

Governor Edmund G. Brown Jr.
State of California

Alexis Podesta, Secretary
Business, Consumer Services
and Housing Agency

Awet Kidane, Director
Department of Consumer Affairs



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

Thomas Wagner, BS, RRT, FAARC
Vice-President

Mary Ellen Early
Member

Rebecca F. Franzoia
Member

Mark Goldstein, MBA, BS, RRT
Member

Michael Hardeman
Member

Ronald H. Lewis, MD
Member

Judy McKeever, RCP
Member

Laura C. Romero, PhD
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 March 10, 2017

DoubleTree by Hilton San Diego Downtown
1646 Front Street San Diego CA 92101
Room: Seaport B, 1st Floor

9:30 a.m. Call to Order and Establishment of Quorum

1. Public Comment

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

2. Approval of October 7, 2016 Meeting Minutes

3. Executive Officer Report *(Stephanie Nunez)*

- Status on Revisions to the Law and Professional Ethics Continuing Education Course
- Strategic Planning Update
- Board of Vocational Nursing Planned Meeting Update
- Website Redesign
- New Department of Consumer Affairs Director, Dean Grafilo, MPA

4. Review of and Possible Action after Consideration of the RCP Workforce Study Report Conducted by the Phillip R. Lee Institute for Health Policy Studies, University of California, San Francisco *(Alan Roth; Thomas Wagner)*

5. Fiscal Review: Revenues, Expenditures and Fund Condition Consideration to Amend Section 3775 of the Business and Professions Code

6. Consideration of and Possible Action to Adopt Proposed Regulatory Amendments to Section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations to Increase Fees

7. Discussion and Possible Action after Consideration of Sunset Review Testimony and Legislature Feedback and Recommendations

8. Review of and Possible Action to Support/Oppose/Watch Legislation of Interest

SB 27, SB 227, SB 247, SB 496, SB 572, SB 796
AB 208, AB 349, AB 654, AB 703, AB 827, AB 1005

9. Public Comment on Items Not on the Agenda

10. Future Agenda Items

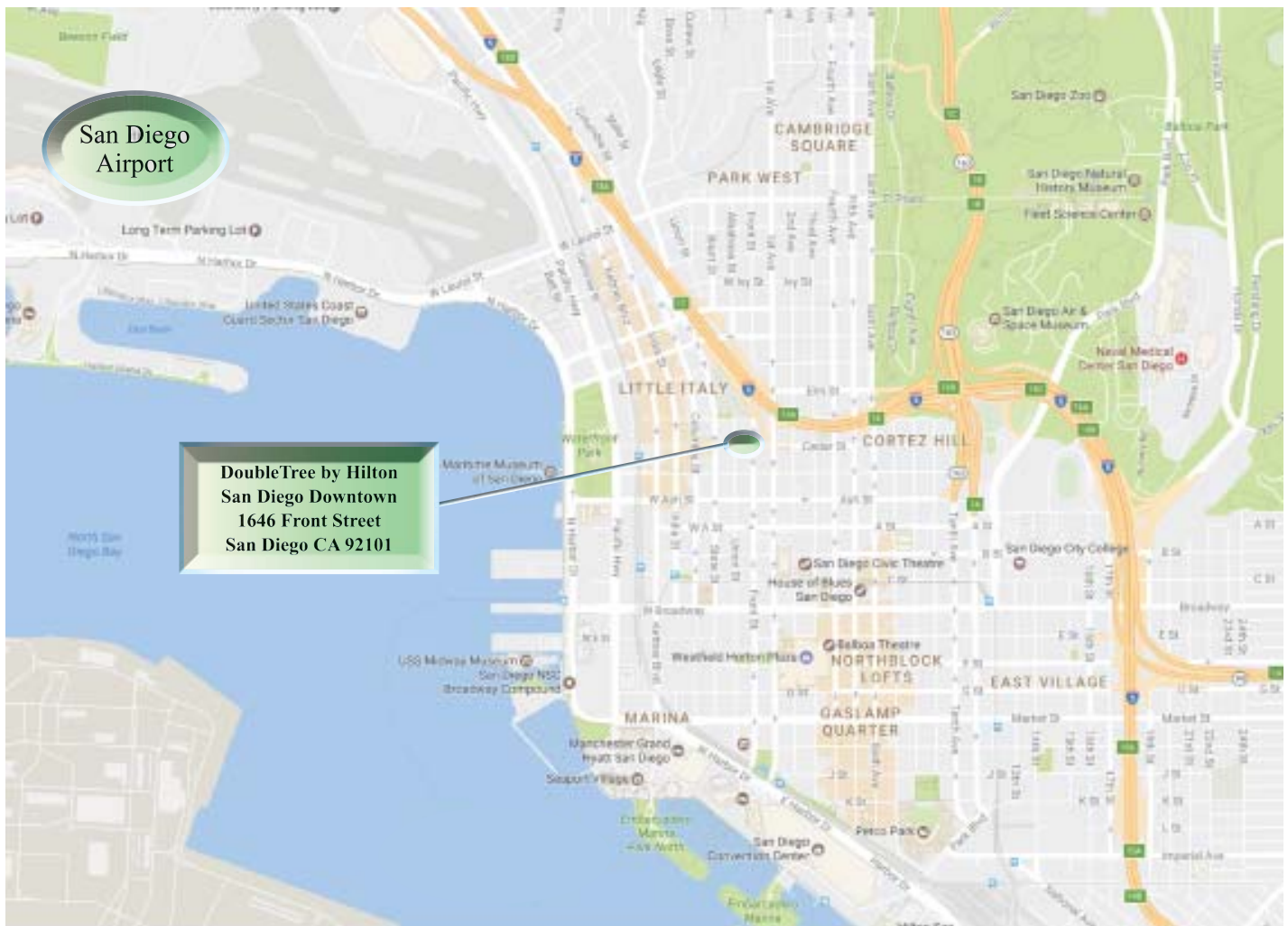
• **Closed Session** •

[Not Open to the Public]

The Board will convene into Closed Session, as authorized by Government Code section 11126(c), subdivision (3), to deliberate on disciplinary matters including petitions for reconsideration, stipulations, and proposed decisions.

Return to Open Public Session

Adjournment



NOTICE

This meeting will be Webcast, provided there are no unforeseen technical difficulties.
To view the Webcast, please visit <http://thedcpage.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.

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 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.



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PUBLIC SESSION MINUTES

Friday, October 7, 2016

**1747 North Market Blvd.
North Building, Room S-186
Sacramento, CA 95834**

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

Staff Present: Kelsey Pruden, Legal Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager

CALL TO ORDER

The Public Session was called to order at 10:04 a.m. by President Roth. Roll call was taken and a quorum was established.

PUBLIC COMMENT

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

1 **APPROVAL OF JUNE 24, 2016 MINUTES**

2
3 Dr. Lewis moved to approve the June 24, 2016 Public Session minutes as written. The motion was
4 seconded by Ms. McKeever.

5
6 M/Lewis /S/McKeever

7 In favor: Early, Franzoia, Goldstein, Lewis, McKeever, Wagner

8 Abstain: Romero, Roth

9 MOTION PASSED

10
11 **RCP WORKFORCE STUDY**

12 *(President Roth)*

13
14 President Roth stated the Board's Executive Committee has been advising the UCSF Workforce
15 Study group on issues and concerns raised during their analysis of the baccalaureate degree as entry
16 level for respiratory therapists. The focus has been on getting the right type of people to speak in the
17 study groups including directors, managers, therapists and educators of respiratory care. Focus
18 groups have been scheduled for the month of October, and nine of the ten director interviews have
19 been completed. President Roth commented that great progress has been made by UCSF.

20
21 Dr. Lewis inquired about the timeline for the study.

22
23 President Roth responded that UCSF is expected to compile the data from the focus groups by the
24 end of this year and have a completed report for the Board in 2017.

25
26 Dr. Romero reviewed the breakdown of directors who completed the survey, with 68 percent being
27 from general acute care or pediatric hospital and 10 percent from home health care. She inquired
28 who made up the remaining 22 percent.

29
30 President Roth responded the remaining percentage represents sub-acute and long term care
31 facilities, as well as durable medical equipment companies.

32
33 **Request for Public Comment:**

34
35 No comments.

36
37 **FISCAL REVIEW: REVENUES, EXPENDITURES AND FUND CONDITION**

38 *(Nunez)*

39
40 Ms. Nunez discussed the Fiscal Review agenda attachments and pointed out some one-time costs in
41 the expenditures. She also identified some increases in expenditures that have been outside of the
42 Board's control. Ms. Nunez also pointed out that at the same time, AG and investigative expenditures
43 have been reduced. Ms. Nunez explained that BreEZe has cost more than initially anticipated due to
44 various issues, most of them having to do with the contractor prior to the product's rollout. The costs
45 for BreEZe will be ongoing but are expected to decline somewhat, in the future, to a more
46 manageable maintenance cost level.

47
48 Ms. McKeever inquired about the \$144,000 reimbursement listed under the Fund Condition.

49
50 Ms. Nunez explained these are payments received from Cost Recovery and Probation Monitoring
51 costs. She added the current amount has decreased from an average of \$244,000 in past years.

1 Mr. Goldstein inquired about the increase in expenditure items: Office of Admin Hearings, Division of
2 Investigation, and ProRata.

3
4 Ms. Nunez responded there have been fewer stipulated cases, resulting in more going to hearing.
5 She also explained that the Fiscal Year 2015/16 DOI charges were actually for work performed two
6 years prior (and that this amount can fluctuate from fiscal year to fiscal year) and that the ProRata
7 costs are imposed by DCA for various services (i.e. legal, information technology, personnel, etc.).
8

9 Dr. Lewis inquired about the benefits of BreZEe.

10
11 Ms. Molina responded that from a staff perspective, the availability of reports and information is much
12 more accessible and user friendly, and that the on-line functionality benefits staff, licensees, and
13 employers. She added, the transfer of information and files from staff person to staff person is more
14 efficient, and the system provides many benefits to stakeholders including the ability to request
15 endorsements, duplicate licenses, and to pay for renewal, cost recovery, cite and fine, and probation
16 monitoring online. She also stated that future functionality will include reminders to licensees when it
17 is time to renew.
18

19 Ms. Franzoia asked if updates regarding case statuses can be sent to Board members via BreZEe.

20
21 Ms. Molina responded that function is part of a current authorization being implemented.

22
23 **Request for Public Comment:**

24
25 No public comment was received.
26

27
28 **CONSIDERATION TO AMEND SECTION 1399.395 OF DIVISION 13.6 OF TITLE 16 OF THE**
29 **CALIFORNIA CODE OF REGULATIONS TO INCREASE FEES**
30 *(Nunez)*
31

32 Ms. Nunez explained that because of the Board's current fund projections, a renewal fee increase is
33 being proposed. Since Business and Professions Code section 3775 limits a renewal fee increase to
34 no more than ten percent per year, she stated a \$20 increase in the renewal fee will sustain the fund
35 for a few years, and added that the issue should also be revisited next year to determine if an
36 additional increase is necessary.
37

38 President Roth stated the cost of BreZEe has been significant, as shown in the handout. However, the
39 overall benefits and approval of the system have been positive. He added it is important to remember
40 the budget, relative to revenue, is set for a flat number of applications and renewals.
41

42 President Roth moved to approve the proposed regulatory action to section 1399.395 as presented
43 and direct staff to notice the language for public comment without setting a hearing. Also, absent any
44 comments during the public comment period, authorize staff to finalize and make any technical non-
45 substantive changes. The motion was seconded by Dr. Lewis.
46

47 Dr. Romero inquired when the last renewal fee increase was made.

48
49 Ms. Nunez responded, the last increase of \$30 was approved and implemented over 14 years ago.
50

51 Mr. Goldstein stated while it would be beneficial to have the authority in place, it would be ideal to not
52 implement the increase unless necessary.
53

1 Ms. Nunez stated B&P Code §3775(k) allows the Board to reduce fees at any time.

2

3 President Roth stated unlike other states, the California Board is self-sufficient and does not depend
4 on the State's general fund. He added the increase reflects mostly on what is relative to BreEze and
5 the costs associated to implement and maintain the system.

6

7 Ms. McKeever stated since the last renewal fee increase was in 2002, she would not be opposed to
8 this increase, but would be against further increases beyond that.

9

10 M/Lewis /S/McKeever

11 In favor: Early, Franzoia, Goldstein, Lewis, McKeever, Romero, Wagner, Roth

12 Unanimous

13 MOTION PASSED

14

15 .

16

SUNSET REVIEW UPDATE

17

(Nunez)

18

19 Ms. Nunez stated the Sunset Report is near completion and should be out to the Executive
20 Committee for review within the next two weeks. Once approved, it will be printed and presented to
21 the Legislature by December 1st. Ms. Nunez requested President Roth and Vice President Wagner to
22 accompany her to the hearings before the Legislature. Ms. Nunez stated that she does not anticipate
23 any major issues, with the biggest issue being the fee increase currently being addressed.

24

25 Dr. Lewis asked when the last Sunset Review was completed.

26

27 Ms. Nunez responded it is completed on a four year cycle. She added that the Board usually does not
28 have big issues that some of the other boards may experience.

29

30 President Roth added that the Board has been very successful in meeting all of the goals in its
31 Strategic Plan from 4 years ago.

32

33 Ms. Nunez indicated these goals came from the last Sunset Review and added the Board will be
34 doing another Strategic Plan after this Sunset Review is complete to identify new goals and
35 objectives.

36

Public Comment:

37

38 No public comment.

39

40

41

ENFORCEMENT PERFORMANCE MEASURES AND STATISTICS

42

(President Roth)

43

44
45 President Roth pointed out that, for the first time, the Board has met their "Formal Discipline"
46 performance measure as the Attorney General's Office has stepped up their efforts in Fiscal Year
47 15/16. The time cases spend at the OAG dropped from 371 to 309. The time it takes to file an
48 accusation from the date the OAG receives a case dropped from 126 (FY 13/14) to 106 (FY 15/16).
49 The OAG also reduced the time it takes to file a stipulation after an accusation was filed from an
50 average 240 (in previous years) to 181 (FY 15/16). President Roth added the Board has made a
51 dramatic increase in the Citation and Fines collected as well.

52

53 Mr. Goldstein inquired about current Cost Recovery amounts and the reason for the decrease.

1
2 Ms. Nunez explained this has always been the case with Cost Recovery, primarily because once an
3 individual has been revoked, the Board often never hears from them again. Although these cases are
4 sent to collection, it can be difficult to collect from revoked licensees. She added that when the Board
5 first started using a collection agency (around 2008), the RCB sent 20 years of cases for collection of
6 outstanding costs, so the amount collected was unusually high. Although the Board continues to see
7 fees from the collection agency, they are fewer and less.

8
9 Dr. Lewis noted that there were 22 revocations and 14 probations with suspensions for the current
10 fiscal year, and inquired if the Board has ever looked at the types of cases and reasons for the
11 revocations and probations to try to find the main cause(s). He added a possible way to reduce this is
12 through education. During the schooling process, if the hot topics which end in revocation and or
13 suspension are known and brought to light, it may reduce these actions.

14
15 Ms. Nunez stated she agrees, and believes the ethics course could be used for this. She added it may
16 be an item that should be added to the Strategic Plan.

17
18 Ms. Molina stated the revocations also encompass default decisions where there may be cases the
19 Board might be willing to settle (i.e. place the individual on probation, etc.) However, if the individual
20 does not contest the filing, it results in a default and revocation.

