconscious or asleep.

~~(2)~~

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

~~(3)~~

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

~~(4)~~

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(2) A person who performs professional services that entail having access to the victim's body, who commits an act of sodomy upon the victim while performing those services, and the act is against the victim's will, shall be punished by imprisonment in the state prison for three, six, or eight years.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility

for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) *(1)* Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

~~As~~

(2) As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(*l*) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant's ability to

pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 4. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of oral copulation upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute

the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (A) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (B) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (C) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(4) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) *(1)* Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

~~(1)~~

(A) Was unconscious or asleep.

~~(2)~~

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

~~(3)~~

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

~~(4)~~

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(2) A person who performs professional services that entail having access to the victim's body, who commits an act of oral copulation upon the victim while performing those services, and the act is against the victim's will, shall be punished by imprisonment in the state prison for three, six, or eight years.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section

5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) *(1)* Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be

punished by imprisonment in the state prison for a period of three, six, or eight years.

~~As~~

(2) As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(*l*) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 5. Section 289 of the Penal Code is amended to read:

289. (a) (1) (A) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to

retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) *(1)* Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the

state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

~~(1)~~

(A) Was unconscious or asleep.

~~(2)~~

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

~~(3)~~

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

~~(4)~~

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(2) A person who performs professional services that entail having access to the victim's body, who commits an act of sexual penetration upon the victim while performing those services, and the act is against the victim's will, shall be punished by imprisonment in the state prison for three, six, or eight years.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) *(1)* Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a

reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

~~As~~

(2) As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in a county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over 21 years of age who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(*l*) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening

is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

SEC. 6. 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.

~~SECTION 1. Section 422.55 of the Penal Code is amended to read:~~

~~422.55. For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:~~

~~(a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:~~

~~(1) Disability.~~

~~(2) Gender.~~

~~(3) Nationality.~~

~~(4) Political affiliation.~~

~~(5) Race or ethnicity.~~

~~(6) Religion.~~

~~(7) Sexual orientation.~~

~~(8) Association with a person or group with one or more of these actual or perceived characteristics.~~

~~(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.~~

~~However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

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AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1060

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Section 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Bonilla. Professions and vocations: licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires the board, upon suspension or revocation of a license, to provide the ex-licensee with certain information pertaining to rehabilitation, reinstatement, or reduction of penalty, as specified.

This bill would ~~authorize~~ *require* the board to provide that information through first-class mail and by ~~electronic means.~~ *email if the board has an email address on file for the ex-licensee.*

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

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

1 SECTION 1. Section 491 of the Business and Professions Code
2 is amended to read:

491. (a) Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

(1) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(2) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

(b) Subdivision (a) ~~may~~ *shall* be satisfied through first-class mail and by ~~electronic means.~~ *email if the board has an email address on file for the ex-licensee.*

O

SENATE BILL No. 390

Introduced by Senator Bates

February 25, 2015

An act to add Section 1727.8 to the Health and Safety Code, relating to home health agencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 390, as introduced, Bates. Home health agencies: skilled nursing services.

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.

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

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

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

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

SECTION 1. Section 1727.8 is added to the Health and Safety Code, to read:

1727.8. (a) (1) A registered nurse shall perform duties consistent with the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code). A registered nurse shall meet all qualifications established by the home health agency for the services provided and any additional qualifications required by home health agency licensure regulations.

(2) Notwithstanding paragraph (1), a registered nurse who otherwise meets the qualifications of this chapter shall not be required to have a minimum period of professional nursing experience prior to providing skilled nursing services for a home health agency, provided that the registered nurse has successfully completed a skills and competency training program, administered by a licensed home health agency. The skills and competency training program shall include at least 80 hours of clinical orientation, didactic, simulation, and hands-on training in the patient's home.

(b) (1) A licensed vocational nurse shall perform duties consistent with the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) Division 2 of the Business and Professions Code). A licensed vocational nurse shall meet the qualifications established by the home health agency for the services provided and any additional qualifications required by home health agency licensure regulations.

(2) Notwithstanding paragraph (1), a licensed vocational nurse who otherwise meets the qualifications of this chapter shall not be required to have a minimum period of professional nursing experience prior to providing skilled nursing services for a home health agency, provided that the licensed vocational nurse has successfully completed a skills and competency training program, administered by a licensed home health agency. The skills and competency training program shall include at least 80 hours of clinical orientation, didactic, simulation, and hands-on training in the patient's home.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL No. 467

Introduced by Senator Hill

February 25, 2015

An act to amend Sections ~~5000 and~~ *201, 5000, and* 5015.6 ~~of~~ *of, and to add Sections 312.2, 328, and 5100.5 to,* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. ~~Accountants.~~ *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 authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.

