



Item: **2017-2018 Legislation of Interest**

Item Summary: Following are three bills the Board previously adopted positions on, as well as additional bills that have been identified as legislation of interest (as of 5/2/18).

Board Action: 

1. President calls the agenda item and it is presented by or as directed by the President.
2. For information purposes only. Discussion may ensue.

**SB 715 (Newman) - Watch**

Title: Department of Consumer Affairs: regulatory boards: removal of board members.

Status: Ordered to the Assembly Inactive File 9/14/17.

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. The provisions of this bill were previously in SB 496.

**SB 769 (Hill) - Support**

Title: Baccalaureate Degree Pilot Program

Status: Held in Assembly Appropriations 9/1/17.

This bill would extend the operation of the statewide baccalaureate degree pilot program until July 1, 2028, and would extend the time by which a student participating in a baccalaureate degree pilot program is required to complete his or her degree to the end of the 2027–28 academic year.

**SB 1003 (Roth) - Support**

Title: Respiratory Care

Status: In Assembly Pending Referral 4/30/18.

This bill would prohibit any state agency other than the Board from defining the practice of respiratory care or developing professional standards unless required by statute. This bill also authorizes the Board to promulgate regulations to further clarify the respiratory care practitioner scope.

- Board Action:
1. President asks for motion to adopt the staff recommended positions on the newly identified legislation of interest.
  2. President may request if there is a second to the motion, if not already made.
  3. Board member discussion/edits (if applicable).
  4. Inquire for public comment / Further Board discussion as applicable
  5. Repeat motion and vote:
    - 1) aye, in favor, 2) no, not in favor, or 3) abstainBoard members may choose to take alternate positions on each bill: Watch, Support, Support if amended, Oppose, or Oppose unless amended.

**SB 984 (Skinner) - Staff Recommended Position: Watch**

Title: State boards and commissions: representation: appointments

Status: Re-referred to Senate Appropriations 5/2/18.

This bill would require the composition of each appointed state board and commission to have a specified number of women directors based on the number of board or commission members. The bill would also require the office of the Governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees.

**SB 1137 (Vidak) - Staff Recommended Position: Watch**

Title: Veterans: professional licensing benefits

Status: Set to be heard by Senate Appropriations on 5/7/18.

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to consult with each other in order to take appropriate steps to increase awareness and notification for veterans regarding professional licensing benefits.

**SB 1491 (Senate BP&Ed Committee) - Staff Recommended Position: Support**

Title: Healing Arts

Status: Re-referred to Senate Appropriations 4/23/18.

This is the health care omnibus bill, and includes two amendments to the Board.

- Amend §3735 to accurately reflect the name(s) of examinations for licensure to ensure clarity in the law.
- Amend §3751 to require an individual petitioning for reinstatement of licensure to pass the current licensing exams to ensure competency at the current minimum required level.

**AB 710 (Wood) - Staff Recommended Position: Watch**

Title: Cannabidiol

Status: Set to be heard by Senate Public Safety on 5/15/18.

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law designates cannabis in Schedule I. Cannabidiol is a compound contained in cannabis.

Existing law restricts the prescription, furnishing, possession, sale, and use of controlled substances, including cannabis and synthetic cannabinoid compounds, and makes a violation of those laws a crime, except as specified.

This bill, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, would deem a physician, pharmacist, or other authorized healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to be in compliance with state law governing those acts. The bill would also provide that upon the effective date of one of those changes in federal law regarding cannabidiol, the prescription, furnishing, dispensing, transfer, transportation, possession, or use of that product in accordance with federal law is for a legitimate medical purpose and is authorized pursuant to state law.

Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, regulates the cultivation, processing, and sale of medicinal and adult-use cannabis within the state.

This bill would expressly exclude from regulation under that act, any medicinal product composed of cannabidiol approved by the federal Food and Drug Administration and either placed on a schedule of the federal Controlled Substances Act other than Schedule I, or exempted from one or more provisions of that act.

**AB 1793 (Bonta) - Staff Recommended Position: Watch**

Title: Cannabis Convictions

Status: Set to be heard before Assembly Appropriations on 5/2/18.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Under AUMA, a person 21 years of age or older may, among other things, possess, process, transport, purchase, obtain, or give away, as specified, up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis. Existing law authorizes a person to petition for the recall or dismissal of a sentence, dismissal and sealing of a conviction, or redesignation of a conviction of an offense for which a lesser offense or no offense would be imposed under AUMA.

This bill would require the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible for resentencing or dismissal recall or dismissal of sentence, dismissal and

sealing, or redesignation pursuant to AUMA. The bill would require the department to notify the courts of all cases in their jurisdiction that are eligible for recall or dismissal of a sentence, dismissal and sealing, or redesignation. The bill would require the courts to notify the prosecution of all cases under review and would authorize the prosecution to challenge the resentencing, dismissal and sealing, or redesignation if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The bill would require the court to automatically reduce or dismiss the conviction pursuant to AUMA if there is no challenge. The bill would require the department to modify the state summary criminal history information database in conformance with the recall or dismissal of sentence, dismissal and sealing, or redesignation within 30 days and to give specified notifications to the eligible person.

**AB 2138 (Chiu) - Staff Recommended Position: Oppose**

Title: Licensing boards: denial of application: criminal conviction

Status: Re-referred to Assembly Appropriations 4/24/18.

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

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting

or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

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

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

Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment. This bill would repeal that authorization.

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

**AB 2409 (Kiley) - Staff Recommended Position: Oppose**

Title: Professions and vocations: occupational regulations

Status: Failed passage (with reconsideration) by Assembly Business and Professions 4/17/18.

This bill would establish that a person has a right to engage in a lawful profession or vocation without being subject to an occupational regulation, as defined, that imposes a substantial burden on that right, and would require each occupational regulation to be limited to what is demonstrably necessary and narrowly tailored to fulfill a legitimate public health, safety, or welfare objective. The bill would include within this the right of a person with a criminal record to

not have the person's criminal record used by a board as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation, except as specified, and the right of a person who is behind on his or her taxes or student loan payments to not have a board use that fact as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation.