21
22 Dr. Lewis questioned, do these individuals not understand that if they present themselves, there are
23 fairly decent remedies to protect their license or could they just be giving up on this particular
24 profession. He concluded that since no "outgoing" interview is done, the Board may never know.

25
26 Ms. Molina indicated they are served documents given to them explaining the various opportunities
27 they are entitled to but ultimately it is incumbent upon each individual to exercise those opportunities.

28
29 Discussion ensued.

30
31 **Public Comment:**

32
33 No public comment.

34
35
36 **LEGISLATIVE UPDATE**

37
38 **a. Legislation of Interest:**

39
40 Ms. Molina reviewed and provided updates regarding the 2016 Legislation of Interest.

- 41
- | | | |
|----|----------|-----------------------------------------------------------------------------------|
| 42 | SB 66: | Career Technical Education |
| 43 | | Status: Signed by Governor on September 28, 2016 |
| 44 | | Board's Position: Watch |
| 45 | SB 547: | Aging and long term care services, supports, and program coordination |
| 46 | | Status: Vetoed by the Governor |
| 47 | | Board's Position: Watch |
| 48 | SB 1155: | Professions and vocation: licenses: military service |
| 49 | | Status: Held under submission in Assembly Appropriations Committee. Bill has died |
| 50 | | Board's Position: Support |
| 51 | SB 1194: | Professions and vocations: board actions and regulations |
| 52 | | Status: August 24, 2016 – Hearing before Assembly B&P cancelled at the request of |
| 53 | | the author. Bill has died |

1 Board's Position: Watch
2 SB 1334: Crime Reporting: Health Practitioners: Reports
3 Status: May 27, 2016 – Held in Senate Appropriations: Bill has died.
4 Board's Position: Support
5 SB 1348: Licensure applications: military experience
6 Status: Signed by the Governor, Chapter 174 (Statutes of 2016).
7 Board's Position: Watch
8 AB 1939: Licensing Requirements
9 Status: May 27, 2016 – Held under submission in Assembly B&P Committee. Bill
10 has died
11 Board's Position: Watch
12 AB 2079: Skilled nursing facilities: staffing.
13 Status: August 25, 2016. Ordered to inactive file. Bill has died
14 Board's Position: Support if Amended
15 AB 2606: Crimes against children, elders, dependent adults, and persons with disabilities
16 Status: May 27, 2016: Held under submission in Assembly Appropriations. Bill has
17 died
18 Board's Position: Support
19 AB 2701: Department of Consumer Affairs: boards: training requirements
20 Status: April 5, 2016 – Hearing before Assembly B&P cancelled at the request of the
21 author. Bill has died.
22 Board's Position: Watch
23

24 **b. 2016 Board-Cosponsored Legislation, AB 923**

25
26 Ms. Nunez stated AB 923, sponsored by the Respiratory Care Board and the California Society for
27 Respiratory Care, was signed by the Governor and will go into effect, January 1, 2017.
28

29 **c. HR 2948, Medicare Telehealth Parity Act: Consideration to Support**

30
31 President Roth inquired if the Board's basis for consideration requires sending a letter of support to
32 the California congressional district.
33

34 Ms. Molina added the legislation was authored by California representative, Mike Thompson.
35

36 President Roth commented this is an important move forward for inclusion of respiratory care.
37

38 President Roth moved to send a letter of support for HR 2948 to the Honorable Mike Thompson. The
39 motion was seconded by Mr. Goldstein
40

41 Dr. Lewis inquired if the letter will state support for the expansion under Medicare or for Telehealth
42 programs
43

44 Ms. Pruden, Legal Counsel, stated the Board would be taking the position of the bill as a whole. If
45 there were aspects of the bill the Board did not support, the position would be to "support if amended."
46

47 Dr. Lewis stated his concerns about giving a blanket approval to a bill that includes other items with it
48 and would prefer a support be customized and focused on the profession of respiratory care.
49

50 Mr. Goldstein clarified support of the aspects of the bill which has respiratory care practitioners
51 covered underneath Medicare or Telehealth.
52

1 President Roth amended the motion to state the Board will send a letter of support for HR 2948 to the
2 Honorable Mike Thompson specifically pertaining to respiratory care practitioners. The motion was
3 seconded by Mr. Goldstein.
4

5 Dr. Romero agreed with Dr. Lewis and voiced her concerns about providing general support for the
6 bill. She believes the Board should take into consideration the different populations they serve.
7

8 Discussion ensued.
9

10 **Public Comment:**

11 No public comment.
12

13 M/Roth /S/Goldstein

14 In favor: Early, Franzoia, Goldstein, Lewis, McKeever, Wagner, Roth

15 Abstain: Romero

16 MOTION PASSED
17
18
19

20 **CONSIDERATION FOR APPROVAL OF UPDATED LAW AND PROFESSIONAL ETHICS**
21 **CONTINUING EDUCATION COURSE PROVIDED BY THE CALIFORNIA SOCIETY FOR**
22 **RESPIRATORY CARE (CSRC)**
23

24 Ray Hernandez, Chair of the CSRC's Professional Advancement Committee and Ethics Course
25 Program Coordinator, presented to the Board a draft of course content for consideration as requested
26 at the June 24, 2016 teleconference meeting. He stated originally they wanted to infuse the content
27 throughout the current course. However, because the content flowed so well it was determined it
28 could be added as a module to the current content.
29

30 President Roth inquired if the course would be presented in slide and lecture form for those who
31 would take the course online.
32

33 Mr. Hernandez responded, it would be integrated into both and would be added to the end of the
34 existing course as a module.
35

36 President Roth inquired if there would be questions relative to the competency included in the added
37 module.
38

39 Mr. Hernandez agreed, if the Board would like, they could be added. He mentioned that currently
40 there are 30 questions in the course test. Any additional questions could be added after review and
41 approval by the Board.
42

43 Ms. Nunez stated she was not aware that the entire course content was going to be provided for
44 review, only the additional information. She added, she does not see the relevance or benefit of
45 requiring licensees, who are completing continuing education, to read about why they have to
46 complete continuing education and why the numbers have increased. Ms. Nunez also questioned the
47 appropriateness of a chart including the CE hours and license fees while an increase in those fees is
48 approaching.
49

50 Mr. Hernandez replied that the information gleaned from the Board's packet was intended for
51 educational purposes only as the CSRC wants this course to always be relevant for respiratory care
52 practitioners. However, if the Board wished it to be removed, it certainly would be.
53

1 Mr. Goldstein commented he likes the idea of having every therapist understand the future of
2 respiratory care so they will not be upset as things progress and added, he agreed, in concept, with
3 the proposed course content, but would like to see a finer tool before he would approve it.
4

5 Ms. McKeever had several concerns and asked Mr. Hernandez if anyone has approached the state
6 colleges as far as baccalaureate programs as it seems they do not want anything to do with
7 respiratory care education. She stated her concern that there are currently only three schools where
8 individuals can take the higher level program and added state institutions should be encouraged to
9 include respiratory care. Finally, she stated respiratory care employers need to understand that if
10 respiratory care therapists are going to be required to get a BS degree, they should get increases in
11 pay just like the nurses do. She believes that some incentive is needed for respiratory therapists to
12 get better educated because it is going to cost them a lot of money.
13

14 Mr. Hernandez responded that in terms of the state colleges, the legislature has tried to address this
15 with the pilot baccalaureate degrees at the community college level. The reality is that the public
16 system is not able to meet the needs of four year degrees and the workforce. Mr. Hernandez also
17 agreed that it is important, and partially why the provided program was written. He added, if
18 respiratory therapists want to have parity with nurses, employers and practitioners need to
19 understand that one basic element of the formal education is what needs to happen.
20

21 President Roth stated he would like to see added in that the education is information relative to the
22 NBRC and that a credential from the NBRC needs to be kept current as it now has a five year
23 expiration date. Practitioners need to be part of the NBRC and maintain the continued competency
24 program in order to keep their credential.
25

26 Mr. Goldstein interjected that at this point, he does not believe the law requires an individual to
27 maintain their certification with the NBRC once you have a license and you meet continuing education
28 requirements to maintain that license.
29

30 Ms. Nunez stated the reason the Board developed the course was to try and address enforcement
31 issues. It was called Professional Ethics and Law and was intended to teach people what was right
32 and wrong in the professional arena of ethics as well as the Board's law, to reduce enforcement. The
33 initial intent was not to promote what the Board was doing related to current affairs. It was more to talk
34 about consequences for example, if a licensed practitioner were to drink and drive or engage in some
35 other unethical or illegal action. And while she believed that the items being discussed all had merit,
36 perhaps they were items for an additional course and not necessarily this one.
37

38 Ms. Pruden, Legal Counsel, articulated a few points of concern and wanted to make sure that the
39 Board is adhering to the legal statutes of what is required for this course. She stated, as she
40 understood it, this additional course content was being added to the existing course content and
41 wanted to know if it would be integrated in a way that would maintain the current required 3 hours that
42 it takes to complete the course (two hours: Professional Ethics and one hour: California Law) or if it
43 would be adding additional time. She inquired where Mr. Hernandez saw the additional content fitting
44 in, either under California Law or the Professional Ethics aspect.
45

46 Mr. Hernandez responded, in looking at the number of words currently in the additional content, it
47 would most likely add approximately 30 minutes to the existing course. The intention is to add it as a
48 module at this juncture but that in the upcoming new cycle in 2018, it would be integrated into all of
49 the new requirements that are forthcoming. The time would remain at 3 hours for the live course with
50 the additional material being an addendum to all of the other materials already being given. Any
51 additional time for the online piece would vary depending on each individual's ability to read and
52 absorb the information. An average time of 20 to 30 minutes would be added to the course as an
53 additional module.

1
2 Ms. Pruden inquired if this section is being considered as a separate segment than the original
3 course.
4
5 Mr. Hernandez responded, yes it would be, alluding to the title of Professional Advancement given to
6 the additional content. He stated, with Board approval, it can stand as its own module.
7
8 Ms. Pruden reiterated the requirements for a segment to include, a narrative or discussion and
9 scenario as well as at least one question with three to six possible responses and only one correct
10 answer.
11
12 Discussion ensued concerning legal statute and the requirements necessary when adding segments
13 to an existing course.
14
15 Dr. Lewis moved to have all the revisions made to the course and the entire content brought back to
16 the Board for review and approval. The motion was seconded by Ms. McKeever.
17
18 President Roth requested the State Comparison chart be reconfigured to include pertinent information
19 but remove the renewal fee section.
20
21 Final discussion ensued with some change requests to Mr. Hernandez. Ms. Nunez was identified as
22 the point of contact for Mr. Hernandez during the revision process.
23
24 M/Lewis /S/McKeever
25 In favor: Early, Franzoia, Goldstein, Lewis, McKeever, Romero, Wagner, Roth
26 MOTION PASSED

27 28 29 **ELECTION OF OFFICERS**

30 31 **a. Vice President**

32
33 President Roth opened the floor for nominations for Respiratory Care Board Vice President.

34
35 Ms. Early nominated Mr. Wagner for Vice President. No other nominations were made.

36
37 A motion to nominate Mr. Wagner for Vice President was made by Ms. Early and seconded by Ms.
38 Franzoia.

39
40 No public comment.

41
42 M/Early /S/Franzoia

43 In favor: Early, Franzoia, Goldstein, Lewis, McKeever, Romero, Wagner, Roth

44 Unanimous

45 MOTION PASSED

46 47 **b. President**

48
49 President Roth opened the floor for Nominations for Respiratory Care Board President.

50
51 Dr. Lewis nominated Mr. Roth for President. No other nominations were made.
52

1 A motion to nominate Mr. Roth for President was made by Dr. Lewis, and seconded by Ms.
2 McKeever.
3
4 No public comment.
5
6 M/Lewis/S/McKeever
7 In favor: Early, Franzoia, Goldstein, Lewis, McKeever, Romero, Wagner, Roth
8 Unanimous
9 MOTION PASSED

10
11
12 **2017 MEETING DATES: CALENDAR**

13
14 The following Public Meetings were scheduled for 2017:

15
16 March 10, 2017 in Southern California
17 June 30, 2017 Teleconference Meeting
18 October 13, 2017 in Sacramento, California
19

20
21 **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

22
23 No public comment was provided at this time.
24

25
26 **FUTURE AGENDA ITEMS**

27
28 No future items were identified.
29

30
31 **ADJOURNMENT**

32
33 The Public Session Meeting was adjourned by President Roth at 11:58 p.m.
34
35
36
37
38
39

40
41 _____
42 ALAN ROTH
43 President

44 _____
45 STEPHANIE A. NUNEZ
46 Executive Officer



Respiratory Care Board Strategic Plan Schedule

Task		Due Dates
Preliminary Meeting	SOLID works with EO to gather information about the Board of Respiratory Care Board and discuss the strategic planning methodology.	Week of April 3, 2017
Determine stakeholders	Board to determine stakeholders and create an email contact list for the online survey. Board to send online survey invitation to all stakeholders. SOLID to draft email invitation to stakeholders for use by the Board.	Early April 2017
Board Member Interviews	SOLID will send EO a draft of the email invitation to be sent to Board members in preparation for the individual phone interviews.	April 2017
EO Interview	SOLID interviews EO.	Late April 2017
Staff Focus Group (or online survey)	SOLID conducts one 4-hour staff focus group in HQ2 training room.	Late April 2017
	Upon completion of interviews, focus group, and survey, SOLID will compile and analyze the data and produce an environmental scan outlining the Board's strengths, weakness, opportunities, and threats. The final Environmental Scan will be the foundation during the strategic planning session to develop objectives within each of the Board's goal areas.	5/15/17 – 6/2/17
Send Draft Environmental Scan to EO	SOLID will email a DRAFT of the Scan to EO for review. SOLID makes edits as needed	Week of June 4
EO Emails Scan to Board and Legal	Scan and worksheet will be emailed from EO to Board with suggested email text from SOLID. Board of Respiratory Care Board Legal Counsel should also receive a copy and a meeting invite to the session.	Week of June 11
Pre-Session Review	EO meets with planner to review materials, sequence of PowerPoint, and seating chart in the room where session will be held.	Mid-June 2017
	SOLID will facilitate the strategic plan development session with Board members. Through discussion, our purpose is to highlight review the trends identified from the surveys, interviews, and focus group to establish objectives for the Board's new strategic plan. During the planning session the Board will also develop/revise the Board's mission statement, vision statement, and values.	June 30, 2017
Update Strategic Plan	SOLID will use information gathered at planning session to update Board's strategic plan. A comprehensive draft will be sent to EO for review by target due date.	Early July 2017
Adoption of Strategic Plan	Strategic plan is reviewed and adopted by Board. Board may decide to work with DCA's Publications, Design, and Editing (PDE) team to have the plan professionally designed.	TBD
Action Planning Session	SOLID will facilitate a meeting with Board staff to create an action plan to guide completion of strategic objectives by establishing due dates, identifying major tasks, and assigning responsible parties.	TBD

**Consideration to Amend
Section 3775 of the
Business and Professions Code**

The amount of fees provided in connection with licenses or approvals for the practice of respiratory care shall be as follows:

- (a) The application fee shall be established by the board at not more than three hundred dollars (\$300). The application fee for the applicant under subdivision (c) of Section 3740 shall be established by the board at not more than three hundred fifty dollars (\$350).
- (b) The fees for any examination or reexamination required by the board shall be the actual cost to the board for developing, purchasing, grading, and administering each examination or reexamination.
- (c) The initial license fee for a respiratory care practitioner shall be no more than three hundred dollars (\$300).
- (d) For any license term beginning on or after January 1, 1999, the renewal fee shall be established at two hundred thirty dollars (\$230). The board may increase the renewal fee, by regulation, to an amount not to exceed three hundred thirty dollars (\$330). The board shall fix the renewal fee so that, together with the estimated amount from revenue, the reserve balance in the board's contingent fund shall be equal to approximately six months of annual authorized expenditures. If the estimated reserve balance in the board's contingent fund will be greater than six months, the board shall reduce the renewal fee. ~~In no case shall the fee in any year be more than 10 percent greater than the amount of the fee in the preceding year.~~
- (e) The delinquency fee shall be established by the board at not more than the following amounts:
 - (1) If the license is renewed not more than two years from the date of its expiration, the delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal.
 - (2) If the license is renewed after two years, but not more than three years, from the date of expiration of the license, the delinquency fee shall be 200 percent of the renewal fee in effect at the time of renewal.
- (f) The duplicate license fee shall not exceed seventy-five dollars (\$75).
- (g) The endorsement fee shall not exceed one hundred dollars (\$100).
- (h) Costs incurred by the board in order to obtain and review documents or information related to the criminal history of, rehabilitation of, disciplinary actions taken by another state agency against, or acts of negligence in the practice of respiratory care by, an applicant or licensee, shall be paid by the applicant or licensee before a license will be issued or a subsequent renewal processed.
- (i) Fees paid in any form other than check, money order, or cashier's check shall be subject to an additional processing charge equal to the board's actual processing costs.
- (j) Fees incurred by the board to process return mail shall be paid by the applicant or licensee for whom the charges were incurred.
- (k) Notwithstanding any other provision of this chapter, the board, in its discretion, may reduce the amount of any fee otherwise prescribed by this section.