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, 2017, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusations and cases 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 commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement specified complaint prioritization guidelines, require the Director of Consumer Affairs, through the Division of Investigation, to work cooperatively with the health care boards to standardize referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the ~~Department of Consumer Affairs~~ *department* is responsible for the licensure and regulation of accountants and is required to designate an execute 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 licence for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of 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.

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

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

SECTION 1. Section 201 of the Business and Professions Code is amended to read:

201. (a) (1) A charge for the estimated administrative expenses of the department, not to exceed the available balance in any appropriation for any one fiscal year, may be levied in advance on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies, ~~at the discretion of the director and with the approval of the Department of Finance.~~ *with the approval of the Legislature.*

(2) The department shall submit a report of the accounting of the pro rata calculation of administrative expenses to the appropriate policy committees of the Legislature on or before July 1, 2015, and on or before July 1 of each subsequent year.

(b) The department shall conduct a one-time study of its current system for prorating administrative expenses to determine if that system is the most productive, efficient, and cost-effective manner for the department and the agencies comprising the department. The study shall include consideration of whether some of the administrative services offered by the department should be outsourced or charged on an as-needed basis and whether the agencies should be permitted to elect not to receive and be charged for certain administrative services. The department shall include the findings in its report pursuant to paragraph (2) of subdivision (a) that it is required to submit on or before July 1, 2015.

SEC. 2. 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, 2017, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year:

(1) The number of cases referred to the Attorney General by each constituent entity within the department.

(2) The number of cases referred by the Attorney General back to each constituent entity with no further action.

(3) The number of cases rereferred by a constituent entity to the Attorney General after each constituent entity or the Division of Investigation completes a supplemental investigation.

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

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

(6) The average number of days from the Attorney General receiving a case to filing an accusation on behalf of each constituent entity.

(7) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after a supplemental investigation is conducted by staff of a constituent entity or the Division of Investigation for each constituent entity.

(8) The average number of days from filing an accusation to transmitting a stipulated settlement for each constituent entity.

(9) The average number of days from filing an accusation to transmitting a default decision for each constituent entity.

(10) The average number of days from filing an accusation to scheduling a hearing for each constituent entity.

(11) The average number of days from scheduling a hearing to conducting a hearing for each constituent entity.

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

SEC. 3. Section 328 is added to the Business and Professions Code, to read:

328. In order to implement the complaint prioritization guidelines as described in the memorandum dated August 31, 2009, by Brian J. Stiger titled "Complaint Prioritization Guidelines for Health Care Agencies," the director, through the Division of Investigation, shall work cooperatively with the health care boards to standardize referral of complaints to the division and those that are retained by the health care boards for investigation.

~~SECTION 1.~~

SEC. 4. 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. 2.~~

SEC. 5. 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. 6. 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.

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AMENDED IN SENATE APRIL 20, 2015

SENATE BILL No. 800

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski)

March 18, 2015

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, *2221,* 2401, 2428, *2519, 2520,* 2529, *2546.7, 2546.9, 2559.3, 2563, 2565, 2566, 2566.1,* 2650, 2770, 2770.1, 2770.2, 2770.7, 2770.8, 2770.10, 2770.11, 2770.12, 2770.13, 2835.5, 2914, 3057, 3509.5, *3576, 3577,* 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, *to add Sections 2519.5, 2546.11, 2555.5, 2559.7, 2563.5, and 3576.5 to,* and to repeal Section 1917.2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

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

Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies 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 regulated by the department ~~and~~ *and, notwithstanding any other law,* makes a violation of a listed provision *punishable as* an infraction ~~punishable as prescribed.~~ *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. ~~By creating a new infraction, this bill would impose a state-mandated local program.~~

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 issued by the board, 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 under those provisions. Existing law requires the committee to establish fees that relate to the licensing of a registered dental hygienist, subject to specified limitations, including fees for curriculum review and site evaluation for accreditation of educational programs.

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 to carry out any of specified provisions relating to the regulation of dental hygienists, including performing investigations of applicants and licensees. This bill, with regard to fees for accreditation of educational programs, would add a maximum fee for feasibility study review.

(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 and ~~surgeon.~~ *surgeon, and authorizes the board to deny a certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license.* The 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 *additionally authorize the board to deny a postgraduate training authorization letter to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The 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, approval, 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 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 under the act who has not been qualified or certified as a nurse practitioner to meet specified requirements. Certain provisions allow the board to find other persons in practice qualified to use the title of “nurse practitioner.”