The bill would authorize a person to petition a board to review an occupational regulation, as defined, within the board's jurisdiction for compliance with the above rights, as specified. The bill would authorize a person with a criminal record to petition a board at any time for a determination of whether the person's criminal record will automatically disqualify the person from obtaining a license from the board and would specify the criteria a board is allowed to use in making that determination. The bill would include related definitions and declare the intent of the Legislature in this regard.

**AB 2483 (Voepel) - Staff Recommended Position: Watch**

Title: Indemnification of public officers and employees: antitrust awards

Status: Ordered to Assembly Floor 4/26/18.

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

AMENDED IN SENATE APRIL 25, 2017

SENATE BILL

No. 715

Introduced by Senator Newman

February 17, 2017

An act to amend Section 5503 of the Public Resources Code, relating to park districts; an act to amend Section 106 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 715, as amended, Newman. Park and open-space districts: 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.

Existing law provides a procedure for the formation of a regional park district, regional park and open-space district, or a regional open-space district.

This bill would make nonsubstantive changes to one of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

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

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

106. The Governor has power to remove from office at any time, any member of any board appointed by him or her for continued neglect of duties required by law, which may include the failure to attend board meetings, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on him or her by any other provision of law, to remove any member of any board.

SECTION 1. Section 5503 of the Public Resources Code is amended to read:

5503. Whenever it is desired to form a district under this article, a petition requesting the creation and maintenance of a district, and describing the exterior boundaries of the proposed district shall be signed by at least 5,000 electors residing within the territory proposed to be included in the district. The petition shall be presented to the board of supervisors of the county containing the largest area within the proposed district.

AMENDED IN ASSEMBLY JULY 13, 2017  
 AMENDED IN ASSEMBLY JULY 3, 2017  
 AMENDED IN SENATE MAY 26, 2017  
 AMENDED IN SENATE MAY 8, 2017  
 AMENDED IN SENATE APRIL 17, 2017  
 AMENDED IN SENATE MARCH 27, 2017

SENATE BILL

No. 769

Introduced by Senator Hill  
 (Principal coauthor: Senator Galgiani)  
 (Coauthors: Senators Beall, Dodd, Glazer, Hueso, Mendoza,  
 Newman, Stern, and Wilk)

February 17, 2017

An act to amend Sections 78041, 78042, and 78043 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 769, as amended, Hill. Baccalaureate Degree Pilot Program. Existing law, until July 1, 2023, authorizes the Board of Governors of the California Community Colleges, in consultation with the California State University and the University of California, to establish a statewide baccalaureate degree pilot program. Existing law requires a district baccalaureate degree pilot program to commence by the beginning of the 2017-18 academic year and requires a student participating in a baccalaureate degree pilot program to complete his or her degree by the end of the 2022-23 academic year.

This bill would extend the operation of the statewide baccalaureate degree pilot program until July 1, 2028, and would extend the time by which a student participating in a baccalaureate degree pilot program is required to complete his or her degree to the end of the 2027-28 academic year.

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 78041 of the Education Code is amended  
 2 to read:  
 3 78041. Notwithstanding Section 66010.4, and commencing  
 4 January 1, 2015, the Board of Governors of the California  
 5 Community Colleges, in consultation with the California State  
 6 University and the University of California, may authorize the  
 7 establishment of district baccalaureate degree pilot programs that  
 8 meet all of the eligibility requirements set forth in Section 78042.  
 9 A district pilot program established pursuant to this article shall  
 10 commence no later than the 2017-18 academic year. A student  
 11 participating in a baccalaureate degree pilot program shall complete  
 12 his or her degree by the end of the 2022-23 2027-28 academic  
 13 year. For purposes of this section, a pilot program commences  
 14 when the first class of students begins the program. The statewide  
 15 baccalaureate degree pilot program shall consist of a maximum of  
 16 15 districts, with one baccalaureate degree program each, to be  
 17 determined by the Chancellor of the California Community  
 18 Colleges and approved by the Board of Governors of the California  
 19 Community Colleges.

20 SEC. 2. Section 78042 of the Education Code is amended to  
 21 read:

22 78042. (a) A district shall seek approval to offer a  
 23 baccalaureate degree program through the appropriate accreditation  
 24 body.

(b) When seeking approval from the Board of Governors of the California Community Colleges, a district shall maintain the primary mission of the California Community Colleges specified in paragraph (3) of subdivision (a) of Section 66010.4. The district, as part of the baccalaureate degree pilot program, shall have the



1 additional mission to provide high-quality undergraduate education  
2 at an affordable price for students and the state.

3 (c) As a condition of eligibility for consideration to participate  
4 in the statewide baccalaureate degree pilot program, a district shall  
5 have a written policy that requires all potential students who wish  
6 to apply for a Board of Governors Fee Waiver pursuant to Section  
7 76300 to complete and submit either a Free Application for Federal  
8 Student Aid or a California Dream Act application in lieu of  
9 completing the Board of Governors Fee Waiver application.  
10 (d) A district shall not offer more than one baccalaureate degree  
11 program, as determined by the governing board of the district and  
12 approved by the Board of Governors of the California Community  
13 Colleges, and subject to the following limitations:

14 (1) A district shall identify and document unmet workforce  
15 needs in the subject area of the baccalaureate degree to be offered  
16 and offer a baccalaureate degree at a campus in a subject area with  
17 unmet workforce needs in the local community or region of the  
18 district.

19 (2) A baccalaureate degree pilot program shall not offer a  
20 baccalaureate degree program or program curricula already offered  
21 by the California State University or the University of California.  
22 (3) A district shall have the expertise, resources, and student  
23 interest to offer a quality baccalaureate degree in the chosen field  
24 of study.  
25 (4) A district shall not offer more than one baccalaureate degree  
26 program within the district, which shall be limited to one campus  
27 within the district.