(Amended by Stats. 2003, Ch. 586, Sec. 16. Effective January 1, 2004.)

REVENUE

Revenue Category	2014/15 Actual	2015/16 Actual	2016/17 Projected	Projected Workload 2016/17	Current Fees 2015/16
Application (CA)	\$417,600	\$380,147	\$382,500	1,275	\$300
Application (Foreign)					
Application (O-O-S)					
Renewal	\$2,156,020	\$2,165,949	\$2,185,000	9,500	\$230
Delinquent Fees	\$63,480	\$85,630	\$82,340	350/4	\$230
Endorsement	\$13,350	\$13,125	\$13,750	525	\$25
Duplicate License	\$3,250	\$3,475	\$3,750	150	\$25
Cite and Fine	\$30,469	\$38,176	\$40,000	var	var
Miscellaneous	\$25,139	\$23,996	\$16,490	var	var
Total Revenue	\$2,709,308	\$2,710,498	\$2,723,830		

EXPENDITURES

Expenditure Items	2014/15 Actual	2015/16 Actual	2016/17 Projected	Actual Exp. thru 01/31/17	Budgeted 2016/17
Salary & Benefits	\$1,548,852	\$1,612,713	\$1,693,400	\$956,652	\$1,608,000
Training	\$380	\$275	\$3,000	\$1,390	\$12,000
Travel	\$17,316	\$29,906	\$35,000	\$15,624	\$42,000
Printing	\$19,431	\$51,155	\$25,000	\$9,555	\$28,000
Postage	\$22,464	\$28,603	\$25,000	\$11,132	\$41,000
Equipment	\$22,542	\$2,320	\$10,000	\$651	\$0
ProRata ¹	\$625,438	\$783,481	\$809,000	\$368,088	\$809,000
Fingerprints	\$6,341	\$7,695	\$7,000	\$3,381	\$55,000
All Other Fixed Expenses ²	\$314,458	\$387,013	\$234,000	\$119,200	\$565,000
Division of Investigation	\$0	\$78,674	\$8,000	\$4,669	\$8,000
Attorney General	\$410,020	\$428,872	\$450,000	\$179,391	\$462,000
Office of Admin Hearings	\$44,516	\$90,463	\$100,000	\$27,649	\$137,000
Court Reporter Services	\$4,000	\$12,475	\$10,000	\$902	\$0
Evidence and Witness	\$39,191	\$37,904	\$35,000	\$14,475	\$32,000
Total Expenditures	\$3,074,949	\$3,551,549	\$3,444,400	\$1,712,759	\$3,799,000

¹ ProRata includes departmental and central administrative services.

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

FUND CONDITION

	Actual 2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Beginning Reserve, July 1	\$2,432	\$1,795	\$1,195	\$696	\$362	\$193
Prior Year Adjustments	\$66					
Fee Increase \$20 eff. 7/1/17			\$190	\$190	\$190	\$190
Fee Increase \$25 eff. 7/1/18				\$238	\$238	\$238
Fee Increase \$25 eff. 7/1/19					\$238	\$238
Revenues	\$2,710	\$2,724	\$2,807	\$2,807	\$2,807	\$2,807
Total Revenues			\$2,997	\$3,235	\$3,473	\$3,473
TOTAL RESOURCES	\$5,208	\$4,519	\$4,192	\$3,931	\$3,835	\$3,666
Budget Expenditure	\$3,552	\$3,444	\$3,616	\$3,689	\$3,762	\$3,762
Disbursements (SCO)	\$5					
Reimbursements	(\$144)	(\$120)	(\$120)	(\$120)	(\$120)	(\$120)
TOTAL EXPENDITURES	\$3,413	\$3,324	\$3,496	\$3,569	\$3,642	\$3,642
RESERVE, JUNE 30	\$1,795	\$1,195	\$696	\$362	\$193	\$24
MONTHS IN RESERVE	6.5	4.1	2.3	1.2	0.6	0.1

RESPIRATORY CARE BOARD
Department of Consumer Affairs
California Code of Regulations. Title 16. Division 13.6 Respiratory Care Board
Fee Increase – July 1, 2017

Proposed Regulations to Amend Section 1399.395 of Division 13.6, Title 16 of the California Code of Regulations (CCR), related to renewal and delinquent fees.

At its October 7, 2016 meeting, the Respiratory Care Board (Board) approved proposed language to amend CCR section 1399.395, related to increasing renewal and delinquent fees. The 45 day comment period began on January 20, 2017 and is scheduled to end on March 6, 2017.

At the time of agenda mailing, the Board has received two comments related to this regulatory proposal, and will hold a regulation hearing on March 6, 2017 where additional comments may be received.

At this meeting, the Board will have the opportunity to discuss the regulation, the comments received and determine what course of action it wishes to pursue. Among its options:

1. Adopt the regulation as approved at the October 2016 Board Meeting.
2. Amend the regulation to address the concerns expressed by stakeholders and notice the modified text for a 15 day comment period.

Following is the proposed regulatory language as noticed on January 20, 2017, and a copy of the two (2) comments received to date. Any additional comments received during the March 6, 2017 regulation hearing will be provided to the Board for consideration prior to determining the action it wishes to pursue.

RESPIRATORY CARE BOARD
Department of Consumer Affairs
California Code of Regulations. Title 16. Division 13.6 Respiratory Care Board
Fee Increase – July 1, 2017

PROPOSED LANGUAGE

ARTICLE 9. FEES

Amend Section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations as follows:

§ 1399.395. Fee Schedule.

The following schedule of fees is hereby adopted pursuant to sections 3775 and 3775.5 of the B&P:

(a) Application fee	\$300
(b) Examination fee	Actual cost
(c) Re-examination fee	Actual cost
(d) Renewal fee for licenses expiring on or after January 1, 2002	\$230 <u>\$250</u>
(e) Delinquency fee (not more than 2 years after expiration)	\$230 <u>\$250</u>
(f) Delinquency fee (after 2 years but not more than 3 years after expiration)	\$460 <u>\$500</u>
(g) Inactive license fee	\$230 <u>\$250</u>
(h) Duplicate license fee	\$25
(i) Endorsement fee	\$25
(j) <u>Fees provided in subdivisions (d), (e), (f), and (g) shall be effective July 1, 2017.</u>	

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3775 and 3775.5, Business and Professions Code.

RESPIRATORY CARE BOARD
Department of Consumer Affairs
California Code of Regulations. Title 16. Division 13.6 Respiratory Care Board
Fee Increase – July 1, 2017

COMMENTS RECEIVED
AS OF FEBRUARY 28, 2017

Comment #1

Received via email on January 20, 2017, from Charles Groves

Renewal RN fee is \$190. Maybe the cost of the RCB should be looked at. Do we not charge licensee for discovery and recovery cost? \$10 a year is not a big increase, but considering the State had borrowed money from the RCB during its last financial crisis, did they reimburse the money or is that gone. Will discuss this with Alan Roth next time I see him. Thank you.

Comment #2

Received via email on January 20, 2017, from Dawn Fowler-Hamilton, RRN, RRT

Respiratory licensing fees are already outrageous as compared to, for example, Registered Nurse licensing fees in California. This is especially true if you compare nursing pay to RCP pay. I know when RTs first were licensed, the rationale was there were so many less RTs than nurses that it cost more per person to manage the State's costs. This should be made more equitable somehow.

RESPIRATORY CARE BOARD
Department of Consumer Affairs
California Code of Regulations. Title 16. Division 13.6 Respiratory Care Board
Fee Increase – July 1, 2017

FINAL STATEMENT OF REASONS

Hearing Date: March 6, 2017

Subject Matter of Proposed Regulations: Biennial Renewal and Delinquent Fee Increase

Section Affected: Section 1399.395 of Division 13.6, Title 16 of the California Code of Regulations (CCR).

Updated Information

The Initial Statement of Reasons is included in the file. No changes have been made which would warrant a change to the information contained therein.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

This action will not have a significant adverse economic impact on small businesses. This initial determination is based on the fact that the license fee will be increased by \$20 to \$250 biennially. An additional \$20 delinquent fee may be assessed only when a licensee fails to renew their license prior to the expiration, and a \$40 delinquent fee may be assessed after the renewal remains unpaid for 2 years.

This proposal benefits consumer protection as it is designed to enable the Board to maintain its licensing and oversight operations while also ensuring significant surpluses are not created. The proposed fee increase ensures licensing revenues are more in line with expenditures, thereby protecting the Board's fund from insolvency.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses

The following comments were made regarding the proposed action:

Comment:

A comment was received via email on January 20, 2017, from Charles Groves. Mr. Groves stated:

“Renewal RN fee is \$190. Maybe the cost of the RCB should be looked at. Do we not charge licensee for discovery and recovery cost? \$10 a year is not a big increase, but considering the State had borrowed money from the RCB during its last financial crisis, did they reimburse the money or is that gone. Will discuss this with Alan Roth next time I see him. Thank you.”

Response:

The Board rejects Mr. Groves’ comment regarding the registered nurse renewal fee as it is irrelevant to this regulatory proposal.

The Board partially accepts Mr. Groves’ comment regarding cost recovery. The Board does seek recovery of enforcement costs where appropriate and warranted in licensee disciplinary matters.

The Board partially accepts Mr. Groves’ comment regarding monies borrowed by the State during its last financial crisis. In 1992, the Board had \$785,000 of its reserve transferred to the General Fund to assist the State with balancing the General Fund budget. However, this money was repaid over a five year period in the late to mid-1990s and since then, the State has not transferred any additional loans from the Board’s fund.

Comment:

A comment was received via email on January 20, 2017, from Dawn Fowler-Hamilton, RRN, RRT. Ms. Hamilton stated:

“Respiratory licensing fees are already outrageous as compared to, for example, Registered Nurse licensing fees in California. This is especially true if you compare nursing pay to RCP pay. I know when RTs first were licensed, the rationale was there were so many less RTs than nurses that it cost more per person to manage the State’s costs. This should be made more equitable somehow.”

Response:

The Board rejects Ms. Fowler-Hamilton’s comments regarding the comparison of respiratory care licensing fees and pay to that of a registered nurse. These comments are irrelevant to the current regulatory proposal.

As stated in the Initial Statement of Reasons, the renewal and delinquency fees have remained the same since 2002. The proposed fee increases intend to address the Board’s structural imbalance and will protect the Respiratory Care Board Fund (Fund) from becoming insolvent as projected in FY 17/18. Analysis of the Board’s Fund Balance measured by Months in Reserve projects that at the end of the current fiscal year 2016/17, a 2.4 month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a -4.0 month deficit at the conclusion of FY 2018/19. Correcting the Board’s structural imbalance is vital to the Board’s solvency and will be unattainable without a renewal fee increase.

Finding of Necessity

The Respiratory Care Board of California hereby finds that it is necessary for the public health, safety, and welfare of consumers. This proposal ensures sufficient resources are available to maintain current operations which allow the Board to meet its mandate of consumer protection. As specified in Business and Professions Code section 3710.1, protection of the public shall be the highest priority for the Board when exercising its regulatory functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

DRAFT

NOTICE OF PROPOSED CHANGES

Fee Increase – July 1, 2017 **Respiratory Care Board of California**

NOTICE IS HEREBY GIVEN that the Respiratory Care Board of California (Board) is proposing to take the action described in the Informative Digest.

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Respiratory Care Board of California at 3750 Rosin Court, Suite 100, Sacramento, California 95834, at 10:00 a.m. on March 6, 2017. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on March 6, 2017, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference

Pursuant to the authority vested by Section 3722 of the Business and Professions Code (B & PC), and to implement, interpret or make specific sections 3775, and 3775.5 of said Code, the Board is considering amendments to Section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations (CCR) as follows:

A. Informative Digest

In accordance with the provisions of the Administrative Procedures Act, B & PC section 3722 authorizes the Board to adopt rules and regulations declaring policy of the Board, and for the administration of Chapter 8.3, of said code, known as the Respiratory Care Practice Act.

B & PC section 3775 establishes the statutory maximum fee schedule for biennial renewal of a respiratory care practitioner license. B & PC section 3775 also establishes the criteria to determine the delinquency fee for licenses that are not renewed prior to their expiration, as well as licensees renewed more than two years following license expiration. B & PC section 3775.5 establishes the fee for an inactive license.

This rulemaking action seeks to amend Division 13.6 of Title 16 of CCR section 1399.395 to increase the license renewal and delinquent fees for a respiratory care practitioner license. Under existing law, CCR section 1399.395 states the Board's fee schedule shall be adopted pursuant to sections 3775 and 3775.5 of the B & PC. CCR section 1399.395 sets forth the fee schedule for the biennial renewal of a respiratory care practitioner license. The renewal fee was last increased on January 1, 2002.

The proposed regulatory action is anticipated to go into effect on July 1, 2017. The implementation of the fee increases will make the following changes to the existing regulation:

FEE	EXISTING	PROPOSED
Biennial Renewal Fee	\$230	\$250
Delinquent Fee	\$230	\$250
Delinquent Fee > 2 years	\$460	\$500
Inactive License Fee	\$230	\$250

Amend section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations:

The proposed amendments raise the renewal fee for respiratory care practitioners from \$230 to \$250 effective July 1, 2017.

Pursuant to B & PC section 3775, and in response to the proposed renewal fee increase, the delinquency fee imposed on those that fail to renew their license prior to expiration will also increase. As mandated by section 3775, if renewed not more than two years from the date of expiration, a delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal. However, if the license is renewed after two years, but not more than three years from the date of the expiration of the license, the delinquency fee shall be 200 percent of the renewal in effect at the time of renewal.