This bill would delete those title provisions.

(9) 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.

(10) 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 have 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 never have 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

This 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. This 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.

(15) 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.

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

(16) 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.

(17) Existing law authorizes the Medical Board of California to take specific actions with regard to the licences of licensed midwives, and the registration of nonresident contact lens sellers, spectacle lens dispensers, contact lens dispensers, dispensing opticians, and polysomnographic technologists.

This bill would authorize the board to place on probation for specified grounds a midwife license or the registration certificate of a nonresident contact lens seller, spectacle lens dispenser, contact lens dispenser, or polysomnographic technologist. The bill would require such a licensee or registrant to pay probation monitoring fees upon order of the board. The bill would authorize a person whose license or certificate has been surrendered while under investigation or while charges are pending, or whose license or certificate has been revoked or suspended or placed on probation, to petition the board for reinstatement or modification of penalty, as prescribed.

(18) Existing law provides for the registration of telephone medical advice services. Existing law imposes requirements for obtaining and maintaining registration, including a requirement that the provision of medical advice services are 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.

~~(17)~~

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

~~(18)~~

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

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

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

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

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.

~~(11)~~

(12) Section 4996.

(13) Section 4999.30.

~~(12)~~

(14) Section 5536.

~~(13)~~

(15) Section 6704.

~~(14)~~

(16) Section 6980.10.
~~(15)~~
(17) Section 7317.
~~(16)~~
(18) Section 7502 or 7592.
~~(17)~~
(19) Section 7520.
~~(18)~~
(20) Section 7617 or 7641.
~~(19)~~
(21) Subdivision (a) of Section 7872.
~~(20)~~
(22) Section 8016.
~~(21)~~
(23) Section 8505.
~~(22)~~
(24) Section 8725.
~~(23)~~
(25) Section 9681.
~~(24)~~
(26) Section 9840.
~~(25)~~
(27) Subdivision (c) of Section 9891.24.
~~(26)~~
(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 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. 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:

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

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

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

(d) 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.

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

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

(g) The service files with the Dental Board ~~of California~~ 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.

(h) 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.

(i) 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.

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

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

The Dental Board ~~of California~~ 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.

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~~ of California.

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.

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, 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 licentiate 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, 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. 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 2221 of the Business and Professions Code is amended to read:

2221. (a) The board may deny a physician's and surgeon's certificate *or postgraduate training authorization letter* to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her ~~license; or, the board~~ *license. The board,* in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

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

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

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

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

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

(c) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the ~~board may,~~ *board,* in its discretion and for good cause demonstrated, *may* permit reapplication after not less than one year has elapsed from the effective date of the denial.

~~SEC. 17.~~

SEC. 18. 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.~~

SEC. 19. 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. 20. Section 2519 of the Business and Professions Code is amended to read:

2519. The board may ~~suspend or revoke~~ *suspend, revoke, or place on probation* the license of a midwife for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, all of the following:

(1) Incompetence or gross negligence in carrying out the usual functions of a licensed midwife.

(2) Conviction of a violation of Section 2052, in which event, the record of the conviction shall be conclusive evidence thereof.

(3) The use of advertising that is fraudulent or misleading.

(4) Obtaining or possessing in violation of law, or prescribing, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administering to himself or herself, or furnishing or administering to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(5) The use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Conviction of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in paragraphs (4) and (5), or the possession of, or falsification of, a record pertaining to, the substances described in paragraph (4), in which event the record of the conviction is conclusive evidence thereof.

(7) Commitment or confinement by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5), in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(8) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).

(b) Procuring a license by fraud or misrepresentation.

(c) Conviction of a crime substantially related to the qualifications, functions, and duties of a midwife, as determined by the board.

(d) Procuring, aiding, abetting, attempting, agreeing to procure, offering to procure, or assisting at, a criminal abortion.

(e) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter.

(f) Making or giving any false statement or information in connection with the application for issuance of a license.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license or a certificate.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his or her license or certificate for the purpose of providing midwifery services.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of ~~any of the provisions of~~ Article 12 (commencing with Section 2221) of Chapter 5.

(j) Failing to do any of the following when required pursuant to Section 2507:

(1) Consult with a physician and surgeon.

(2) Refer a client to a physician and surgeon.

(3) Transfer a client to a hospital.