28 (5) A district shall notify a student who applies to the district's  
29 baccalaureate degree pilot program that the student is required to  
30 complete his or her baccalaureate degree by the end of the 2022-23  
31 2027-28 academic year, as specified in Section 78041.

32 (e) A district shall maintain separate records for students who  
33 are enrolled in courses classified in the upper division and lower  
34 division of a baccalaureate program. A student shall be reported  
35 as a community college student for enrollment in a lower division  
36 course and as a baccalaureate degree program student for  
37 enrollment in an upper division course.

38 (f) A governing board of a district seeking authorization to offer  
39 a baccalaureate degree pilot program shall submit all of the  
40 following for review by the Chancellor of the California

1 Community Colleges and approval by the Board of Governors of  
2 the California Community Colleges:

3 (1) Documentation of the district's written policy required by  
4 subdivision (c).

5 (2) The administrative plan for the baccalaureate degree pilot  
6 program, including, but not limited to, the governing board of the  
7 district's funding plan for its specific district.

8 (3) A description of the baccalaureate degree pilot program's  
9 curriculum, faculty, and facilities.

10 (4) The enrollment projections for the baccalaureate degree pilot  
11 program.

12 (5) Documentation regarding unmet workforce needs specifically  
13 related to the proposed baccalaureate degree pilot program, and a  
14 written statement supporting the necessity of a four-year degree  
15 for that program.

16 (6) Documentation of consultation with the California State  
17 University and the University of California regarding collaborative  
18 approaches to meeting regional workforce needs.

19 (g) (1) On or before March 31, 2015, the Board of Governors  
20 of the California Community Colleges shall develop, and adopt  
21 by regulation, a funding model for the support of the statewide  
22 baccalaureate degree pilot program that is based on a calculation  
23 of the number of full-time equivalent students enrolled in all district  
24 pilot programs.

25 (2) Funding for each full-time equivalent student shall be at a  
26 marginal cost calculation, as determined by the Board of Governors  
27 of the California Community Colleges, that shall not exceed the  
28 community college credit instruction marginal cost calculation for  
29 a full-time equivalent student, as determined pursuant to paragraph  
30 (2) of subdivision (i) of Section 84750.5.

31 (3) A student in a baccalaureate degree pilot program authorized  
32 by this article shall not be charged fees higher than the mandatory  
33 systemwide fees charged for baccalaureate degree programs at the  
34 California State University.

35 (4) Fees for coursework in a baccalaureate degree pilot program  
36 shall be consistent with Article 1 (commencing with Section 76300)  
37 of Chapter 2 of Part 47.

38 (5) A district shall, in addition to the fees charged pursuant to  
39 paragraph (4), charge a fee for upper division coursework in a

1 baccalaureate degree pilot program of eighty-four dollars (\$84)  
2 per unit.

3 (h) (1) The Legislative Analyst's Office shall conduct both an  
4 interim and a final statewide evaluation of the statewide  
5 baccalaureate degree pilot program implemented pursuant to this  
6 article.  
7 (2) The results of the interim evaluation shall be reported as a  
8 progress report, in writing, to the Legislature and the Governor on  
9 or before July 1, 2018. The interim evaluation shall include, but  
10 is not limited to, all of the following:

11 (A) How many, and which specific, districts applied for a  
12 baccalaureate degree pilot program, and the baccalaureate degree  
13 pilot programs they applied for.

14 (B) Which potential four-year baccalaureate degrees were denied  
15 and why they were denied.

16 (C) Baccalaureate degree pilot program costs and the funding  
17 sources that were used to finance these programs.

18 (D) Current trends in workforce demands that require four-year  
19 degrees in the specific degree programs being offered through the  
20 statewide baccalaureate degree pilot program.

21 (E) Current completion rates, if available, for each cohort of  
22 students participating in a baccalaureate degree pilot program.

23 (F) Information on the impact of baccalaureate degree pilot  
24 program on underserved and underprepared students.

25 (3) The results of the final evaluation shall be reported, in  
26 writing, to the Legislature and the Governor on or before July 1,  
27 2022. The final evaluation shall include, but is not limited to, all  
28 of the following:

29 (A) The number of new district baccalaureate degree pilot  
30 programs implemented, including information identifying the  
31 number of new programs, applicants, admissions, enrollments,  
32 and degree recipients.

33 (B) The extent to which the baccalaureate degree pilot programs  
34 established under this article fulfill identified workforce needs for  
35 new baccalaureate degree programs, including statewide supply  
36 and demand data that considers capacity at the California State  
37 University, the University of California, and in California's  
38 independent colleges and universities.

39 (C) Information on the place of employment of students and  
40 the subsequent job placement of graduates.

1 (D) Baccalaureate degree program costs and the funding sources  
2 that were used to finance these programs, including a calculation  
3 of cost per degree awarded.

4 (E) The costs of the baccalaureate degree programs to students,  
5 the amount of financial aid offered, and student debt levels of  
6 graduates of the programs.

7 (F) Time-to-degree rates and completion rates for the  
8 baccalaureate degree pilot programs.

9 (G) The extent to which the programs established under this  
10 article are in compliance with the requirements of this article.

11 (H) Information on the impact of baccalaureate degree pilot  
12 program on underserved and underprepared students.

13 (I) Recommendations on whether and how the statewide  
14 baccalaureate degree pilot program can or should be extended and  
15 expanded.

16 (4) A district shall submit the information necessary to conduct  
17 the evaluations required by paragraph (1), as determined by the  
18 Legislative Analyst's Office, to the Chancellor of the California  
19 Community Colleges, who shall provide the information to the  
20 Legislative Analyst's Office upon request.

21 (5) A report to be submitted pursuant to paragraph (2) or (3)  
22 shall be submitted in compliance with Section 9795 of the  
23 Government Code.