The necessity and need for this proposed regulatory action is to ensure future fiscal solvency for the Board. Current budget projections indicate there will be insufficient funds to support Board operations after FY 16/17. Analysis of the Board's Fund Balance measured by Months in Reserve projects that at the end of the current fiscal year 2016/17, a 2.4 month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a -4.0 month deficit at the end of FY 2018/19. Correcting the Board's structural imbalance will be unattainable without a renewal fee increase.

The fund balance provides specific information on the Board's current fund as well as projections for future years. There are several factors that have contributed to the fund's imbalance such as the BreEZe system, employee benefits, and enforcement expenses, to name a few. In addition, renewal and delinquency fees have remained unchanged since 2002, while inflation has increased steadily over the years. According to the Consumer Price Index, the rate of inflation is calculated at 30.75 percent since 2002, and 58.00 percent since 1994. A review of the Board's fund condition demonstrates that while the overall revenue of the Board has increased by 43 percent between FY 2002/03 and FY 2015/16, Board expenditures for the same period have increased by 80 percent.

B. Policy Statement Overview/Anticipated Benefits of the Proposed Regulations

The Board regulates approximately 24,000 licensed respiratory care practitioners. Through this rulemaking, the Board proposes to amend section 1399.395 of the CCR to increase renewal and delinquent fees. This proposal is necessary to ensure sufficient resources are available to maintain current Board operations to meet its consumer protection mandate.

B & PC section 3710.1 specifies, "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 performed, the protection of the public shall be paramount."

Adoption and implementation of this proposed action would neutralize and correct the aforementioned Fund Balance decline and provide for a modest reserve for economic uncertainties through FY 2018/19. Without sufficient funding levels the Board will not be able to carry out its mandate to protect the health, safety, and welfare of California consumers.

C. Consistency and Compatibility With Existing Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that this is the only regulation that concerns renewal and delinquent fees for respiratory care practitioners. This proposed regulatory action is consistent and compatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

It is estimated that the proposed fee increases will result in an increase in Board revenues beginning FY 17/18 by approximately \$200,000.

The Board does not anticipate any impact on federal funding.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Requires Reimbursement: None.

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide *adverse* economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are costs associated with the increased renewal fee for a respiratory care practitioner license from \$230 to \$250. Those costs are estimated to be \$20 every renewal cycle (two years) for each active licensed respiratory care practitioner.

Effect on Housing Costs: None

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Effect on Small Business

The Board has determined that this regulatory proposal will not impact small businesses in the State of California, as the proposed amendments affect only individual respiratory care practitioners renewing their Board issued license.

Benefits of Regulation

The Board has determined that this regulatory proposal will primarily benefit California consumers by ensuring sufficient revenue levels are maintained for the Board to administer and enforce the provisions of the Respiratory Care Practice Act. Specifically, this proposal is designed to enable the Board to continue its licensing, disciplinary, and oversight operations in the interest of the health, safety, and welfare of California consumers by ensuring only actively licensed practitioners are providing respiratory care services.

Consideration of Alternatives

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present written statements relevant to the above determinations to the Board at the address indicated under contact person.

Initial Statement of Reasons and Information

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

Text of Proposal

Copies of the exact language of the proposed regulation, and of the initial statement of reasons, including any document incorporated by reference, and all of the information upon which the proposal is based, may be obtained upon request to the Board at 3750 Rosin Court, Suite 100, Sacramento, CA 95834 or on the Board's website at www.rcb.ca.gov.

Availability and Location of the Final Statement of Reasons and Rulemaking File

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the website listed, on the following page.

Contact Person

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Christine Molina
Address:	3750 Rosin Court, Suite 100 Sacramento, CA 95834
Telephone No.:	(916) 999.2190
Fax No.:	(916) 263.7311
E-Mail Address:	rcbinfo@dca.ca.gov

The backup contact person is:

Name: Stephanie Nunez
Address: 3750 Rosin Court, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 999.2190
Fax No.: (916) 263.7311
E-Mail Address: rcbinfo@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.rcb.ca.gov.

RESPIRATORY CARE BOARD OF CALIFORNIA
Department of Consumer Affairs
California Code of Regulations. Title 16. Division 13.6. Respiratory Care Board
Fee Increase – July 1, 2017

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulation: Biennial Renewal and Delinquent Fee Increase

Sections Affected: Section 1399.395 of Division 13.6, Title 16 of the California Code of Regulations (CCR).

Specific Purpose of the Proposed Changes

The Respiratory Care Board of California (Board) proposes to amend Section 1399.395 of Division 13.6 of Title 16 of the CCR. The purpose for amending the regulation is to allow the Board to raise fees to address structural imbalances in the Board's budget. This proposed regulatory action is anticipated to go into effect on July 1, 2017.

Business and Professions Code (B & PC) section 3722 authorizes the Board to adopt regulations, including amending rules and regulations as necessary, to effectuate the administration of Division 2, Chapter 8.3 of the B & PC (commencing with Section 3700).

B & PC section 3775 authorizes the Board to increase the renewal fee by regulation, and establishes the statutory maximum fee for biennial license renewal, as well as other fees for the Board's respiratory care practitioner licensees. Additionally, B & PC section 3775 establishes the criteria to determine the delinquency fees for licenses that are not renewed prior to their expiration date.

The renewal and delinquency fees have remained the same since 2002. In this proposed rulemaking, the Board seeks to amend Title 16 of the CCR, section 1399.395 to increase its renewal and delinquent fees as detailed below. These fee increases will apply to licenses that expire after July 1, 2017.

FEE	EXISTING	PROPOSED
Biennial Renewal Fee	\$230	\$250
Delinquent Fee	\$230	\$250
Delinquent Fee > 2 years	\$460	\$500
Inactive License Fee	\$230	\$250

The proposed fee increases intend to address the Board's structural imbalance and will protect the Respiratory Care Board Fund (Fund) from becoming insolvent as projected in FY 17/18. Analysis of the Board's Fund Balance measured by Months in Reserve projects that at the end of the current fiscal year 2016/17, a 2.4 month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a -4.0 month deficit at the conclusion of FY 2018/19. Correcting the Board's structural imbalance is vital to the Board's solvency and will be unattainable without a renewal fee increase.

Impact to Renewal

The proposed fee increase will equate to \$20 biennially for active and inactive licensed respiratory care practitioners.

Impact to Delinquent Fees

Pursuant to B & PC section 3775, and in response to the implementation of the proposed renewal fee increase, the delinquency fees imposed on practitioners who fail to timely renew their license prior to expiration will also increase. Upon expiration, if renewed not more than two years from the date of expiration, a delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal. However, if the license is renewed after two years, but not more than three years from the date of the expiration of the license, the delinquency fee shall be 200 percent of the renewal fee in effect at the time of renewal. Depending on when the renewal is paid by the practitioner, the increase to the delinquent fee equates to either \$20 or \$40.

Problem Being Addressed

The Fund balance provides specific information on the Board's current fund condition, as well as projections for future years. There are several factors that have contributed to the Fund's imbalance including the BreEZe system, staff benefits, and enforcement expenses, to name a few. In addition, the renewal and delinquent fees have remained unchanged since 2002, while the Consumer Price Index has increased over the years. The rate of inflation is calculated at 30.75 percent since 2002 and 58.00 percent since 1991 (See, The Bureau of Labor Statistics' Consumer Price Index Detailed Report Data for December 2015 – Table 24).

Further, a review of the Board's Fund condition report demonstrates that while the overall revenue for the Board has increased by 43 percent between FY 2002/03 and FY 2015/16, Board expenditures have increased by 80 percent during the same time period.

The increase in revenue correlates directly to the increase in the number of applications received. In FY 02/03 the Board received 680 applications and had 15,202 licenses active. At its height in FY 12/13, the Board collected 1655 new applications and had 21,473 active licensees. Since that time, the number of new applications has dropped to 1275 in FY 15/16 with 23,215 active licensees. The number of new applications accounts for the increase in revenue over the last 15 years because these figures are tied to new application fees, initial licensure fees, and renewal fees.

The increase in expenditures over the last fifteen years is tied to employee salaries and benefits, pro rata, and enforcement costs as follows:

- Salaries and Benefits: In 2002, the Board had 23 PYs with 22 positions staffed. Currently, the Board has 17.4 PYs and 18 positions staffed. Despite that the Board was able to reduce its staffing due to reengineered processes, costs have increased. Expenditures in FY 02/03 for salaries and benefits was \$1,086,000 whereas expenditures in FY 15/16 were 1,613,000 (49% increase).

-Pro Rata: In FY 02/03 the Board was charged 403,000 in Pro Rata and in FY 15/16, the Board was charged \$783,000 (a 94% increase). Increases are attributed to general salary increases and benefit costs as well as costs for BreEZe. The Board does not control the amount or rates of Pro Rata expenses levied upon it by the State and the DCA for required services or availability of services.

- Attorney General Expenses: In FY 02/03, the Attorney General expenses charged to the Board were \$246,000. In FY 15/16, the Board was charged \$429,000 (74% increase). While the number can fluctuate each year, there have been significantly fewer cases sent to the AG each year for processing since FY 02/03 from an average of 112 to 70 as result of greater efficiencies achieved

in-house. The Board monitors costs for each case closely and brings excessive costs to the attention of the Senior Attorney General which in many cases has resulted in a credit. But beyond this, the Board has little control on how many hours the AG charges or their hourly rates. Though increases in salaries and benefits contribute to the additional expenses. It should be noted that the Board submitted a negative BCP in FY 03/04, reducing its budget allotment for the AG by \$132,000 as a means to keep costs in check.

Evidence and Witness – Costs associated with expert witnesses, court reporting fees, or other court fees has climbed from \$25,000 in FY 02/03 to \$50,000 in FY 15/16 (100% increase). This increase is attributed to the shift in enforcement cases the Board is seeing that require expert review.

All of the aforementioned expenditures have shown a steady increase each year for four years or greater.

Other costs that have contributed to additional expenditures in the last three years include a one-time cost of \$160,000 for a workforce study, and investigative and administrative hearing costs. In FY 15/16 the costs for investigation and administrative hearing costs were abnormally high. For example, for the last three fiscal years, the DOI has charged our Board \$0, \$0 and \$79,000. This number will fluctuate depending on whether we send any cases to DOI. Administrative Hearings charged the Board \$90,000 in FY 15/16, but only charged \$45,000 the preceding year. This figure will fluctuate greatly as well depending on how many enforcement cases go to hearing. Expenses for postage and travel also increased \$3,000 and \$6,000 since FY 02/03.

Notwithstanding the increases in expenditures, the Board has taken a number of measures to increase efficiencies while reducing expenditures over the years including:

In 2001, the Board secured additional legislative authority to that provided staff greater access and authority to retrieve records as part of an investigation. This legislative amendment increased the number of records that were provided to the RCB, without the use of a subpoena as part of investigation. At this time the Board was pursuing, but did not yet have authority to issue a subpoena. Nearly all investigations were now being performed in-house that resulted in significant cost savings and faster turn-around times. Only a small number of cases, usually those requiring a subpoena were referred to the Division of Investigation. Currently, only cases where a viable threat may be posed are forwarded to the Division of Investigation.

In 2002, the Board established “In-House Review and Penalty Determination” guidelines to address a large majority of the types of complaints received. The guidelines help provide consistency in the discipline imposed and prioritize the cases that should be referred to the Office of the Attorney General for formal discipline.

In 2002, and in concert with the establishment of the In-House Review and Penalty Determination guidelines, the RCB expanded its citation and fine program to provide an alternative “penalty” to formal discipline for various violations. A citation allows the RCB to establish a public record for consumer and employer awareness, as well as for use if any future violations were to occur. This measure provided greater efficiency and ensured the availability of funds to prosecute high priority complaints.

In 2003, the RCB contracted for services to perform random drug screenings. Drug tests were performed more often and an increase in positive drug tests came about. Productivity was significantly increased and there was a substantial savings in staff and travel expenditures.

In 2003, the Board established its own cost recovery database with regular monthly invoices. In

nearly every decision, the respondent is ordered to repay the Board for its actual costs. In those cases where licenses are revoked or surrendered, respondents rarely make an effort to repay the RCB. In other cases where licenses were disciplined but remained valid, some delay payment. Until 2003, the RCB had tracked payments manually and never invoiced respondents. In 2003, RCB staff created a database providing for automated monthly invoicing and tracking. The effort was successful in increasing the collection of outstanding costs, as well as providing for greater efficiency and record management. The database was later used to collect all outstanding fines as well.

In 2003, the RCB sought and gained legislative authority to release information for the purposes of contracting with a collection agency. In 2004, the RCB implemented its contract with a Collection Agency to collect outstanding cost recovery/fines. The RCB has recouped over \$210,000 since then. This is significant when added to our own recovery efforts, and that of the Intercept Program administered by the Franchise Tax Board.

In 2009, the Board obtained subpoena authority (and training). Since that time, the Board has referred anywhere from 0 to 5 cases to the Division of Investigation each year leading to additional savings.

In 2010 the Board was subject to restrictions placed on all State agencies and at the same time was an integral part of developing the Consumer Protection Enforcement Initiative (CPEI) and focused on increasing efficiencies with the overriding goal to complete the entire enforcement process for a licensee in less than 18 months. Again, the Board reengineered its processes and shifted duties to ensure its highest priority of consumer protection was being carried out. To address enforcement workload, the board reevaluated the strengths of existing staff and reassigned duties accordingly. Some staff were provided additional training. The RCB altered its outreach campaign significantly, reducing it to a website and mailings. Resources that were slated to visit high schools and colleges were redirected to the Enforcement Program.

In December 2009, Uniform Standards were established as required by SB 1441 (2008 statutes), to provide some consistency among Healing Arts Boards' and their methods for addressing substance using/abusing licensees. The Board completed the implementation of these standards in June 2012 with no additional staffing. Probationers went from being tested 16 times per year to as much as 52 times per year and several other probation monitoring techniques were strengthened.

In 2010, the Board expanded its background checks to include an additional national database search on applicants. In addition, DCA established a means for boards to automate its fingerprint background reports.

Anticipated benefits from this regulatory action:

The proposed fee increases address the Board's structural imbalance and is aimed at protecting the Fund from becoming insolvent. This proposal is designed to enable the Board to maintain its licensing, disciplinary, and oversight operations to protect California's consumers, while also ensuring any projected surpluses are within the reserve limits permitted by B & PC section 3775.

Factual Basis/Rationale

Currently, B & PC section 3775 provides a statutory ceiling of \$330 for license renewal. The renewal fee was last increased by regulation in 2002 (15 years ago). The demonstrated increase in costs is a fraction of the amount of inflation on the United States dollar's 30.75 percent increase since 2002 and 58.00 percent increase since 1994.

Current budget projections show the Board's Fund balance as measured in Months in Reserve, will steadily decline to the point where there will be a -4.0 month deficit by the end of FY 2018/19. Therefore, the Board proposes to increase fees to preserve its fiscal solvency.

Underlying Data

As identified above, the increase in fees is based on the following materials, including the Fee Increase (Item 2) and RCB's BreEZe Project Costs (Item 3) noted below, which were presented for the Board's consideration during the October 7, 2016 Board meeting:

1. Consumer Price Index – Table 24 (December 2015)
2. Fee Increase – Fiscal Review
3. RCB's BreEZe Project Costs – 2011/12 through 2022/23
4. RCB Historical Expenditures

Business Impact

The proposed amendments to section 1399.395 will not have a significant adverse economic impact on businesses as the fee increases only impact individual respiratory care practitioners (RCPs).