SEC. 21. Section 2519.5 is added to the Business and Professions Code, to read:

2519.5. (a) A person whose license has been surrendered while under investigation or while charges are pending or whose license has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of the surrender of the license or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or registration surrendered or revoked for unprofessional conduct, except that the board, for good cause shown, may specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from licensees licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition 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 during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge designated in Section 11371 of the Government Code reinstating a license or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall 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. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. 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. 22. Section 2520 of the Business and Professions Code is amended to read:

2520. (a) (1) The fee to be paid upon the filing of a license application shall be fixed by the board at not less than seventy-five dollars ($75) nor more than three hundred dollars ($300).

(2) The fee for renewal of the midwife license shall be fixed by the board at not less than fifty dollars ($50) nor more than two hundred dollars ($200).

(3) The delinquency fee for renewal of the midwife license shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

(4) The fee for the examination shall be the cost of administering the examination to the applicant, as determined by the organization that has entered into a contract with the ~~Division of Licensing~~ *board* for the purposes set forth in subdivision (a) of Section 2512.5. Notwithstanding subdivision (b), that fee may be collected and retained by that organization.

(b) A licensee placed on probation shall be required to pay probation monitoring fees upon order of the board.

~~(b)~~

(c) The fees prescribed by this article shall be deposited in the Licensed Midwifery Fund, which is hereby established, and shall be available, upon appropriation, to the board for the purposes of this article.

~~SEC. 19.~~

SEC. 23. 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 Institute, 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. 24. Section 2546.7 of the Business and Professions Code is amended to read:

2546.7. (a) A certificate may be denied, suspended, revoked, *placed on probation,* or otherwise subjected to discipline for 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.

(3) Committing any act or being convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(4) Any violation of Section 2546.5 or 2546.6.

(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 division shall have all powers granted therein.

SEC. 25. Section 2546.9 of the Business and Professions Code is amended to read:

2546.9. The amount of fees prescribed in connection with the registration of nonresident contact lens sellers is that established by the following schedule:

(a) The initial registration fee shall be one hundred dollars ($100).

(b) The renewal fee shall be one hundred dollars ($100).

(c) The delinquency fee shall be twenty-five dollars ($25).

(d) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars ($25).

(e) A registrant placed on probation shall be required to pay probation monitoring fees upon order of the board.

~~(e)~~

(f) The fees collected pursuant to this chapter shall be deposited in the Dispensing Opticians Fund, and shall be available, upon appropriation, to the Medical Board of California for the purposes of this chapter.

SEC. 26. Section 2546.11 is added to the Business and Professions Code, to read:

2546.11. (a) A person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation,

may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of the surrender of the certificate or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or registration surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license or registration surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from licensees or registrants licensed or registered in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition 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 during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge, designated in Section 11371 of the Government Code, reinstating a certificate or modifying a

penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall 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. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. 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. 27. Section 2555.5 is added to the Business and Professions Code, to read:

2555.5. (a) A person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of the surrender of the certificate or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or registration surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license or registration surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from licensees or registrants licensed or registered in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated

in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition 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 during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge, designated in Section 11371 of the Government Code, reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall 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. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. 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. 28. Section 2559.3 of the Business and Professions Code is amended to read:

2559.3. *(a)* A certificate issued to a registered spectacle lens dispenser may, in the discretion of the ~~division,~~ *board,* be ~~suspended or revoked~~ *suspended, revoked, or placed on probation* for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be ~~suspended or revoked~~ *suspended, revoked, or placed on probation* if the individual certificate holder has been convicted of a felony as provided in Section 2555.1.

~~Any~~

(b) Any proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of

Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.

SEC. 29. Section 2559.7 is added to the Business and Professions Code, to read:

2559.7. (a) A person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of the surrender of the certificate or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of certificate surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a certificate surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from certificants licensed or registered in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition 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 during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional

ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge, designated in Section 11371 of the Government Code, reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall 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. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. 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. 30. Section 2563 of the Business and Professions Code is amended to read:

2563. A certificate issued to a registered contact lens dispenser may in the discretion of the ~~division~~ *board* be ~~suspended or revoked~~ *suspended, revoked, or placed on probation* for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be ~~suspended or revoked~~ *suspended, revoked, or placed on probation* if the individual certificate holder has been convicted of a felony as provided in Section 2555.1.

Any proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.

SEC. 31. Section 2563.5 is added to the Business and Professions Code, to read:

2563.5. (a) A person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective

date of the surrender of the certificate or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of certificate surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a certificate surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from certificants licensed or registered in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition 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 during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge, designated in Section 11371 of the Government Code, reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall 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. No petition shall be considered while there is an accusation or petition

to revoke probation pending against the person. 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. 32. Section 2565 of the Business and Professions Code is amended to read:

2565. The amount of fees prescribed in connection with the registration of dispensing opticians shall be as set forth in this section unless a lower fee is fixed by the ~~division:~~ *board:*

(a) The initial registration fee is one hundred dollars ($100).