24 ~~SECTION 4.~~

25 ~~SEC. 3.~~ Section 78043 of the Education Code is amended to  
26 read:

27 78043. This article shall become inoperative on July 1, 2028,  
28 and as of January 1, 2029, is repealed, unless a later enacted statute  
29 that is enacted before January 1, 2029, deletes or extends that date.

SENATE BILL

No. 1003

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

1 SECTION 1. Section 3702.5 is added to the Business and  
 2 Professions Code, to read:  
 3 3702.5. No state agency other than the board may define or  
 4 interpret the practice of respiratory care for those licensed pursuant  
 5 to this chapter, or develop standardized procedures or protocols  
 6 pursuant to this chapter, unless authorized by this chapter or  
 7 specifically required by state or federal statute. The board may  
 8 adopt regulations to further define, interpret, or identify all of the  
 9 following:

10 (a) Basic respiratory tasks and services that do not require a  
 11 respiratory assessment and only require manual, technical skills,  
 12 or data collection.  
 13 (b) Intermediate respiratory tasks, services, and procedures that  
 14 require formal respiratory education and training.  
 15 (c) Advanced respiratory tasks, services, and procedures that  
 16 require supplemental education, training, or additional credentialing  
 17 consistent with national standards, as applicable.

18 SEC. 2. Section 3704 of the Business and Professions Code is  
 19 amended to read:  
 20 3704. As used in this chapter, these terms shall be defined as  
 21 follows:  
 22 (a) "Board" means the Respiratory Care Board of California.  
 23 (b) "Department" means the Department of Consumer Affairs.  
 24 (c) "Medical director" means a physician and surgeon who is  
 25 a member of a health care facility's active medical staff and who  
 26 is knowledgeable in respiratory care.  
 27 (d) "Respiratory care" includes "respiratory therapy" or  
 28 "inhalation therapy," where those terms mean respiratory care.  
 29 (e) "Respiratory therapy school" means a program reviewed  
 30 and approved by the board.  
 31 (f) "State agency" includes every state office, officer,  
 32 department, division, bureau, board, authority, and commission.

Introduced by Senator Roth

February 6, 2018

An act to amend Section 3704 of, and to add Section 3702.5 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1003, as introduced, Roth. Respiratory therapy.  
 Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of the practice of respiratory therapy by the Respiratory Care Board of California. The act defines respiratory care as a practice to mean a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions. The act requires an applicant for a license as a respiratory care practitioner to complete specified education.

This bill would prohibit any state agency, as defined, other than the Respiratory Care Board of California from defining or interpreting respiratory care for those licensed pursuant to these provisions, or from developing standardized procedures or protocols, unless authorized by these provisions or specifically required by state or federal statute. The bill would also authorize the board to adopt regulations to define, interpret, or identify basic respiratory tasks and services, intermediate respiratory tasks, services and procedures that require formal training, and advanced respiratory tasks, services, and procedures that require advanced training, as specified.

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

Introduced by Senator Skinner

February 5, 2018

An act to add Section 11142 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 984, as amended, Skinner. State boards and commissions: representation: ~~women: appointments.~~

Existing law establishes various boards and commissions within state government. Under existing law, it is the policy of the State of California that the composition of these state boards and commissions broadly reflect the general public, including ethnic minorities and women. Under existing law, the Governor and other appointing authorities are responsible for nominating to these boards and commissions persons of different backgrounds, abilities, interests, and opinions.

This bill would require the composition of *each appointed state board and commissions commission to be comprised of, at a minimum, 50% women: have a specified number of women directors based on the number of board or commission members.* The bill would also require the Secretary of State to disclose on its Internet Web site the gender composition of each state board and commission: *office of the Governor to collect and release aggregated demographic data provided by state board and commission appointees, nominees, and appointees.*

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 11142 is added to the Government Code,
- 2 to read:
- 3 11142. (a) (1) The composition of each appointed state boards
- 4 board and commissions commission shall be, at a minimum, 50
- 5 percent women: *comply with the following:*
- 6 (b) The Secretary of State shall disclose on its Internet Web site
- 7 the gender composition of each state board and commission:
- 8 (A) If the number of board members or commissioners is six or
- 9 more, the state board or commission shall have a minimum of 40
- 10 percent women directors.
- 11 (B) If the number of board members or commissioners is five,
- 12 the state board or commission shall have a minimum of two women
- 13 directors.
- 14 (C) If the number of board members or commissioners is four
- 15 or fewer, the state board or commission shall have a minimum of
- 16 one woman director.
- 17 (2) For the purposes of this section, the gender of the applicant
- 18 or appointed state board member or commissioner shall be
- 19 determined by their self-identification.
- 20 (b) (1) The office of the Governor shall collect and release, on
- 21 an aggregate basis, both of the following:
- 22 (A) Demographic data provided by all state board and
- 23 commission applicants relative to ethnicity, race, gender, gender
- 24 identity, and sexual orientation.
- 25 (B) Demographic data provided by all state board and
- 26 commission nominees or appointees relative to ethnicity, race,
- 27 gender, gender identity, and sexual orientation.
- 28 (2) Any demographic data disclosed or released pursuant to
- 29 this subdivision shall disclose only aggregated statistical data and
- 30 shall not identify any individual applicant, nominee, or appointed
- 31 board or commission member.
- 32 (3) Any demographic data disclosed or released pursuant to
- 33 this subdivision shall also indicate the percentage of respondents
- 34 who declined to respond.
- 35 (c) The provisions of this section are severable. If any provision
- 36 of this section or its application is held invalid, that invalidity shall

- 1 not affect other provisions or applications that can be given effect
- 2 without the invalid provision or application.

○

**SENATE BILL** **No. 1137**

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**Introduced by Senator Vidak**

February 13, 2018

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An act to add Section 714 to the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1137, as introduced, Vidak. Veterans: professional licensing benefits.

Existing law establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans. Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. Existing law provides for a variety of state benefits to veterans.

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans, 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 714 is added to the Military and Veterans
- 2 Code, to read:
- 3 714. (a) The Department of Veterans Affairs and the
- 4 Department of Consumer Affairs shall both, in consultation with
- 5 each other, take appropriate steps to increase awareness regarding
- 6 professional licensing benefits available to veterans.