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the regulation does not make any changes or provide for any new provisions that would affect the creation or elimination of jobs.
- It will not create new business or eliminate existing businesses within the State of California because the regulation does not make any changes or provide for any new provisions that would result in the creation or elimination of new businesses.
- It will not result in expansion of any businesses currently doing business within the State of California because the regulation does not make any changes or provide for new provisions that would directly affect the expansion of any businesses.
- This regulatory proposal will benefit the health and welfare of California residents because this proposal ensures the Board will remain fiscally solvent to administer and enforce the provisions of the Respiratory Care Practice Act, in the interests of consumer protection.
- This regulatory proposal does not affect worker safety because this proposal is specific to fee increases and it is not anticipated to impact current business practices or registration trends affecting worker safety.
- This regulatory proposal does not affect the state's environmental safety because it is specific to an increase in fees and is not anticipated to impact current business practices that may affect the state's environment.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out

the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The Board is restricted by subdivision (d), section 3775 of the Business and Professions Code to increasing its renewal fee to 10% of the fee currently charged. The Board currently charges \$230, so the most the Board could increase its fee is \$23. The Board chose to increase its fee by \$20 to establish an even \$250 amount. The Board suspects it will return the following year for an additional \$25 fee increase as section 3775 of the B&P also requires the Board to increase its fee so that it has a six month reserve.

Any proposal for a fee increase of less than \$20 would greatly jeopardize the Board fund's condition next fiscal year with having less than a one month fund reserve. Keeping fees at the current levels would prevent the Board from fulfilling its consumer protection mandate because it would no longer have the available funds to perform many of the services required by law by the end of FY 17/18.

Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued

(1982-84=100, unless otherwise noted)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
1970	37.8	38.0	38.2	38.5	38.6	38.8	39.0	39.0	39.2	39.4	39.6	39.8
1971	39.8	39.9	40.0	40.1	40.3	40.6	40.7	40.8	40.8	40.9	40.9	41.1
1972	41.1	41.3	41.4	41.5	41.6	41.7	41.9	42.0	42.1	42.3	42.4	42.5
1973	42.6	42.9	43.3	43.6	43.9	44.2	44.3	45.1	45.2	45.6	45.9	46.2
1974	46.6	47.2	47.8	48.0	48.6	49.0	49.4	50.0	50.6	51.1	51.5	51.9
1975	52.1	52.5	52.7	52.9	53.2	53.6	54.2	54.3	54.6	54.9	55.3	55.5
1976	56.6	55.8	55.9	56.1	56.5	56.8	57.1	57.4	57.6	57.9	58.0	58.2
1977	58.5	59.1	59.5	60.0	60.3	60.7	61.0	61.2	61.4	61.6	61.9	62.1
1978	62.5	62.9	63.4	63.9	64.5	65.2	65.7	66.0	66.5	67.1	67.4	67.7
1979	68.3	69.1	69.8	70.6	71.5	72.3	73.1	73.8	74.6	75.2	75.9	76.7
1980	77.8	78.9	80.1	81.0	81.8	82.7	82.7	83.3	84.0	84.8	85.5	86.3
1981	87.0	87.9	88.5	89.1	89.8	90.6	91.6	92.3	93.2	93.4	93.7	94.0
1982	94.3	94.6	94.5	94.9	95.8	97.0	97.5	97.7	97.9	98.2	98.0	97.6
1983	97.8	97.9	97.9	98.6	99.2	99.5	99.9	100.2	100.7	101.0	101.2	101.3
1984	101.9	102.4	102.6	103.1	103.4	103.7	104.1	104.5	105.0	105.3	105.3	105.3
1985	105.5	106.0	106.4	106.9	107.3	107.6	107.8	108.0	108.3	108.7	109.0	109.3
1986	109.6	109.3	108.8	108.6	108.9	109.5	109.5	109.7	110.2	110.3	110.4	110.5
1987	111.2	111.6	112.1	112.7	113.1	113.5	113.8	114.4	115.0	115.3	115.4	115.4
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3
2004	185.2	186.2	187.4	186.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.989	216.177	216.330	215.949
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525

See footnotes at end of table.

FEE INCREASE - FISCAL REVIEW

Proposed renewal fee increase from \$230 to \$250

Agenda Item: 5
Meeting Date: 10/7/16

Revenue

Revenue Category	2015/16 Actual	2016/17 Projected	2017/18 w/Fee Increase	Projected Workload 2016/17	Projected Fee Increase
Application (CA)					
Application (Foreign)	\$380,147	\$382,500	\$382,500	1,275	\$300
Application (O-O-S)					
Renewal	\$2,165,949	\$2,185,000	\$2,375,000	9,500	\$250
Delinquent Fees	\$85,630	\$82,340	\$89,500	358	\$250
Endorsement	\$13,125	\$13,750	\$13,750	525	\$25
Duplicate License	\$3,475	\$3,750	\$3,750	150	\$25
Cite and Fine	\$38,176	\$40,000	\$40,000	var	var
Miscellaneous	\$23,996	\$16,490	\$16,490	var	var
Total Revenue	\$2,710,498	\$2,723,830	\$2,920,990		

Fund Condition - Full Budget Expenditure

	2015/16	2016/17	2017/18	2018/19
Beginning Reserve, July 1	\$2,432	\$1,795	\$1,243	\$509
Prior Year Adjustments	\$66			
Revenues	\$2,710	\$2,724	\$2,921	\$2,921
TOTAL RESOURCES	\$5,208	\$4,519	\$4,164	\$3,430
Budget Expenditure	\$3,552	\$3,420	\$3,799	\$3,799
Disbursements ¹	\$5			
Reimbursements	(\$144)	(\$144)	(\$144)	(\$144)
TOTAL EXPENDITURES	\$3,413	\$3,276	\$3,655	\$3,655
RESERVE, JUNE 30	\$1,795	\$1,243	\$509	-\$225
MONTHS IN RESERVE	6.6	4.1	1.7	-0.8

Fund Condition- Projected Budget Expenditure

	2015/16*	2016/17	2017/18	2018/19
Beginning Reserve, July 1	\$2,432	\$1,795	\$1,243	\$708
Prior Year Adjustments	\$66			
Revenues	\$2,710	\$2,724	\$2,921	\$2,921
Interest				
TOTAL RESOURCES	\$5,208	\$4,519	\$4,164	\$3,629
Budget Expenditure	\$3,552	\$3,420	\$3,600	\$3,600
Disbursements ¹	\$5			
BreEZe Funding ¹				
BreEZe Credit Card ¹				
Reimbursements	(\$144)	(\$144)	(\$144)	(\$144)
TOTAL EXPENDITURES	\$3,413	\$3,276	\$3,456	\$3,456
RESERVE, JUNE 30	\$1,795	\$1,243	\$708	\$173
MONTHS IN RESERVE	6.6	4.3	2.5	0.6

Each \$25 renewal fee increase = \$250,000 in additional revenue

2011				2012				2013				2014				2015				2016			
Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2

"October 2011" Costs - SPR 1: Contract Award (July 2011)
 \$45,771,735

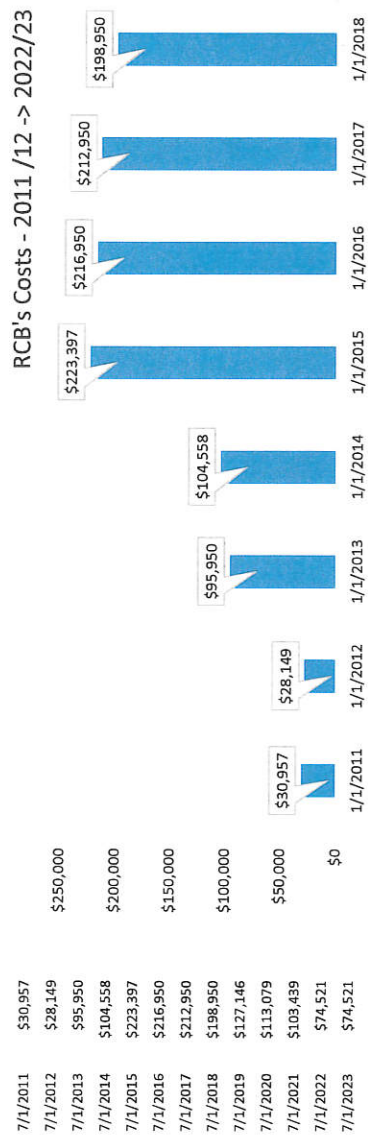
SPR 1 Summary:
 Original Project Schedule through 09/2013
 Original Negotiated Accenture Contracts (3)
 Included DCA Technical Consultant Support

SPR 2: Release 1 Delay (May 2013)
 + \$32,174,071

SPR 2 Summary:
 Schedule extended through 12/2015
 Shortened Release 1 payback schedule
 Added Unanticipated Tasks Budget
 Additional Interface Development Consultants
 Added Reports Development Consultant
 Added Legacy System Development Consultant
 Additional Test Management Consultant

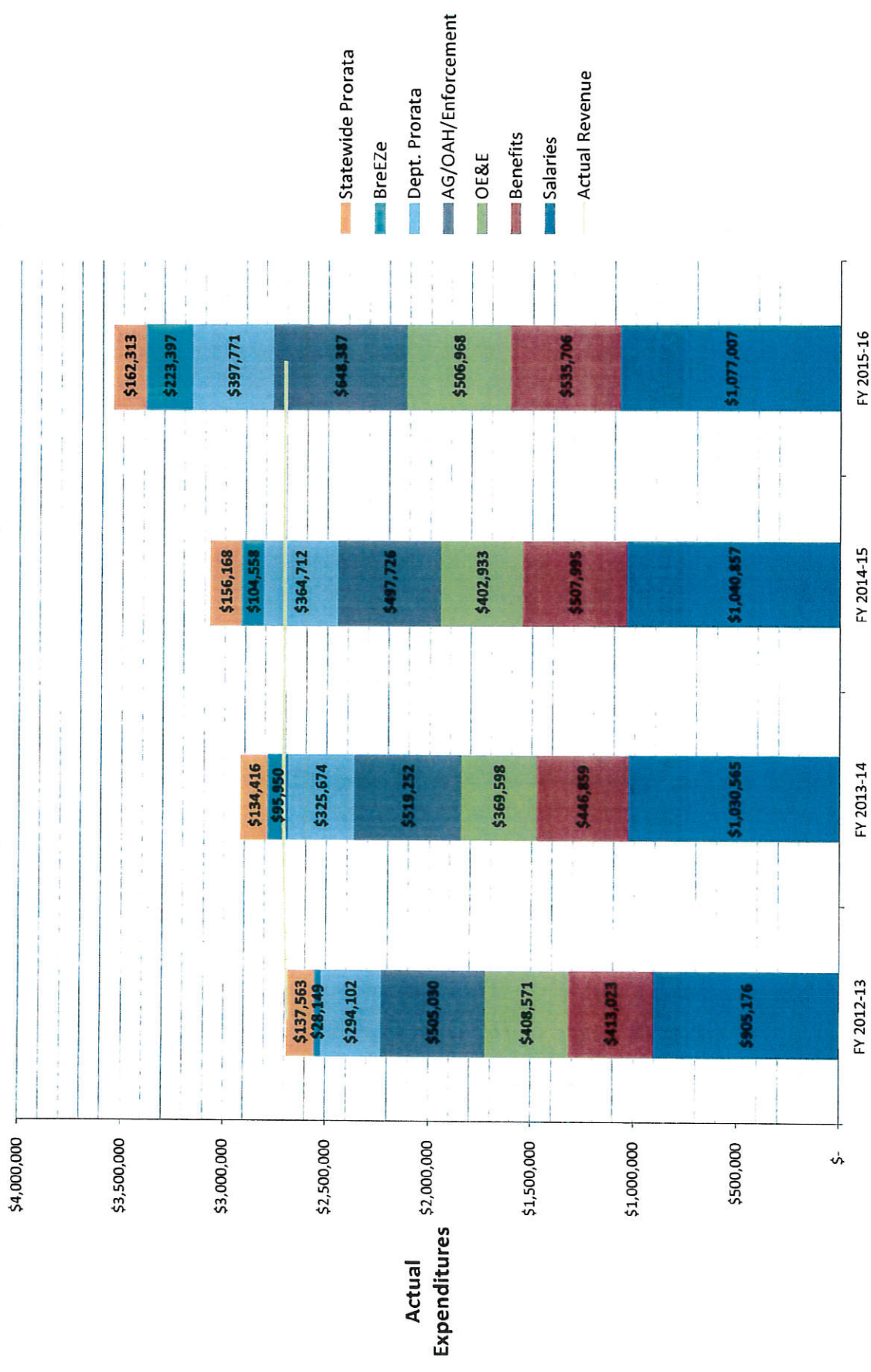
SPR 3.1: Project Re-Plan (January 2015)
 + \$17,519,359

SPR 3.1 Summary:
 Schedule extended through 6/2016
 Revised Cost sharing model to reflect removal of R3 programs
 Added 34 BreEze System Maintenance Staff
 \$1.95M added for contract approval delay
 Significant increase in Accenture Maintenance Services
 Added Organization Change Management Team
 Extended consultant support into Maintenance
 Added System Support Software Tools



*Outyear costs represent best-guess as of 10/5/2016 and are subject to change.

Respiratory Care Board Historical Expenditures



2017 LEGISLATION OF INTEREST

(as of February 23, 2017)

SENATE BILL 27 (MORRELL)

Title: Professions and vocations: licensees: military service.
Introduced: December 5, 2016
Status: January 12, 2017 - Referred to Senate Committees on Business, Professions & Economic Development and Veterans Affairs

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee or registrant whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license or registration without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist with, the initial licensure process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. The bill would require that a veteran be granted only one fee waiver, except as specified.

Staff Recommended Position: **WATCH**

SENATE BILL 227 (MONNING)

Title: Vocational nurse: feeding tube services: neurodegenerative conditions.
Introduced: February 2, 2017
Status: February 16, 2017 - Referred to Senate Committee on Business Professions & Economic Development

Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians for the regulation and licensure of vocational nurses and authorizes a licensed vocational nurse to perform certain medical procedures under the direction of a physician and surgeon.

This bill would authorize a licensed vocational nurse to perform certain feeding tube services in a home setting for a patient with a neurodegenerative condition.

Staff Recommended Position: **WATCH**

SENATE BILL 247 (MOORLACH)

Title: Licensing requirements.
Introduced: February 6, 2017
Status: February 6, 2017 - Referred to Senate Committee on Rules

Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.

This bill would state the intent of the Legislature to enact legislation that would reduce occupational licensing requirements.

Staff Recommended Position: **WATCH**

SENATE BILL 496 (DELEON)

Title: Department of Consumer Affairs: regulatory boards: removal of board members.
Introduced: February 16, 2017
Status: In Senate - Pending Referral

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, on specific grounds, including continued neglect of duties required by law.

This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

Staff Recommended Position: **WATCH**

SENATE BILL 572 (STONE)

Title: Healing arts licensees: violations: grace period.
Introduced: February 17, 2017
Status: In Senate - Pending Referral

Existing law provides for the licensure and regulation of various healing arts professions by various boards, as defined, within the Department of Consumer Affairs. Existing law imposes certain fines and other penalties for, and authorizes these boards to take disciplinary action against licensees for, violations of the provisions governing those professions.

This bill would prohibit the boards from taking disciplinary action against, or otherwise penalizing, healing arts licensees who violate those provisions but correct the violations within 15 days, if the violations did not cause irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.