(b) The renewal fee is one hundred dollars ($100).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

~~This section shall become operative on January 1, 1988.~~

(e) A registrant placed on probation shall be required to pay probation monitoring fees upon order of the board.

SEC. 33. Section 2566 of the Business and Professions Code is amended to read:

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers, unless a lower fee is fixed by the ~~division,~~ *board,* is as follows:

(a) The application fee for a registered contact lens dispenser shall be one hundred dollars ($100).

(b) The biennial fee for the renewal of certificates shall be fixed by the ~~division~~ *board* in an amount not to exceed one hundred dollars ($100).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The ~~division~~ *board* may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

(e) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

~~This section shall become operative on January 1, 1988.~~

(f) A registrant placed on probation shall be required to pay probation monitoring fees upon order of the board.

SEC. 34. Section 2566.1 of the Business and Professions Code is amended to read:

2566.1. The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section unless a lower fee is fixed by the ~~division:~~ *board:*

(a) The initial registration fee is one hundred dollars ($100).

(b) The renewal fee shall be one hundred dollars ($100).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The fee for replacement of a lost, stolen or destroyed certificate is twenty-five dollars ($25).

(e) A registrant placed on probation shall be required to pay probation monitoring fees upon order of the board.

~~SEC. 20.~~

SEC. 35. 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.~~

SEC. 36. 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.~~

SEC. 37. 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.~~

SEC. 38. 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 a 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.~~

SEC. 39. Section 2770.2 of the Business and Professions Code is amended to read:

2770.2. 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.

Each committee shall have the following composition:

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

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

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

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.~~

SEC. 40. 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 a 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 licentiate 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 a intervention evaluation committee shall be reported by the intervention evaluation committee to the board.

~~SEC. 26.~~

SEC. 41. 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.~~

SEC. 42. 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 licentiate.

~~SEC. 28.~~

SEC. 43. 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.~~

SEC. 44. 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.~~

SEC. 45. 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 a intervention program.

~~SEC. 31.~~

SEC. 46. 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.~~

SEC. 47. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5 (commencing with Section 475).

(b) Possess an earned doctorate degree (1) in psychology, (2) in educational psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school. The board shall make the final determination as to whether a degree meets the requirements of this section.

No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a doctorate degree

in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the board deems necessary.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the board of the experience required by this subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the board.

If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the board when the verification forms are submitted.

Upon receipt by the board of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied. The supervising psychologist shall have 20 days from the day the board receives the verification and declaration to file a rebuttal with the board.

The authority provided by this subdivision for an applicant to file written verification directly shall apply only to an applicant who has acquired the experience required by this subdivision in the United States.

The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

(e) Show by evidence satisfactory to the board that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

(f) (1) Show by evidence satisfactory to the board that he or she has completed coursework in spousal or partner abuse assessment, detection, and intervention. This requirement applies to applicants who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003.

(2) An applicant who began graduate training on or after January 1, 2004, shall show by evidence satisfactory to the board that he or she has completed 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. An applicant may request an exemption from this requirement if he or she intends to practice in an area that does not include the direct provision of mental health services.

(3) Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) An applicant holding a doctoral degree in psychology from an approved institution is deemed to meet the requirements of this section if both of the following are true:

(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.

(2) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code.

~~SEC. 33.~~

SEC. 48. 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 Healthcare Integrity and Protection Data Bank 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 exam 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. 34.~~

SEC. 49. 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. 50. Section 3576 of the Business and Professions Code is amended to read:

3576. (a) A registration under this chapter may be denied, suspended, revoked, *placed on probation,* or otherwise subjected to discipline for any of the following by the holder:

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

(2) An act of dishonesty or fraud.

(3) Committing any act or being convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(4) Violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter.

(b) Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all powers granted therein.

SEC. 51. Section 3576.5 is added to the Business and Professions Code, to read:

3576.5. (a) A person whose registration has been surrendered while under investigation or while charges are pending or whose registration has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.

(b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective

date of the surrender of the registration or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a registration surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a registration surrendered or revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from registrants registered in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board, which shall be acted upon in accordance with Section 2335.

(e) The panel of the board or the administrative law judge hearing the petition 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 during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge, designated in Section 11371 of the Government Code, reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

(g) No petition shall 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. No petition shall be considered while there is an accusation or petition

to revoke probation pending against the person. 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. 52. Section 3577 of the Business and Professions Code is amended to read:

3577. (a) Each person who applies for registration under this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum not in excess of one hundred dollars ($100).