- 1 (b) The awareness efforts in subdivision (a) shall include, but
- 2 not be limited to, all of the following:
- 3 (1) Proactive information dissemination to veteran groups in
- 4 the state.
- 5 (2) Posting information and resources on each department's
- 6 respective Internet Web site.
- 7 (3) Including information about these benefits in any
- 8 communications that these agencies have with veterans when it is
- 9 appropriate.

AMENDED IN SENATE APRIL 2, 2018

**SENATE BILL****No. 1491**

**Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Dodd, Fuller, Galgiani, Glazer, Hernandez, Newman, Pan, and Wilk)**

February 21, 2018

An act to amend Sections 27, 865, 1607, 1611, 1611.3, 1611.5, 1612, 1614, 1615, 1621, 1645, 1750, 1750.2, 1750.4, 1751, 1753.7, 2290.5, 3004, 3146, 3735, 3751, 4848, 4980.37, 4980.39, 4980.41, 4980.72, 4980.78, 4980.79, 4990.30, 4992, 4996.17, 4999.14, 4999.22, 4999.32, 4999.48, 4999.60, 4999.62, 4999.63, and 4999.100 of, and to repeal Section 650.4 and 1601.5 of, the Business and Professions Code, and to amend Section 6924 of the Family Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) The Dental Practice Act provides for the licensure and regulation of dentists and registered dental assistants by the Dental Board of California, which is within the Department of Consumer Affairs, and requires the board to meet regularly once in San Francisco and once in Los Angeles each year after the commencement of dental schools for the purpose of examining applicants and at such other times as the board may designate. The act entitles the secretary of the board to traveling and other expenses and prohibits the secretary from receiving a salary. The act requires the board to examine all applicants for licensure to practice dentistry in the state and to issue licenses to those applicants that pass the examination of the board. That act requires the board to

adopt reasonably necessary rules concerning, among other things, the establishment of standards for the approval of dental colleges. That act requires the board to only use examiners who have been appointed by the board and meet specified criteria, including that the examiner holds no position as an officer of faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

This bill would delete the requirement that the board meet after the commencement of dental schools for the purpose of examining applicants, would delete the authorization for the secretary to receive expenses, and would delete the prohibition on the secretary receiving a salary. The bill would specify that the board is required to also examine applicants for a license to practice dental assisting and is required to issue a license to practice dentistry or a permit to practice dental assisting to an applicant who has successfully passed all licensing and permitting examinations administered by the board or any regional or national testing entity designated to administer an exam. The bill would require the board to adopt regulations instead of reasonably necessary rules concerning, among other things, the establishment of standards for the approval of dental assisting programs and educational courses. The bill would exempt a portfolio examiner from the above-described prohibition that he or she hold no position as an officer or faculty member.

The Dental Practice Act authorizes the board to inspect the books, records, and premises of any licensed dentist and makes failure to allow an inspection grounds for suspension or revocation of a license. That act requires the board to, among other things, keep a record of the names of all persons issued licenses to practice dentistry and issue a specified notice that it is the entity that regulates dentists.

This bill would specify that the above provisions also apply to the practice of dental assisting and to permitted dentists.

The Dental Practice Act also authorizes the board to require licensees to continue their education as a condition of licensure renewal and to submit assurances to the board that the licensees will inform themselves of new developments in the practice of dentistry since the licensees were originally licensed. The act authorizes a dental assistant to perform basic supportive dental procedures without a license under the supervision of a dentist if he or she meets certain requirements, including a board-approved course regarding the Dental Practice Act and a board-approved course in infection control, and requires the employer of the dental assistant to ensure that he or she has successfully completed

or does successfully complete those required courses. The act authorizes the board to issue an orthodontic assistant permit or a dental sedation assistant permit to a person who files an application and meets specified requirements, including completion of at least 12 months of work experience as a dental assistant and completion of a board-approved course regarding the Dental Practice Act and a board-approved course in infection control.

This bill would instead require a licensee under the chapter to continue his or her education as a condition of licensure renewal and would require a licensee to obtain evidence satisfactory to the board that he or she has, in the preceding 2 years, obtained continuing education relevant to the developments in the practice of dentistry or dental assisting consistent with regulations established by the board. The bill would require a dental assistant and an applicant for an orthodontic assistant permit or a dental sedation assistant permit to complete a 2-hour board-approved course in the Dental Practice Act and an 8-hour board-approved course in infection control. The bill would also require an applicant for an orthodontic assistant permit or a dental sedation assistant permit to have a current, active and valid licensure as a registered dental assistant and at least 12 months of verifiable work experience as a dental assistant.

(2) The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry, which is within the Department of Consumer Affairs, and requires a license issued under the act to expire at midnight in the last day of the licensee's birth month following its original issuance and thereafter at midnight on the last day of the licensee's birth month every 2 years if not renewed.

This bill would change the name of the State Board of Optometry to the California State Board of Optometry, and would require an optometric license to expire at midnight in the last day of the month in which the license was issued during the second year of a 2-year term if not renewed.