Staff Recommended Position: **OPPOSE**

SENATE BILL 796 (HILL)

Title: Healing arts: boards. **RCB SUNSET EXTENSION BILL**
Introduced: February 17, 2017
Status: In Senate - Pending Referral

Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee within the Osteopathic Medical Board of California for the licensure and regulation of naturopathic doctors. Existing law repeals the act on January 1, 2018. Existing law also specifies that the committee is subject to review by the appropriate policy committees of the Legislature on January 1, 2018.

This bill would instead repeal the act and subject the committee to legislative review on January 1, 2022.

Existing law, the Respiratory Care Practice Act, establishes the Respiratory Care Board of California for the licensure and regulation of respiratory care practitioners. Existing law specifies that the board is subject to review by the appropriate policy committees of the Legislature upon repeal of the provision establishing the board. Existing law also authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2018.

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

Staff Recommended Position: **SUPPORT**

ASSEMBLY BILL 208 (EGGMAN)

Title: Deferred entry of judgment: pretrial diversion.
Introduced: January 23, 2017
Status: Scheduled to be heard by the Assembly Committee on Public Safety on March 14, 2017

Existing law allows individuals charged with specified crimes to qualify for deferred entry of judgment. A defendant qualifies if he or she has no conviction for any offense involving controlled substances, the charged offense did not involve violence, there is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, the defendant's record does not indicate that probation or parole has ever been revoked without being completed, and the defendant's record does not indicate that he or she has been granted diversion, deferred entry of judgment, or was convicted of a felony within 5 years prior to the alleged commission of the charged offense.

Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18 months to 3 years. If the defendant does not perform satisfactorily in the program, does not benefit from the program, is convicted of specified crimes, or engages in criminal activity rendering him or her unsuitable for deferred entry of judgment, the defendant's guilty plea is entered and the court enters judgment and proceeds to schedule a sentencing hearing. If the defendant completes the program, the criminal charges are dismissed. Existing law allows the presiding judge of the superior court, with the district attorney and public defender, to establish a pretrial diversion drug program.

This bill would make the deferred entry of judgment program a pretrial diversion program. The bill would make that a defendant qualified for the pretrial diversion program if he or she has no prior conviction within 5 years prior to the alleged commission of the charged offense for any offense involving controlled substances other than the offense that qualifies him or her for diversion, the charged offense did not involve violence, there is no evidence within the past 5 years of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, and the defendant has no prior conviction for a serious or violent felony within 5 years prior to the alleged commission of the charged offense.

Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.

Staff Recommended Position: **OPPOSE**

ASSEMBLY BILL 349 (MCCARTY, GONZALEZ FLETCHER & NAZARIAN)

Title: Department of Consumer Affairs: applicants for licensure: special immigrant visas.

Introduced: February 8, 2017

Status: February 21, 2017 referred to Assembly Business and Professions Committee

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits a board within the department from denying licensure to an applicant based on his or her citizenship status or immigration status. At the time of issuance of the license, existing law requires individual applicants to these boards to provide a taxpayer identification number or social security number.

This bill, on and after July 1, 2018, would require a board within the department to expedite, and would authorize a board to assist with, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant was issued a specified special immigrant visa. The bill, on and after July 1, 2018, would additionally require such a board to accept a special immigrant visa case number if the applicant is an individual for licensure application purposes.

Staff Recommended Position: **WATCH**

ASSEMBLY BILL 654 (MAIENSCHEN)

Title: Pediatric home health care.

Introduced: February 14, 2017

Status: In Assembly - Pending Referral

Existing law provides for the licensure and regulation of home health agencies by the State Department of Public Health. Existing law requires all private or public organizations that provide or arrange for skilled nursing services to patients in the home to obtain a home health agency license. Existing law also provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. Existing law provides that home health care services are covered Medi-Cal benefits, subject to utilization controls.

This bill would require the department, on or before January 1, 2018, to establish an incentive-based, supplemental payment program, as defined, which would apply to licensed home health agencies that treat children who are receiving continuous nursing care or private nursing services through the Medi-Cal program. The purpose of the program would be to increase access to quality in-home nursing services and encouraging additional home health agencies to participate in nursing care for children receiving Medi-Cal services. The bill would require the department to collaborate with designated stakeholders in establishing the payments, and would authorize the department to establish reasonable provider standards, as specified. The supplemental payment program would be implemented only to the extent that federal financial participation is available and would require the department to submit any necessary applications to the federal Centers for Medicare and Medicaid Services to implement the supplemental payment program. The bill would require the department to submit a report evaluating the effectiveness of the supplemental payment program to specified committees of the Legislature on or before July 1, 2021. The bill would become inoperative on December 31, 2021, and would be repealed on January 1, 2022.

Staff Recommended Position: **SUPPORT IF AMENDED**

ASSEMBLY BILL 703 (FLORA)

Title: Professions and vocations: fee waivers.
Introduced: February 15, 2017
Status: In Assembly - Pending Referral

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board within the department to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state if the applicant holds a current license in the same profession or vocation in another state, district, or territory. Existing law also requires a board to issue temporary licenses in specified professions to applicants as described above if certain requirements are met.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for application and issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States if the applicant holds a current license in the same profession or vocation in another state, district, or territory. The bill would require that an applicant be granted fee waivers for both the application for and issuance of a license if the board charges fees for both. The bill would prohibit fee waivers from being issued for renewal of a license, for an additional license, a certificate, a registration, or a permit associated with the initial license, or for the application for an examination.

Staff Recommended Position: **WATCH**

ASSEMBLY BILL 827 (RUBIO)

Title: Department of Consumer Affairs: high-skill immigrants: license information.
Introduced: February 16, 2017
Status: In Assembly - Pending Referral

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

This bill would require the Department of Consumer Affairs to create an entity within it to serve as a central information resource center dedicated to providing high-skill immigrants with information and resources relating to the application process for a professional and vocational license.

Staff Recommended Position: **WATCH**

ASSEMBLY BILL 1005 (CALDERON)

Title: Department of Consumer Affairs.
Introduced: February 16, 2017
Status: In Assembly - Pending Referral

Under existing law, there is the Office of Professional Examination Services within the Department of Consumer Affairs. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This bill would require the office to conduct an occupational analysis of every professions and vocations license subject to examination in this state to determine the licenses with a need for the examination to be offered in languages other than English. The bill would also require the office to report this analysis with recommendations to the Legislature by January 1, 2019.

Staff Recommended Position: **OPPOSE UNLESS AMENDED**

Introduced by Senator MorrellDecember 5, 2016

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as introduced, Morrell. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee or registrant whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license or registration without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist with, the initial licensure process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an

active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. The bill would require that a veteran be granted only one fee waiver, except as specified.

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 114.6 is added to the Business and
2 Professions Code, to read:

3 114.6. (a) (1) Notwithstanding any other law, every board
4 within the department shall grant a fee waiver for the application
5 for and issuance of an initial license to an applicant who supplies
6 satisfactory evidence to the board that the applicant has served as
7 an active duty member of the California National Guard or the
8 United States Armed Forces and was honorably discharged.

9 (2) For purposes of this section, “satisfactory evidence” means
10 a completed “Certificate of Release or Discharge from Active
11 Duty” (DD Form 214).

12 (b) (1) A veteran shall be granted only one fee waiver, except
13 as specified in paragraph (2). After a fee waiver has been issued
14 by any board within the department, the veteran is no longer
15 eligible for a waiver.

16 (2) If a board charges a fee for the application for a license and
17 another fee for the issuance of a license, the veteran shall be granted
18 fee waivers for both the application for and issuance of a license.

19 (3) The fee waiver shall apply only to an application of and a
20 license issued to an individual veteran and not to an application
21 of or a license issued to an individual veteran on behalf of a
22 business or other entity.

23 (4) A fee waiver shall not be issued for any of the following:

24 (A) Renewal of a license.

25 (B) The application for and issuance of an additional license, a
26 certificate, a registration, or a permit associated with the initial
27 license.

28 (C) The application for an examination.

O

Introduced by Senator Monning

February 2, 2017

An act to add Section 2860.8 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 227, as introduced, Monning. Vocational nurse: feeding tube services: neurodegenerative conditions.

Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians for the regulation and licensure of vocational nurses and authorizes a licensed vocational nurse to perform certain medical procedures under the direction of a physician and surgeon.

This bill would authorize a licensed vocational nurse to perform certain feeding tube services in a home setting for a patient with a neurodegenerative condition.

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 2860.8 is added to the Business and
- 2 Professions Code, to read:
- 3 2860.8. A licensed vocational nurse may perform the following
- 4 feeding tube services in a home setting for a patient diagnosed by
- 5 a physician and surgeon as having Amyotrophic Lateral Sclerosis
- 6 (ALS) or any other neurodegenerative condition:
- 7 (a) Feeding.
- 8 (b) Hydration.

1 (c) Cleaning stoma.

O

Introduced by Senator Moorlach

February 6, 2017

An act relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as introduced, Moorlach. Licensing requirements.

Existing law establishes the Department of Consumer Affairs, which is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.

This bill would state the intent of the Legislature to enact legislation that would reduce occupational licensing requirements.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation that would reduce occupational licensing requirements.

O

Introduced by Senator De León

February 16, 2017

An act to amend Section 106 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 496, as introduced, De León. Department of Consumer Affairs: regulatory boards: removal of board members.

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, on specific grounds, including continued neglect of duties required by law.

This bill would specifically include the failure to attend meetings of the board as one example of continued neglect of duties required by law that the Governor can use as a reason to remove a member from a board.

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

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

1 SECTION 1. Section 106 of the Business and Professions Code
2 is amended to read:
3 106. The Governor has power to remove from office at any
4 time, any member of any board appointed by him *or her* for
5 continued neglect of duties required by law, *which may include*
6 *the failure to attend board meetings*, or for incompetence, or

1 unprofessional or dishonorable conduct. Nothing in this section
2 shall be construed as a limitation or restriction on the power of the
3 Governor, conferred on him *or her* by any other ~~provision of law,~~
4 to remove any member of any board.

O

Introduced by Senator Stone

February 17, 2017

An act to add Article 16 (commencing with Section 870) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 572, as introduced, Stone. Healing arts licensees: violations: grace period.

Existing law provides for the licensure and regulation of various healing arts professions by various boards, as defined, within the Department of Consumer Affairs. Existing law imposes certain fines and other penalties for, and authorizes these boards to take disciplinary action against licensees for, violations of the provisions governing those professions.

This bill would prohibit the boards from taking disciplinary action against, or otherwise penalizing, healing arts licensees who violate those provisions but correct the violations within 15 days, if the violations did not cause irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.

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

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

- 1 SECTION 1. Article 16 (commencing with Section 870) is
- 2 added to Chapter 1 of Division 2 of the Business and Professions
- 3 Code, to read:

Article 16. Grace Period for Violations

- 1
- 2
- 3 870. Notwithstanding any other law, a person with a license
- 4 issued pursuant to this division shall not be subject to disciplinary
- 5 action by, or otherwise penalized by, the board that issued the
- 6 license for a violation of a provision applicable to the license if
- 7 both of the following apply:
- 8 (a) The violation did not cause any irreparable harm and will
- 9 not result in irreparable harm if left uncorrected for 15 days.
- 10 (b) The person corrects the violation within 15 days.

Introduced by Senator HillFebruary 17, 2017

An act to amend Sections 2450.3, 3686, 3710, and 3716 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 796, as introduced, Hill. Healing arts: boards.

Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee within the Osteopathic Medical Board of California for the licensure and regulation of naturopathic doctors. Existing law repeals the act on January 1, 2018. Existing law also specifies that the committee is subject to review by the appropriate policy committees of the Legislature on January 1, 2018.

This bill would instead repeal the act and subject the committee to legislative review on January 1, 2022.

Existing law, the Respiratory Care Practice Act, establishes the Respiratory Care Board of California for the licensure and regulation of respiratory care practitioners. Existing law specifies that the board is subject to review by the appropriate policy committees of the Legislature upon repeal of the provision establishing the board. Existing law also authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2018.

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

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 2450.3 of the Business and Professions
2 Code is amended to read:

3 2450.3. There is within the jurisdiction of the Osteopathic
4 Medical Board of California a Naturopathic Medicine Committee
5 authorized under the Naturopathic Doctors Act (Chapter 8.2
6 (commencing with Section 3610)). This section shall become
7 inoperative on January 1, ~~2018~~, and, ~~as of that date is repealed,~~
8 ~~unless a later enacted statute that is enacted before January 1, 2018,~~
9 ~~deletes or extends that date.~~ 2022. Notwithstanding any other
10 provision of law, the repeal of this section renders the Naturopathic
11 Medicine Committee subject to review by the appropriate policy
12 committees of the Legislature.

13 SEC. 2. Section 3686 of the Business and Professions Code is
14 amended to read:

15 3686. This chapter shall remain in effect only until January 1,
16 ~~2018, and as of that date is repealed, unless a later enacted statute,~~
17 ~~that is enacted before January 1, 2018, deletes or extends that date.~~
18 2022, *and as of that date is repealed.*

19 SEC. 3. Section 3710 of the Business and Professions Code is
20 amended to read:

21 3710. (a) The Respiratory Care Board of California, hereafter
22 referred to as the board, shall enforce and administer this chapter.

23 (b) This section shall remain in effect only until January 1, ~~2018,~~
24 ~~and as of that date is repealed, unless a later enacted statute, that~~
25 ~~is enacted before January 1, 2018, deletes or extends that date.~~
26 2022, *and as of that date is repealed.* Notwithstanding any other

27 law, the repeal of this section renders the board subject to review
28 by the appropriate policy committees of the Legislature.

29 SEC. 4. Section 3716 of the Business and Professions Code is
30 amended to read:

31 3716. (a) The board may employ an executive officer exempt
32 from civil service and, subject to the provisions of law relating to
33 civil service, clerical assistants and, except as provided in Section
34 159.5, other employees as it may deem necessary to carry out its
35 powers and duties.

36 ~~This~~

37 (b) *This* section shall remain in effect only until January 1, ~~2018,~~
38 ~~and as of that date is repealed, unless a later enacted statute, that~~

- 1 ~~is enacted before January 1, 2018, deletes or extends that date.~~
- 2 *2022, and as of that date is repealed.*

O

ASSEMBLY BILL

No. 208

Introduced by Assembly Member Eggman

January 23, 2017

An act to amend Sections 1000, 1000.1, 1000.2, 1000.3, 1000.4, 1000.5, and 1000.6 of, and to add Section 1000.65 to, the Penal Code, relating to deferred entry of judgment.

LEGISLATIVE COUNSEL'S DIGEST

AB 208, as introduced, Eggman. Deferred entry of judgment: pretrial diversion.

Existing law allows individuals charged with specified crimes to qualify for deferred entry of judgment. A defendant qualifies if he or she has no conviction for any offense involving controlled substances, the charged offense did not involve violence, there is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, the defendant's record does not indicate that probation or parole has ever been revoked without being completed, and the defendant's record does not indicate that he or she has been granted diversion, deferred entry of judgment, or was convicted of a felony within 5 years prior to the alleged commission of the charged offense.

Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18 months to 3 years. If the defendant does not perform satisfactorily in the program, does not benefit from the program, is convicted of specified crimes, or engages in criminal activity rendering him or her unsuitable for deferred entry of judgment, the defendant's guilty plea is entered

and the court enters judgment and proceeds to schedule a sentencing hearing. If the defendant completes the program, the criminal charges are dismissed. Existing law allows the presiding judge of the superior court, with the district attorney and public defender, to establish a pretrial diversion drug program.