(b) Each person to whom registration is granted under this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the board at a sum not in excess of one hundred dollars ($100).

(c) The registration shall expire after two years. The registration may be renewed biennially at a fee which shall be paid into the Contingent Fund of the Medical Board of California to be fixed by the board at a sum not in excess of one hundred fifty dollars ($150).

(d) A registrant placed on probation shall be required to pay probation monitoring fees upon order of the board.

~~(d)~~

(e) The money in the Contingent Fund of the Medical Board of California that is collected pursuant to this section shall be used for the administration of this chapter.

~~SEC. 35.~~

SEC. 53. 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. 54. 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.

~~The~~

(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.

~~The~~

(c) The board reinstating the license or registration or modifying a penalty may impose ~~such~~ 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.

~~The~~

(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.~~

SEC. 55. 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.~~

SEC. 56. 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.~~

SEC. 57. 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.~~

SEC. 58. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

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

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctoral degree.

(4) Not more than 1,300 hours of supervised experience obtained prior to completing a master's or doctoral degree.

The applicant shall not be credited with more than 750 hours of counseling and direct supervisor contact prior to completing the master's or doctoral degree.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) 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.

(7) Not more than a combined total of 1,000 hours of experience in the following:

(A) Direct supervisor contact.

(B) Professional enrichment activities. For purposes of this chapter, "professional enrichment activities" include the following:

(i) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor. An applicant shall have no more than 250 hours of verified attendance at these workshops, seminars, training sessions, or conferences.

(ii) Participation by the applicant in personal psychotherapy, which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional. An applicant shall have no more than 100 hours of participation in personal psychotherapy. The applicant shall be credited with three hours of experience for each hour of personal psychotherapy.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) For all hours gained on or after January 1, 2012, not more than 500 hours of experience in the following:

(A) Experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes.

(B) Client centered advocacy.

(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For up to 150 hours of treating couples and families in conjoint therapy, the applicant

shall be credited with two hours of experience for each hour of therapy provided.

(11) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

(12) 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) 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 interns and trainees 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 interns or trainees 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.

(c) Except for experience gained pursuant to subparagraph (B) of paragraph (7) 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.

(d) (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.

(e) (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 (d), 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.

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

(g) 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.

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

(i) 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. 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.

(j) 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 an employee and not an independent contractor. 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.

(k) 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.~~

SEC. 59. 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.~~

SEC. 60. 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.~~

SEC. 61. 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.~~

SEC. 62. 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.~~

SEC. 63. 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.~~

SEC. 64. 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 Science Examiners 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.~~

SEC. 65. 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. 66. Section 4999.1 of the Business and Professions Code is amended to read:

4999.1. Application for registration as ~~an in-state or out-of-state~~ *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 ~~in-state or out-of-state~~ 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 in-state or out-of-state 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 ~~in-state or out-of-state staff~~ *health care professionals* providing ~~telephone~~ 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 quarterly basis~~ on a form to be prescribed by the department and shall include, but not be limited to, the name, ~~address,~~ state of licensure, ~~category~~ *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. 67. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, ~~in-state or out-of-state~~ *a* telephone medical advice ~~services~~ *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 ~~staff~~ *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 ~~staff~~ *health care professionals* who provide telephone medical advice services from an out-of-state ~~location are health care professionals,~~ *location,* as identified in subparagraph (A), ~~who~~ 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 or subscriber~~ *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. 68. 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 ~~an in-state or out-of-state~~ *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 ~~an in-state or out-of-state~~ *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. 69. 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 ~~license~~ registration would otherwise expire, ~~apply for renewal on a form prescribed by the bureau, and~~ pay the renewal fee authorized by Section 4999.5.

(c) ~~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.~~ 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. 70. Section 4999.5 of the Business and Professions Code is amended to read:

4999.5. The department may set fees for ~~registration,~~ *registration and renewal* as ~~an in-state or out-of-state~~ *a* telephone

medical advice service sufficient to pay the costs of administration of this chapter.

SEC. 71. 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 ~~a staff person~~ *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. 47.~~

SEC. 72. 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. 48.~~

SEC. 73. 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 the licensure examination specified by paragraph (2) of subdivision (a) of Section 4999.53, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

(b) The experience shall include a minimum of 3,000 postdegree hours of supervised clinical mental health experience related to the practice of professional clinical counseling, performed over a period of not less than two years (104 weeks), which shall include:

(1) Not more than 40 hours in any seven consecutive days.

(2) 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.