(3) The Respiratory Care Practice Act establishes the Respiratory Care Board of California, which is within the Department of Consumer Affairs, for the licensure and regulation of respiratory care practitioners. That act prohibits an applicant for licensure from receiving a license without first successfully passing all parts of the national registered respiratory therapist examination, but exempts a person from taking that exam who provides evidence that he or she passed the National

Certified Respiratory Therapist Examination prior to January 1, 2015, if there is no evidence of prior license or job related discipline as determined by the board. *That act authorizes a person whose license has been revoked, surrendered, or suspended to petition the board for reinstatement and requires a person petitioning for reinstatement of his or her license that has been revoked or surrendered for 3 or more years to meet current education requirements required for licensure.*

This bill would—instead require an applicant for licensure to successfully pass the National Board for Respiratory Care's Therapist Multiple-Choice Examination, at the cut-off level required to qualify for the Clinical Stimulation Examination, and the Clinical Stimulation Examination, or any succeeding examinations, and would deem a person who took the National Certified Respiratory Therapist Examination prior to January 1, 2015, if there is no evidence of prior license or job related discipline as determined by the board, to meet that requirement. *The bill would require a person petitioning the board for reinstatement of his or her license that has been revoked or surrendered for 3 or more years to also meet current examination requirements for initial licensure.*

(4) *The Veterinary Medicine Practice Act provides for the licensure and regulation of veterinarians and the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and requires an applicant for licensure to demonstrate his or her competency by examination. That act requires the examination to consist of certain components, including an examination concerning the act that is required to be administered by the board by mail.*

*This bill would require that component of the examination to be administered by the board by regular mail, email, or by both regular mail and email.*

(4)

(5) The Board of Behavioral Sciences, which is within the Department of Consumer Affairs, licenses and regulates marriage and family therapists under the Licensed Marriage and Family Therapist Act, and professional clinical counselors under the Licensed Professional Clinical Counselor Act.

(A) Those acts require applicants for licensure to, among other things, take a clinical examination, and authorize an applicant for licensure who obtained a license or registration under another jurisdiction to apply



~~SEC. 20:~~

1 SEC. 21. Section 3146 of the Business and Professions Code  
2 is amended to read:

3 3146. An optometric license issued under this chapter expires  
4 at midnight on the last day of the month in which the license was  
5 issued during the second year of a two-year term if not renewed.  
6 To renew an unexpired license, the optometrist shall apply for  
7 renewal on a form prescribed by the board and pay the renewal  
8 fee prescribed by this chapter.

~~SEC. 21:~~

9 SEC. 22. Section 3735 of the Business and Professions Code  
10 is amended to read:

11 3735. (a) Except as otherwise provided in this chapter, an  
12 applicant shall not receive a license under this chapter without first  
13 successfully passing the National Board for Respiratory Care's  
14 Therapist Multiple-Choice Examination, at the cut-off level  
15 required to qualify for the Clinical Simulation Examination, and  
16 the Clinical Simulation Examination, or any succeeding  
17 examinations.

18 (b) Notwithstanding subdivision (a), any person applying for  
19 licensure who provides evidence that he or she passed the national  
20 Certified Respiratory Therapist Examination or Written Registry  
21 Examination prior to January 1, 2015, shall be deemed to have  
22 met the examination requirement of subdivision (a), provided there  
23 is no evidence of prior license or job-related discipline, as  
24 determined by the board in its discretion.

25 ~~SEC. 23. Section 3751 of the Business and Professions Code~~  
26 ~~is amended to read:~~

27 3751. (a) A person whose license has been revoked,  
28 surrendered, or suspended, or placed on probation, may petition  
29 the board for reinstatement, modification, or termination of  
30 probation, provided the person has paid all outstanding fees, fines,  
31 and cost recovery in full, and monthly probation monitoring  
32 payments are current.

33 (b) A person petitioning for reinstatement of his or her license  
34 that has been revoked or surrendered for three or more years shall  
35 also meet the current education and examination requirements  
36 required for initial licensure.  
37  
38

1 (c) A petition may be filed only after a period of time has  
2 elapsed, but not less than the following minimum periods from  
3 the effective date of the decision ordering that disciplinary action:

4 (1) At least three years for reinstatement of a license that has  
5 been revoked or surrendered.

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

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

11 (d) The petition shall state any facts as may be required by the  
12 board. The petition shall be accompanied by at least two verified  
13 recommendations from licensed health care practitioners who have  
14 personal knowledge of the professional activities of the petitioner  
15 since the disciplinary penalty was imposed. The board may accept  
16 or reject the petition.

17 (e) Written or oral argument may be provided by the petitioner  
18 or, at the request of the board, by the Attorney General. Unless  
19 the board or the petitioner requests the presentation of oral  
20 argument, the petition shall be considered and voted upon by mail.  
21 If the petitioner or the board requests the opportunity for oral  
22 argument, the petition shall be heard by the board or the board  
23 may assign the petition to an administrative law judge.

24 (f) Consideration shall be given to all activities of the petitioner  
25 since the disciplinary action was taken, the offense for which the  
26 petitioner was disciplined, the petitioner's activities during the  
27 time the license was in good standing, and the petitioner's  
28 rehabilitative efforts, general reputation for truth, and professional  
29 ability.

30 (g) The board may deny the petition for reinstatement, reinstate  
31 the license without terms and conditions, require an examination  
32 for the reinstatement, restoration, or modification of probation, or  
33 reinstate the license with terms and conditions as it deems  
34 necessary. Where a petition is heard by an administrative law  
35 judge, the administrative law judge shall render a proposed decision  
36 to the board denying the petition for reinstatement, reinstating the  
37 license without terms and conditions, requiring an examination  
38 for the reinstatement, or reinstating the license with terms and  
39 conditions as he or she deems necessary. The board may take any

1 action with respect to the proposed decision and petition as it deems  
2 appropriate.

3 (h) No petition shall be considered under either of the following  
4 circumstances:

5 (1) If the petitioner is under sentence for any criminal offense  
6 including any period during which the petitioner is on  
7 court-imposed probation or parole.

8 (2) If an accusation or a petition to revoke probation is pending  
9 against the person.

10 (i) The board may deny without a hearing or argument any  
11 petition filed pursuant to this section within a period of three years  
12 from the effective date of the prior decision.

13 (j) Petitions for reinstatement shall include a processing fee  
14 equal to fees charged pursuant to subdivisions (a) and (h) of Section  
15 3775. In addition, petitions for reinstatement that are granted shall  
16 include a fee equal to the fee charged pursuant to subdivision (d)  
17 of Section 3775, before the license may be reinstated.

18 (k) Nothing in this section shall be deemed to alter Sections 822  
19 and 823.