This bill would make the deferred entry of judgment program a pretrial diversion program. The bill would make that a defendant qualify for the pretrial diversion program if he or she has no prior conviction within 5 years prior to the alleged commission of the charged offense for any offense involving controlled substances other than the offense that qualifies him or her for diversion, the charged offense did not involve violence, there is no evidence within the past 5 years of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, and the defendant has no prior conviction for a serious or violent felony within 5 years prior to the alleged commission of the charged offense.

Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.

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 1000 of the Penal Code is amended to
 2 read:
 3 1000. (a) This chapter shall apply whenever a case is before
 4 any court upon an accusatory pleading for a violation of Section
 5 11350, 11357, 11364, or 11365, paragraph (2) of subdivision (b)
 6 of Section 11375, Section 11377, or Section 11550 of the Health
 7 and Safety Code, or subdivision (b) of Section 23222 of the Vehicle
 8 Code, or Section 11358 of the Health and Safety Code if the
 9 marijuana planted, cultivated, harvested, dried, or processed is for
 10 personal use, or Section 11368 of the Health and Safety Code if

1 the narcotic drug was secured by a fictitious prescription and is
2 for the personal use of the defendant and was not sold or furnished
3 to another, or subdivision (d) of Section 653f if the solicitation
4 was for acts directed to personal use only, or Section 381 or
5 subdivision (f) of Section 647 of the Penal Code, if for being under
6 the influence of a controlled substance, or Section 4060 of the
7 Business and Professions Code, and it appears to the prosecuting
8 attorney that, except as provided in subdivision (b) of Section
9 11357 of the Health and Safety Code, all of the following apply
10 to the defendant:

11 ~~(1) The defendant has no conviction for any offense involving~~
12 ~~controlled substances. Within five years prior to the alleged~~
13 ~~commission of the charged offense, the defendant has not~~
14 ~~suffered a conviction for any offense involving controlled~~
15 ~~substances other than the offenses listed in this subdivision.~~

16 (2) The offense charged did not involve a crime of violence or
17 threatened violence.

18 (3) *Within five years prior to the determination of eligibility of*
19 *this chapter*, there is no evidence of a violation relating to narcotics
20 or restricted dangerous drugs other than a violation of the sections
21 *offenses* listed in this subdivision.

22 ~~(4) The defendant's record does not indicate that probation or~~
23 ~~parole has ever been revoked without thereafter being completed.~~

24 ~~(5) The defendant's record does not indicate that he or she has~~
25 ~~successfully completed or been terminated from diversion or~~
26 ~~deferred entry of judgment pursuant to this chapter within five~~
27 ~~years prior to the alleged commission of the charged offense.~~

28 ~~(6) The defendant has no prior felony conviction within~~

29 (4) *Within five years prior to the alleged commission of the*
30 *charged offense, the defendant has no prior conviction*
31 *for a serious felony, as defined in subdivision (c) of Section 1192.7,*
32 *or a violent felony, as defined in subdivision (c) of Section 667.5.*

33 (b) The prosecuting attorney shall review his or her file to
34 determine whether or not paragraphs (1) to ~~(6)~~; (4), inclusive, of
35 subdivision (a) apply to the defendant. ~~Upon the agreement of the~~
36 ~~prosecuting attorney, law enforcement, the public defender, and~~
37 ~~the presiding judge of the criminal division of the superior court,~~
38 ~~or a judge designated by the presiding judge, this procedure shall~~
39 ~~be completed as soon as possible after the initial filing of the~~
40 ~~charges. If the defendant is found eligible, the prosecuting attorney~~

1 shall file with the court a declaration in writing or state for the
2 record the grounds upon which the determination is based, and
3 shall make this information available to the defendant and his or
4 her attorney. This procedure is intended to allow the court to set
5 the hearing for ~~deferred entry of judgment~~ *pretrial diversion* at the
6 arraignment. If the defendant is found ineligible for ~~deferred entry~~
7 ~~of judgment~~, *pretrial diversion*, the prosecuting attorney shall file
8 with the court a declaration in writing or state for the record the
9 grounds upon which the determination is based, and shall make
10 this information available to the defendant and his or her attorney.
11 The sole remedy of a defendant who is found ineligible for ~~deferred~~
12 ~~entry of judgment~~ *pretrial diversion* is a postconviction appeal.

13 (c) All referrals for ~~deferred entry of judgment~~ *pretrial diversion*
14 granted by the court pursuant to this chapter shall be made only
15 to programs that have been certified by the county drug program
16 administrator pursuant to Chapter 1.5 (commencing with Section
17 1211) of Title 8, or to programs that provide services at no cost to
18 the participant and have been deemed by the court and the county
19 drug program administrator to be credible and effective. The
20 defendant may request to be referred to a program in any county,
21 as long as that program meets the criteria set forth in this
22 subdivision.

23 (d) ~~Deferred entry of judgment~~ *Pretrial diversion* for ~~a an~~
24 *alleged* violation of Section 11368 of the Health and Safety Code
25 shall not prohibit any administrative agency from taking
26 disciplinary action against a licensee or from denying a license.
27 ~~Nothing in this~~ *This* subdivision ~~shall be construed to~~ *does not*
28 expand or restrict the provisions of Section 1000.4.

29 (e) Any defendant who is participating in a program ~~referred to~~
30 *authorized* in this section may be required to undergo analysis of
31 his or her urine for the purpose of testing for the presence of any
32 drug as part of the program. However, ~~urine analysis~~ *urinalysis*
33 results shall not be admissible as a basis for any new criminal
34 prosecution or proceeding.

35 SEC. 2. Section 1000.1 of the Penal Code is amended to read:

36 1000.1. (a) If the prosecuting attorney determines that this
37 chapter may be applicable to the defendant, he or she shall advise
38 the defendant and his or her attorney in writing of that
39 determination. This notification shall include all of the following:

- 1 (1) A full description of the procedures for ~~deferred entry of~~
2 ~~judgment.~~ *pretrial diversion*.
- 3 (2) A general explanation of the roles and authorities of the
4 probation department, the prosecuting attorney, the program, and
5 the court in the process.
- 6 (3) A clear statement that ~~in lieu of trial,~~ the court may grant
7 ~~deferred entry of judgment~~ *pretrial diversion* with respect to any
8 ~~crime offense~~ specified in subdivision (a) of Section 1000 that is
9 charged, provided that the defendant pleads *not guilty to each of*
10 ~~these charges the charge or charges, waives the right to a speedy~~
11 ~~trial and waives time for the pronouncement of judgment, to a~~
12 ~~speedy preliminary hearing, if applicable,~~ and that upon the
13 defendant's successful completion of a program, as specified in
14 subdivision (c) of Section 1000, the positive recommendation of
15 the program authority and the motion of the *defendant*, prosecuting
16 attorney, the court, or the probation department, but no sooner than
17 ~~18 six months and no later than three years~~ *one year* from the date
18 of the defendant's referral to the program, the court shall dismiss
19 the charge or charges against the defendant.
- 20 (4) A clear statement that upon any failure of treatment or
21 condition under the program, or any circumstance specified in
22 Section 1000.3, the prosecuting attorney or the probation
23 department or the court on its own may make a motion to the court
24 ~~for entry of judgment and the court shall render a finding of guilt~~
25 ~~to the charge or charges pled, enter judgment, to terminate pretrial~~
26 ~~diversion and schedule a sentencing hearing further proceedings~~
27 as otherwise provided in this code.
- 28 (5) An explanation of criminal record retention and disposition
29 resulting from participation in the ~~deferred entry of judgment~~
30 *pretrial diversion* program and the defendant's rights relative to
31 answering questions about his or her arrest and ~~deferred entry of~~
32 ~~judgment~~ *pretrial diversion* following successful completion of
33 the program.
- 34 (b) If the defendant consents and waives his or her right to a
35 speedy trial ~~or~~ *and a speedy preliminary hearing, if applicable,* the
36 court may refer the case to the probation department or the court
37 may summarily grant ~~deferred entry of judgment if the defendant~~
38 ~~pleads guilty to the charge or charges and waives time for the~~
39 ~~pronouncement of judgment.~~ *pretrial diversion*. When directed by
40 the court, the probation department shall make an investigation

1 and take into consideration the defendant’s age, employment and
 2 service records, educational background, community and family
 3 ties, prior controlled substance use, treatment history, if any,
 4 demonstrable motivation, and other mitigating factors in
 5 determining whether the defendant is a person who would be
 6 benefited by education, treatment, or rehabilitation. The probation
 7 department shall also determine which programs the defendant
 8 would benefit from and which programs would accept the
 9 defendant. The probation department shall report its findings and
 10 recommendations to the court. The court shall make the final
 11 determination regarding education, treatment, or rehabilitation for
 12 the defendant. If the court determines that it is appropriate, the
 13 court shall grant ~~deferred entry of judgment~~ *pretrial diversion* if
 14 the defendant pleads *not* guilty to the charge or charges and waives
 15 ~~time for the pronouncement of judgment.~~ *right to a speedy trial*
 16 *and to a speedy preliminary hearing, if applicable.*

17 (c) (1) No statement, or any information procured therefrom,
 18 made by the defendant to any probation officer or drug treatment
 19 worker, that is made during the course of any investigation
 20 conducted by the probation department or treatment program
 21 pursuant to subdivision (b), and prior to the reporting of the
 22 probation department’s findings and recommendations to the court,
 23 shall be admissible in any action or proceeding brought subsequent
 24 to the investigation.

25 ~~No~~
 26 (2) *No* statement, or any information procured therefrom, with
 27 respect to the specific offense with which the defendant is charged,
 28 that is made to any probation officer or drug program worker
 29 subsequent to the granting of ~~deferred entry of judgment,~~ *pretrial*
 30 *diversion* shall be admissible in any action or ~~proceeding, including~~
 31 ~~a sentencing hearing.~~ *proceeding.*

32 (d) A defendant’s ~~plea of guilty participation in pretrial~~
 33 *diversion* pursuant to this chapter shall not constitute a conviction
 34 for any purpose unless a judgment of guilty is entered pursuant to
 35 ~~Section 1000.3.~~ *or an admission of guilt for any purpose.*

36 SEC. 3. Section 1000.2 of the Penal Code is amended to read:
 37 1000.2. (a) The court shall hold a hearing and, after
 38 consideration of any information relevant to its decision, shall
 39 determine if the defendant consents to further proceedings under
 40 this chapter and if the defendant should be granted ~~deferred entry~~

1 ~~of judgment.~~ *pretrial diversion*. If the court does not deem the
2 defendant a person who would be benefited by deferred entry of
3 judgment, or if the defendant does not consent to participate,
4 *participate in pretrial diversion*, the proceedings shall continue as
5 in any other case.

6 ~~At~~

7 (b) ~~At the time that deferred entry of judgment~~ *pretrial diversion*
8 is granted, any bail bond or undertaking, or deposit in lieu thereof,
9 on file by or on behalf of the defendant shall be exonerated, and
10 the court shall enter an order so directing.

11 ~~The~~

12 (c) ~~The period during which deferred entry of judgment~~ *pretrial*
13 *diversion* is granted shall be for no less than ~~18 six~~ months nor
14 longer than ~~three years.~~ *one year*. However, the defendant may
15 request, and the court shall grant, for good cause shown, an
16 extension of time to complete a program specified in subdivision
17 (c) of Section 1000. Progress reports shall be filed by the probation
18 department with the court as directed by the court.

19 SEC. 4. Section 1000.3 of the Penal Code is amended to read:

20 1000.3. (a) If it appears to the prosecuting attorney, the court,
21 or the probation department that the defendant is performing
22 unsatisfactorily in the assigned program, ~~or that the defendant is~~
23 ~~not benefiting from education, treatment, or rehabilitation, or that~~
24 ~~the defendant is convicted of a misdemeanor or an offense that reflects~~
25 the defendant's propensity for violence, or *that* the defendant is
26 convicted of a felony, ~~or the defendant has engaged in criminal~~
27 ~~conduct rendering him or her unsuitable for deferred entry of~~
28 ~~judgment,~~ the prosecuting attorney, the court on its own, or the
29 probation department may make a motion for entry of judgment.
30 *termination from pretrial diversion.*

31 ~~After~~

32 (b) ~~After~~ notice to the defendant, the court shall hold a hearing
33 to determine whether judgment ~~should~~ *pretrial diversion shall be*
34 ~~entered.~~ *terminated.*

35 ~~If~~

36 (c) ~~If~~ the court finds that the defendant is not performing
37 satisfactorily in the assigned program, ~~or that the defendant is not~~
38 ~~benefiting from education, treatment, or rehabilitation,~~ or the court
39 finds that the defendant has been convicted of a crime as indicated
40 above, ~~or that the defendant has engaged in criminal conduct~~

1 rendering him or her unsuitable for deferred entry of judgment, in
2 subdivision (a), the court shall render a finding of guilt to schedule
3 the charge or charges pled, enter judgment, and schedule a
4 sentencing hearing matter for further proceedings as otherwise
5 provided in this code.

6 If

7 (d) If the defendant has performed satisfactorily during the
8 period in which deferred entry of judgment was granted, completed
9 pretrial diversion, at the end of that period, the criminal charge or
10 charges shall be dismissed.

11 Prior

12 (e) Prior to dismissing the charge or charges or rendering a
13 finding of guilt and entering judgment, terminating pretrial
14 diversion, the court shall consider the defendant’s ability to pay
15 and whether the defendant has paid a diversion restitution fee
16 pursuant to Section 1001.90, if ordered, and has met his or her
17 financial obligation to the program, if any. As provided in Section
18 1203.1b, the defendant shall reimburse the probation department
19 for the reasonable cost of any program investigation or progress
20 report filed with the court as directed pursuant to Sections 1000.1
21 and 1000.2.

22 SEC. 5. Section 1000.4 of the Penal Code is amended to read:

23 1000.4. (a) Any record filed with the Department of Justice
24 shall indicate the disposition in those cases ~~deferred~~ referred to
25 pretrial diversion pursuant to this chapter. Upon successful
26 completion of a ~~deferred entry of judgment~~ pretrial diversion
27 program, the arrest upon which the ~~judgment~~ defendant was
28 ~~deferred~~ diverted shall be deemed to have never occurred. The
29 defendant may indicate in response to any question concerning his
30 or her prior criminal record that he or she was not arrested or
31 granted ~~deferred entry of judgment~~ pretrial diversion for the
32 offense, except as specified in subdivision (b). A record pertaining
33 to an arrest resulting in successful completion of a ~~deferred entry~~
34 ~~of judgment~~ pretrial diversion program shall not, without the
35 defendant’s consent, be used in any way that could result in the
36 denial of any employment, benefit, license, or certificate.

37 (b) The defendant shall be advised that, regardless of his or her
38 successful completion of the ~~deferred entry of judgment~~ pretrial
39 diversion program, the arrest upon which the ~~judgment~~ pretrial
40 diversion was ~~deferred~~ based may be disclosed by the Department

1 of Justice in response to any peace officer application request and
2 that, notwithstanding subdivision (a), this section does not relieve
3 him or her of the obligation to disclose the arrest in response to
4 any direct question contained in any questionnaire or application
5 for a position as a peace officer, as defined in Section 830.