(3) Not more than 500 hours of experience providing group therapy or group counseling.

(4) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

(5) 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.

(6) Not more than a combined total of 1,250 hours of experience in the following related activities:

(A) Direct supervisor contact.

(B) Client centered advocacy.

(C) Not more than 250 hours of experience administering tests and evaluating psychological tests of clients, writing clinical reports, writing progress notes, or writing process notes.

(D) Not more than 250 hours of verified attendance at workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that are approved by the applicant's supervisor.

(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 pursuant to subparagraph (D) of paragraph (6) of subdivision (b), 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. 49.~~

SEC. 74. 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. 50.~~

SEC. 75. 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. 51.~~

SEC. 76. 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. ~~No registration~~ *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. 52.~~

SEC. 77. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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2015 BOARD CO-SPONSORED LEGISLATION

[AS OF MAY 1, 2015]

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:	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. 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. 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.
Position:	**SUPPORT**

SENATE BILL 525	
Author:	Nielsen [D]
Title:	Respiratory care practice
Introduced:	February 26, 2015
Amended:	April 6, 2015
Status:	In Assembly - Pending Referral
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:	**SUPPORT**

RESPIRATORY CARE BOARD OF CALIFORNIA

April 7, 2015

The Honorable Marc Steinorth
Assemblymember, District 40
State Capitol, Room 2111
Sacramento, CA 95814

RE: AB 923: Respiratory care practitioners.

Dear Assemblymember Steinorth:

The Respiratory Care Board of California (Board) is in support of AB 923 which will provide the Board clear authorization to publicly disclose certain egregious substantially related criminal arrests, and strengthen its legal framework related to disciplinary actions.

Business and Professions Code section 3710.1 provides "***Protection of the public shall be the highest priority for the [Board]*** in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

Respiratory care practitioners (RCPs) work in many settings, including homes and children's hospitals, and with all types of vulnerable patients, including children and the elderly. Licensed RCPs who are arrested for malicious and egregious crimes such as lewd and lascivious acts against a child under 14, possession of child pornography, and attempted murder, to name a few, are often permitted to continue practicing while awaiting criminal adjudication. While the Board vigorously pursues avenues to suspend a license in these circumstances, these RCPs often continue to work for weeks, months, even years, all the while with no public notice, placing the public health, welfare, and safety at immediate and significant risk. The current processes to obtain a suspension, prevents early public disclosure. AB 923 will provide authority for the Board to inform employers and the public of such an arrest.

AB 923 also codifies the Board's authority to pursue disciplinary action for acts of negligence and abuse against our most vulnerable population; children, dependent adults, or the elderly. It also provides the Board with continued jurisdiction in all disciplinary matters that are finalized after a license has cancelled.

Finally, AB 923 amends Business and Professions Code section 3755 to include as unprofessional conduct any verbally or physically abusive behavior, sexual harassment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or any other conduct which is inimical to the health, morals, welfare, or safety of a person while in the health care setting. The Board has investigated a handful of cases where it was unable to take appropriate disciplinary action because although the acts were of a serious nature, there was not a direct correlation to unprofessional conduct, preventing the Board in some cases from pursuing disciplinary action altogether, or not pursuing it to the degree warranted.

The Board fully supports AB 923 aimed at strengthening consumer protection.

Sincerely,

Alan Roth

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

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AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 923

Introduced by Assembly Member Steinorth

February 26, 2015

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:

SECTION 1. Section 3750 of the Business and Professions Code is amended to read:

3750. The board may order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

(a) Advertising in violation of Section 651 or Section 17500.

(b) Fraud in the procurement of any license under this chapter.

(c) Knowingly employing unlicensed persons who present themselves as licensed respiratory care practitioners.

(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Negligence in his or her practice as a respiratory care practitioner.

(g) Conviction of a violation of ~~any of the provisions of~~ this chapter or of ~~any provision of~~ Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate ~~any provision or term of~~ this chapter or ~~of any provision of~~ Division 2 (commencing with Section 500).

(h) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(i) The aiding or abetting of any person to engage in the unlawful practice of respiratory care.

(j) The commission of any fraudulent, dishonest, or corrupt act ~~which~~ *that* is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

(k) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any patient, hospital, or other record.

(*l*) Changing the prescription of a physician and surgeon, or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.

(m) Denial, suspension, or revocation of any license to practice by another agency, state, or territory of the United States for any

act or omission that would constitute grounds for the denial, suspension, or revocation of a license in this state.

(n) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Podiatric Medicine, the ~~Board of Dental Examiners,~~ *Dental Board of California,* the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(o) Incompetence in his or her practice as a respiratory care practitioner.