20 SEC. 24. Section 4848 of the Business and Professions Code  
21 is amended to read:

22 4848. (a) (1) The board shall, by means of examination,  
23 ascertain the professional qualifications of all applicants for  
24 licenses to practice veterinary medicine in this state and shall issue  
25 a license to every person whom it finds to be qualified. No license  
26 shall be issued to anyone who has not demonstrated his or her  
27 competency by examination.

28 (2) The examination shall consist of each of the following:

29 (A) A licensing examination that is administered on a national  
30 basis.

31 (B) A California state board examination.

32 (C) An examination concerning those statutes and regulations  
33 of the Veterinary Medicine Practice Act administered by the board.  
34 The examination shall be administered by mail regular mail, email,  
35 or by both regular mail and email, and provided to applicants  
36 within 10 to 20 days of eligibility determination. The board shall  
37 have 10 to 20 days from the date of receipt to process the  
38 examination and provide candidates with the results of the  
39 examination. The applicant shall certify that he or she personally  
40 completed the examination. Any false statement is a violation

AMENDED IN SENATE APRIL 2, 2018  
AMENDED IN SENATE JANUARY 18, 2018  
AMENDED IN ASSEMBLY APRIL 27, 2017  
AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017-18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 710**

Introduced by Assembly Member Wood

February 15, 2017

An act to add Section 26002 to the Business and Professions Code, and to add Section 11150.2 to the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 710, as amended, Wood. Cannabidiol. Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law designates cannabis in Schedule I. Cannabidiol is a compound contained in cannabis.

Existing law restricts the prescription, furnishing, possession, sale, and use of controlled substances, including cannabis and synthetic cannabinoid compounds, and makes a violation of those laws a crime, except as specified.

This bill, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, would deem a physician, pharmacist, or other authorized healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to be in compliance with state law governing those acts. The bill would also provide that upon the effective date of one of those changes in federal law regarding cannabidiol, the prescription, furnishing, dispensing, transfer, transportation, possession, or use of that product in accordance with federal law is for a legitimate medical purpose and is authorized pursuant to state law.

Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, regulates the cultivation, processing, and sale of medicinal and adult-use cannabis within the state.

This bill would expressly exclude from regulation under that act, any medicinal product composed of cannabidiol approved by the federal Food and Drug Administration and either placed on a schedule of the federal Controlled Substances Act other than Schedule I, or exempted from one or more provisions of that act.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares that both
- 2 children and adults with epilepsy are in desperate need of new
- 3 treatment options and that cannabidiol has shown potential as an
- 4 effective ~~treatments~~ treatment option. If federal laws prohibiting
- 5 the prescription of medications composed of cannabidiol are
- 6 repealed or if an exception from the general prohibition is enacted
- 7 permitting the prescription of drugs composed of cannabidiol,
- 8 patients should have rapid access to this treatment option. The
- 9 availability of this new prescription medication is intended to
- 10 augment, not to restrict or otherwise amend, other cannabinoid
- 11 treatment modalities *including, but not limited to, industrial hemp*
- 12 *products and derivatives containing cannabidiol*, currently
- 13 available under state law.
- 14 SEC. 2. Section 26002 is added to the Business and Professions
- 15 Code, to read:

1 26002. This division shall not apply to any product containing  
 2 cannabidiol that has been approved by the federal Food and Drug  
 3 Administration that has either been placed on a schedule of the  
 4 federal Controlled Substances Act other than Schedule I or has  
 5 been exempted from one or more provisions of that act, and that  
 6 is intended for prescribed use for the treatment of a medical  
 7 condition.

8 SEC. 3. Section 11150.2 is added to the Health and Safety  
 9 Code, to read:

10 11150.2. (a) Notwithstanding any other law, if cannabidiol is  
 11 excluded from Schedule I of the federal Controlled Substances  
 12 Act and placed on a schedule of the act other than Schedule I, or  
 13 if a product composed of cannabidiol is approved by the federal  
 14 Food and Drug Administration and either placed on a schedule of  
 15 the act other than Schedule I, or exempted from one or more  
 16 provisions of the act, so as to permit a physician, pharmacist, or  
 17 other authorized healing arts licensee acting within his or her scope  
 18 of practice, to prescribe, furnish, or dispense that product, the  
 19 physician, pharmacist, or other authorized healing arts licensee  
 20 who prescribes, furnishes, or dispenses that product in accordance  
 21 with federal law shall be deemed to be in compliance with state  
 22 law governing those acts.

23 (b) For purposes of this chapter, upon the effective date of one  
 24 of the changes in federal law described in subdivision (a),  
 25 notwithstanding any other state law, a product composed of  
 26 cannabidiol may be prescribed, furnished, dispensed, transferred,  
 27 transported, possessed, or used in accordance with federal law and  
 28 is authorized pursuant to state law.

29 (c) *This section does not apply to any product containing*  
 30 *cannabidiol that is made or derived from industrial hemp, as*  
 31 *defined in Section 11018.5 and regulated pursuant to that section.*

32 SEC. 4. This act is an urgency statute necessary for the  
 33 immediate preservation of the public peace, health, or safety within  
 34 the meaning of Article IV of the California Constitution and shall  
 35 go into immediate effect. The facts constituting the necessity are:

36 In order to ensure that patients are able to obtain access to a new  
 37 treatment modality as soon as federal law makes it available, it is  
 38 necessary that this act take effect immediately.

O

AMENDED IN ASSEMBLY APRIL 12, 2018

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1793**

**Introduced by Assembly Member Bonta**

(Principal coauthors: Senators Skinner and Wiener)

(Coauthor: Assembly Member Quirk)

January 9, 2018

An act to add Section 11361.9 to the Health and Safety Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, as amended, Bonta. Cannabis convictions: resentencing. Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Under AUMA, a person 21 years of age or older may, among other things, possess, process, transport, purchase, obtain, or give away, as specified, up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis. Existing law authorizes a person to petition for the recall and resentencing recall or dismissal of a sentence, dismissal and sealing of a conviction, or redesignation of a conviction of an offense for which a lesser offense or no offense would be imposed under AUMA.