6 SEC. 6. Section 1000.5 of the Penal Code is amended to read:

7 1000.5. (a) (1) The presiding judge of the superior court, or
8 a judge designated by the presiding judge, together with the district
9 attorney and the public defender, may agree in writing to establish
10 and conduct a preguilty plea drug court program pursuant to the
11 provisions of this chapter, wherein criminal proceedings are
12 suspended without a plea of guilty for designated defendants. The
13 drug court program shall include a regimen of graduated sanctions
14 and rewards, individual and group therapy, ~~urine analysis~~ *urinalysis*
15 testing commensurate with treatment needs, close court monitoring
16 and supervision of progress, educational or vocational counseling
17 as appropriate, and other requirements as agreed to by the presiding
18 judge or his or her designee, the district attorney, and the public
19 defender. If there is no agreement in writing for a preguilty plea
20 program by the presiding judge or his or her designee, the district
21 attorney, and the public defender, the program shall be operated
22 as a ~~deferred entry of judgment~~ *pretrial diversion* program as
23 provided in this chapter.

24 (2) A person charged with a misdemeanor under paragraph (3)
25 of subdivision (b) of Section 11357.5 or paragraph (3) of
26 subdivision (b) of 11375.5 of the Health and Safety Code shall be
27 eligible to participate in a preguilty plea drug court program
28 established pursuant to this chapter, as set forth in Section 11375.7
29 of the Health and Safety Code.

30 (b) The provisions of Section 1000.3 and Section 1000.4
31 regarding satisfactory and unsatisfactory performance in a program
32 shall apply to preguilty plea programs, except as provided in
33 Section 11375.7 of the Health and Safety Code. If the court finds
34 that (1) the defendant is not performing satisfactorily in the
35 assigned program, (2) the defendant is not benefiting from
36 education, treatment, or rehabilitation, (3) the defendant has been
37 convicted of a crime specified in Section 1000.3, or (4) the
38 defendant has engaged in criminal conduct rendering him or her
39 unsuitable for the preguilty plea program, the court shall reinstate
40 the criminal charge or charges. If the defendant has performed

1 satisfactorily during the period of the preguilty plea program, at
2 the end of that period, the criminal charge or charges shall be
3 dismissed and the provisions of Section 1000.4 shall apply.

4 SEC. 7. Section 1000.6 of the Penal Code is amended to read:

5 ~~1000.6. (a) Where a person is participating in a deferred entry~~
6 ~~of judgment program or a preguilty plea program pursuant to this~~
7 ~~chapter, the person may also participate in a licensed methadone~~
8 ~~or levoalphacetylmethadol (LAAM) program if the following~~
9 ~~conditions are met:~~

10 ~~(1) The sheriff allows a methadone program to operate in the~~
11 ~~county jail.~~

12 ~~(2) The~~

13 *1000.6. (a) A person who is participating in a pretrial*
14 *diversion program or a preguilty plea program pursuant to this*
15 *chapter is authorized under the direction of a licensed health care*
16 *practitioner, to use medications including, but not limited to,*
17 *methadone, buprenorphine, or levoalphacetylmethadol (LAAM)*
18 *to treat substance use disorders if the participant allows release*
19 *of his or her medical records to the court presiding over the*
20 *participant's preguilty plea or ~~deferred entry pretrial diversion~~*
21 *program for the limited purpose of determining whether or not the*
22 *participant is ~~duly enrolled in using such medications under the~~*
23 *direction of a licensed ~~methadone or LAAM program~~ health care*
24 *practitioner and is in compliance with ~~deferred entry the pretrial~~*
25 *diversion or preguilty plea program rules.*

26 ~~(b) If the conditions specified in paragraphs (1) and (2) of~~
27 ~~subdivision (a) are met, participation in a methadone or LAAM~~
28 ~~treatment program the use by a participant of medications to treat~~
29 ~~substance use disorders shall not be the sole reason for exclusion~~
30 ~~from a deferred entry pretrial diversion or preguilty plea program.~~
31 ~~A methadone or LAAM patient who patient who uses medications~~
32 ~~to treat substance use disorders and participates in a preguilty~~
33 ~~plea or deferred entry pretrial diversion program shall comply~~
34 ~~with all court program rules.~~

35 ~~(c) A person who is participating in a deferred entry of judgment~~
36 ~~pretrial diversion program or preguilty plea program pursuant to~~
37 ~~this chapter who participates in a licensed methadone or LAAM~~
38 ~~program uses medications to treat substance use disorders shall~~
39 ~~present to the court a declaration from the director of the methadone~~
40 ~~his or LAAM program, her health care practitioner, or the~~

1 ~~director's his or her health care practitioner's~~ authorized
2 representative, that the person is currently ~~enrolled and in good~~
3 ~~standing in the program.~~ *under their care.*

4 (d) Urinalysis results that only establish that a person described
5 in this section has ingested *medication duly prescribed to that*
6 *person by his or* ~~taken the methadone administered her physician~~
7 ~~or prescribed by a licensed methadone or LAAM program~~
8 *psychiatrist, or medications used to treat substance use disorders,*
9 shall not be considered a violation of the terms of the ~~deferred~~
10 ~~entry of judgment~~ *pretrial diversion* or preguilty plea program
11 under this chapter.

12 (e) Except as provided in subdivisions (a) to (d), inclusive, this
13 section ~~shall does not be interpreted to amend~~ *affect* any provisions
14 *other law* governing ~~deferred entry and~~ diversion programs.

15 SEC. 8. Section 1000.65 is added to the Penal Code,
16 immediately following Section 1000.6, to read:

17 1000.65. This chapter does not affect a pretrial diversion
18 program provided pursuant to Chapter 2.7 (commencing with
19 Section 1001).

ASSEMBLY BILL

No. 349

**Introduced by Assembly Members McCarty, Gonzalez Fletcher,
and Nazarian**

February 8, 2017

An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 349, as introduced, McCarty. Department of Consumer Affairs: applicants for licensure: special immigrant visas.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits a board within the department from denying licensure to an applicant based on his or her citizenship status or immigration status. At the time of issuance of the license, existing law requires individual applicants to these boards to provide a taxpayer identification number or social security number.

This bill, on and after July 1, 2018, would require a board within the department to expedite, and would authorize a board to assist with, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant was issued a specified special immigrant visa. The bill, on and after July 1, 2018, would additionally require such a board to accept a special immigrant visa case number if the applicant is an individual for licensure application purposes.

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 117 is added to the Business and
2 Professions Code, to read:

3 117. (a) Notwithstanding any other law, on and after July 1,
4 2018, a board within the department shall expedite, and may assist
5 with, the initial licensure process for an applicant who supplies
6 satisfactory evidence to the board that the applicant was issued a
7 special immigrant visa pursuant to Section 1059 of the National
8 Defense Authorization Act for Fiscal Year 2006 (Public Law
9 109-163) or the National Defense Authorization Act for Fiscal
10 Year 2008 (Public Law 110-181 of January 28, 2008).

11 (b) Notwithstanding subdivision (a) of Section 30, on and after
12 July 1, 2018, a board within the department shall accept a special
13 immigrant visa case number if the applicant for initial licensure is
14 an individual.

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

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ASSEMBLY BILL

No. 654

**Introduced by Assembly Member Maienschein
(Coauthors: Assembly Members Voepel and Waldron)
(Coauthor: Senator Anderson)**

February 14, 2017

An act to add and repeal Section 14132.78 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 654, as introduced, Maienschein. Pediatric home health care.

Existing law provides for the licensure and regulation of home health agencies by the State Department of Public Health. Existing law requires all private or public organizations that provide or arrange for skilled nursing services to patients in the home to obtain a home health agency license. Existing law also provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. Existing law provides that home health care services are covered Medi-Cal benefits, subject to utilization controls.

This bill would require the department, on or before January 1, 2018, to establish an incentive-based, supplemental payment program, as defined, which would apply to licensed home health agencies that treat children who are receiving continuous nursing care or private nursing services through the Medi-Cal program. The purpose of the program would be to increase access to quality in-home nursing services and encouraging additional home health agencies to participate in nursing care for children receiving Medi-Cal services. The bill would require the department to collaborate with designated stakeholders in

establishing the payments, and would authorize the department to establish reasonable provider standards, as specified. The supplemental payment program would be implemented only to the extent that federal financial participation is available and would require the department to submit any necessary applications to the federal Centers for Medicare and Medicaid Services to implement the supplemental payment program. The bill would require the department to submit a report evaluating the effectiveness of the supplemental payment program to specified committees of the Legislature on or before July 1, 2021. The bill would become inoperative on December 31, 2021, and would be repealed on January 1, 2022.

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 14132.78 is added to the Welfare and
 2 Institutions Code, to read:
 3 14132.78. (a) (1) On or before July 1, 2018, the department
 4 shall establish an incentive-based, supplemental payment program
 5 applicable to licensed home health agencies that treat children who
 6 are receiving continuous nursing care or private nursing services
 7 through the Medi-Cal program.
 8 (2) The program established pursuant to paragraph (1) shall
 9 create a supplemental payment designed to increase access to
 10 quality in-home nursing services and encourage additional home
 11 health agencies to participate in nursing care for children receiving
 12 Medi-Cal services.
 13 (3) In establishing these payments, the department shall
 14 collaborate with Medi-Cal certified home health agencies,
 15 hospitals, pediatric physicians, and nurses, as well as other
 16 stakeholders. Supplemental payments may be provided for purposes
 17 including, but not limited to, the following:
 18 (A) Improving completion of weekly nursing shifts for approved
 19 hours.
 20 (B) Completing a higher percentage of nursing shifts consistent
 21 with the patient’s plan of care.
 22 (C) Accepting additional patients from area hospitals within a
 23 time frame specified by the department.

1 (D) Developing higher reimbursement rates for patients with
2 higher acuity and complex needs, night, or weekend nursing shifts.

3 (E) Using a blended nursing rate for registered nurses' and
4 licensed vocational nurses' hourly shifts.

5 (F) Developing a rural reimbursement rate.

6 (4) For the purposes of this section, "supplemental payment"
7 means a payment made to a home health agency for continuous
8 nursing or private duty nursing services that would be in addition
9 to the state's Medi-Cal fee schedule for home health agencies. The
10 level of supplemental payment shall be determined by the
11 department, taking into consideration a reasonable cost basis to
12 reduce the risk of home health agencies continuing to leave the
13 private duty nursing segment of the Medi-Cal program. The
14 supplemental payment may be paid on a quarterly basis after the
15 department has verified that the program requirements have been
16 met.

17 (b) This section shall be implemented only to the extent that
18 federal financial participation is available. The department shall
19 submit any necessary application to the federal Centers for
20 Medicare and Medicaid Services for a state plan amendment,
21 waiver, or amendment to a waiver to implement the supplemental
22 payment program described in this section.

23 (c) The department may establish reasonable provider eligibility
24 standards and participation requirements for the supplemental
25 payment program, including, but not limited to, home health
26 agencies in good standing with the State Department of Public
27 Health, agencies that are currently participating in the Medi-Cal
28 program, and agencies that are accredited by the Accreditation
29 Commission for Health Care or a similar independent accrediting
30 organization.

31 (d) On or before July 1, 2021, the department shall submit a
32 report evaluating the effectiveness of the supplemental payment
33 program to the Senate Committee on Health, the Assembly
34 Committee on Health, the Senate Committee on Budget and Fiscal
35 Review, and the Assembly Committee on Budget.

36 (1) In order to compare access to necessary and approved
37 services before and after the establishment of the supplemental
38 payment program, the department may request participating home
39 health agencies to report on key access to care indicators identified
40 by the department, the participating agencies, and referring

- 1 hospitals. The key access to care indicators shall include, but need
2 not be limited to, the following:
- 3 (A) The increase or decrease in hospital discharges to home
4 health agencies.
 - 5 (B) The number of nursing hours filled, as compared to the
6 number of hours that have been approved.
 - 7 (C) The number of available licensed home health agencies that
8 accept pediatric patients.
- 9 (2) In evaluating the effectiveness of the supplemental payment
10 program, the department shall cooperate with, and consider input
11 from, home health agencies, consumer groups, hospitals, and other
12 provider associations.
- 13 (e) This section shall become inoperative on December 31,
14 2021, and as of January 1, 2022, is repealed.

ASSEMBLY BILL

No. 703

Introduced by Assembly Member Flora

February 15, 2017

An act to add Section 115.7 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as introduced, Flora. Professions and vocations: licenses: fee waivers.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board within the department to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state if the applicant holds a current license in the same profession or vocation in another state, district, or territory. Existing law also requires a board to issue temporary licenses in specified professions to applicants as described above if certain requirements are met.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for application and issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States if the applicant holds a current license in the same profession or vocation in another state, district, or territory. The bill would require that an applicant be granted fee waivers for both the application for and issuance of a license if the board charges fees for both. The bill would prohibit fee waivers from being issued for

renewal of a license, for an additional license, a certificate, a registration, or a permit associated with the initial license, or for the application for an examination.

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 115.7 is added to the Business and
2 Professions Code, to read:

3 115.7. (a) Notwithstanding any other law, every board within
4 the department of Consumer Affairs shall grant a fee waiver for
5 the application for and issuance of an initial license to an applicant
6 who does both of the following:

7 (1) Supplies satisfactory evidence of being married to, or in a
8 domestic partnership or other legal union with an active duty
9 member of the Armed Forces of the United States.

10 (2) Holds a current, active, and unrestricted license that confers
11 upon him or her the authority to practice, in another state, district,
12 or territory of the United States, the profession or vocation for
13 which he or she seeks a license from the board.

14 (b) If a board charges a fee for the application for a license and
15 another fee for the issuance of a license, the applicant shall be
16 granted fee waivers for both the application for and issuance of a
17 license.

18 (c) A fee waiver shall not be issued for any of the following:

19 (1) Renewal of an existing California license.

20 (2) The application for and issuance of an additional license, a
21 certificate, a registration, or a permit associated with the initial
22 license.

23 (3) The application for an examination.

ASSEMBLY BILL

No. 827

Introduced by Assembly Member Rubio

February 16, 2017

An act to add Section 110.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 827, as introduced, Rubio. Department of Consumer Affairs: high-skill immigrants: license information.

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

This bill would require the Department of Consumer Affairs to create an entity within it to serve as a central information resource center dedicated to providing high-skill immigrants with information and resources relating to the application process for a professional and vocational license.

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

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

- 1 SECTION 1. Section 110.5 is added to the Business and
- 2 Professions Code, to read:
- 3 110.5. The Department of Consumer Affairs shall create an
- 4 entity within it to serve as a central information resource center
- 5 dedicated to providing high-skill immigrants with information and

- 1 resources relating to the application process for a professional and
- 2 vocational license.

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ASSEMBLY BILL

No. 1005

Introduced by Assembly Member Calderon

February 16, 2017

An act to add Section 139.2 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1005, as introduced, Calderon. Department of Consumer Affairs.

Under existing law, there is the Office of Professional Examination Services within the Department of Consumer Affairs. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This bill would require the office to conduct an occupational analysis of every professions and vocations license subject to examination in this state to determine the licenses with a need for the examination to be offered in languages other than English. The bill would also require the office to report this analysis with recommendations to the Legislature by January 1, 2019.

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

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

- 1 SECTION 1. Section 139.2 is added to the Business and
- 2 Professions Code, to read:
- 3 139.2. (a) The Office of Professional Examination Services
- 4 shall conduct an occupational analysis of every license subject to

1 examination in this state to determine the licenses with a need for
2 the examination to be offered in languages other than English.

3 (b) (1) Pursuant to Section 9795 of the Government Code, the
4 office shall report this analysis with recommendations to the
5 Legislature by January 1, 2019.

6 (2) This subdivision shall become inoperative on January 1,
7 2022, pursuant to Section 10231.5 of the Government Code.

O