(p) A pattern of substandard care or negligence in his or her practice as a respiratory care practitioner, or in any capacity as a health care worker, consultant, supervisor, manager or health facility owner, or as a party responsible for the care of another.

(q) 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 in Section 368 of the Penal Code, without regard to whether the person was a patient.

(r) Providing 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.

SEC. 2. Section 3754.8 is added to the Business and Professions Code, to read:

3754.8. The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice respiratory care by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of the license by a licensee shall 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.

SEC. 3. Section 3755 of the Business and Professions Code is amended to read:

3755. The board may take action against any respiratory care practitioner who is charged with unprofessional conduct in administering, or attempting to administer, direct or indirect respiratory ~~care.~~ *care in any care setting.* Unprofessional conduct includes, but is not limited to, ~~repeated acts~~ *any act* of clearly administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques, ~~and~~ *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, or* violation of any provision of Section 3750. The board may determine unprofessional conduct involving any and all aspects of respiratory care performed by anyone licensed as a respiratory care practitioner. Any person who engages in repeated acts of unprofessional conduct shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment for a term not to exceed six months, or by both that fine and imprisonment.

SEC. 4. Section 3769.7 is added to the Business and Professions Code, to read:

3769.7. (a) If a licensee or applicant is arrested for any crime described in Section 3752.5, 3752.6, or 3752.7, upon receipt of certified copies of arrest documents, the board may provide notice of the licensee's or applicant's arrest on the board's Internet Web site, to employers, or both.

(b) If the board provides notice of a licensee's or applicant's arrest pursuant to this section, the board shall remove the notice 60 days after the criminal matter is adjudicated or when all appeal rights have been exhausted, whichever is later.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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RESPIRATORY CARE BOARD OF CALIFORNIA

March 16, 2015

The Honorable Jim Nielsen
Senator, District 14
State Capitol, Room 2068
Sacramento, CA 95814

RE: SB 525: Respiratory care practice.

Dear Senator Nielsen:

The Respiratory Care Board of California (Board) is in support of SB 525 which clarifies areas of the respiratory scope of practice that were not initially drafted to accommodate advancements in technology and changes in patient care for future interpretation.

Business and Professions Code section 3701 states, "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."

Advancements in the medical field and the delivery of care have rapidly evolved since the Respiratory Care Practice Act was enacted 33 years ago in 1982. The Board is contacted frequently with various "scope of practice" questions. And while the Board has opined or even moved forward with expert opinions on many of these inquiries, confusion exists among facilities throughout California of which practices are authorized to be performed by licensed respiratory care practitioners (RCPs). Lack of clarity in the RCP scope of practice can often be a roadblock for facilities as they attempt to provide the most efficient and beneficial care to patients.

As the nation works diligently to fully implement the Affordable Care Act, it is incumbent upon government agencies to review and update their laws to afford health care organizations greater flexibility to efficiently use their resources and provide consumers optimal care. Providing clarification in all these subjects will assist medical facilities and other organizations to put current and foreseen issues to rest and allow them to move forward and expend energies toward improving their operations.

Sincerely,

Alan Roth

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

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AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 525

Introduced by Senator Nielsen

February 26, 2015

An act to amend Sections 3701~~, 3702,~~ and 3702.7 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 525, as amended, Nielsen. Respiratory care practice.

Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of the practice of respiratory therapy. 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 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.

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 ~~the scope of practice~~ *associated aspects of cardiopulmonary and other systems functions* includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system. The bill would ~~expand the scope of practice~~ *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 ~~and~~, 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.

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

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

1 SECTION 1. Section 3701 of the Business and Professions
2 Code is amended to read:
3 3701. (a) The Legislature finds and declares that the practice
4 of respiratory care in California affects the public health, safety,
5 and welfare and is to be subject to regulation and control in the
6 public interest to protect the public from the unauthorized and
7 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.~~

~~"Respiratory care protocols" as used in this section 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.~~

~~(b) "Associated aspects of cardiopulmonary and other systems functions" includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system.~~

~~SEC. 3.~~

SEC. 2. Section 3702.7 of the Business and Professions Code is amended to read:

~~3702.7. In addition to the matters described in Section 3702, respiratory care as a practice also includes the following:~~

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)~~ *(d)* 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 ~~(ECCO(2)R).~~ *(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) "Associated aspects of cardiopulmonary and other systems functions," as used in Section 3702, includes patients with deficiencies and abnormalities affecting the heart and cardiovascular system.

(f) 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.~~

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

the meaning of Section 6 of Article XIII B of the California Constitution.

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