This bill would require the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible

for resentencing or dismissal recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA. The bill would require the department to notify the courts of all cases in their jurisdiction that are eligible for resentencing or dismissal: recall or dismissal of a sentence, dismissal and sealing, or redesignation. The bill would require the courts to notify the prosecution of all cases under review and would authorize the prosecution to challenge the resentencing or dismissal: resentencing, dismissal and sealing, or redesignation if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The bill would require the court to automatically resentence reduce or dismiss the conviction pursuant to AUMA if there is no challenge. The bill would require the department to modify the state summary criminal history information database in conformance with the resentencing or dismissal recall or dismissal of sentence, dismissal and sealing, or redesignation within 30 days and to give specified notifications to the eligible person.

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 11361.9 is added to the Health and Safety  
2 Code, to read:  
3 11361.9. (a) On or before July 1, 2019, the Department of  
4 Justice shall review the records in the state summary criminal  
5 history information database and shall identify past convictions  
6 that are potentially eligible for resentencing or dismissal recall or  
7 dismissal of sentence, dismissal and sealing, or redesignation  
8 pursuant to Section 11361.8. The department shall notify the  
9 superior courts of all cases in their jurisdiction that are eligible for  
10 resentencing or dismissal recall or dismissal of sentence, dismissal  
11 and sealing, or redesignation and shall notify the person whose  
12 conviction is being considered.

13 (b) A court that receives notice pursuant to subdivision (a) shall  
14 notify the prosecution in all cases under review that the conviction  
15 is being reviewed for resentencing or dismissal: recall or dismissal  
16 of sentence, dismissal and sealing, or redesignation. The  
17 prosecution shall have 30 days from receipt of notice to review  
18 the case and determine whether to challenge the resentencing or

1 dismissal; recall or dismissal of sentence, dismissal and sealing,  
2 or redesignation.

3 (c) (1) The prosecution may challenge the resentencing or  
4 dismissal when the person does not meet the criteria established  
5 in Section 11361.8 or presents an unreasonable risk to public safety.  
6 When challenging the resentencing or dismissal, the prosecution  
7 shall notify the court and the department and shall state the reasons  
8 for that challenge. If the resentencing or dismissal is challenged,  
9 the court shall review the case pursuant to the provisions of Section  
10 11361.8.

11 (c) (1) The prosecution may challenge the resentencing of a  
12 person pursuant to this section when the person does not meet the  
13 criteria established in Section 11361.8 or presents an unreasonable  
14 risk to public safety.

15 (2) The prosecution may challenge the dismissal and sealing  
16 or redesignation of a person pursuant to this section who has  
17 completed his or her sentence for a conviction when the person  
18 does not meet the criteria established in Section 11361.8.

19 (2)

20 (3) The department, when it receives notice that a resentencing  
21 or dismissal is being challenged pursuant to paragraph (1), (1) or  
22 (2), shall notify the eligible person.

23 (d) If the prosecution does not challenge the resentencing or  
24 dismissal recall or dismissal of sentence, dismissal and sealing,  
25 or redesignation within 30 days after receiving notice, the court  
26 shall reduce or dismiss the conviction pursuant to Section 11361.8.

27 (e) The court shall notify the department of the resentencing or  
28 dismissal recall or dismissal of sentence, dismissal and sealing,  
29 or redesignation and the department shall modify the state  
30 summary criminal history information database accordingly. The  
31 department shall make the changes and notify the person whose  
32 record has been modified within 30 days.

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL** **No. 2138**

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend Sections 480 and Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 of, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

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

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

business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes: revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

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

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

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

Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

*This bill would repeal that authorization. Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.*

*This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.*

*Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the licensee.*

*This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.*

*This bill would also make necessary conforming changes.*

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 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a conviction
- 5 following a plea of nolo contendere, contendere or finding of guilt.
- 6 Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for  
 2 appeal has elapsed, or the judgment of conviction has been affirmed  
 3 on appeal or when an order granting probation is made suspending  
 4 the imposition of sentence, irrespective of a subsequent order under  
 5 the provisions of Section 1203.4 of the Penal Code: sentence.  
 6 However, a board may not deny a license to an applicant who is  
 7 otherwise qualified pursuant to subdivision (b) or (c) of Section  
 8 480.

9 Nothing

10 (b) Nothing in this section shall apply to the licensure of persons  
 11 pursuant to Chapter 4 (commencing with Section 6000) of Division  
 12 3.

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

16 SECTION 1.

17 SEC. 2. Section 480 of the Business and Professions Code is  
 18 amended to read:

19 480. (a) *(1) Notwithstanding any other provision of this*  
 20 *code, a board may deny a license regulated by this code on the*  
 21 *grounds that the applicant has one of the following: been convicted*  
 22 *of a crime or has been subject to formal discipline only if either*  
 23 *of the following conditions are met:*

24 *(1) Been convicted of a crime. A conviction within the meaning*  
 25 *of this section means a plea or verdict of guilty or a conviction*  
 26 *following a plea of nolo contendere. Any action that a board is*  
 27 *permitted to take following the establishment of a conviction may*  
 28 *be taken when the time for appeal has elapsed, or the judgment of*  
 29 *conviction has been affirmed on appeal, or when an order granting*  
 30 *probation is made suspending the imposition of sentence;*  
 31 *irrespective of a subsequent order under the provisions of Section*  
 32 *1203.4, 1203.4a, or 1203.41 of the Penal Code.*

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

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

39 *(B) The board may deny a license pursuant to this subdivision*  
 40 *only if the crime or act is substantially related to the qualifications,*



1 functions, or duties of the business or profession for which  
2 application is made:

3 (A) The applicant has been convicted of a crime for which the  
4 applicant is presently incarcerated or for which the conviction  
5 occurred within the preceding five years. However, the preceding  
6 five year limitation shall not apply to a conviction for a violent  
7 felony, as defined in Section 667.5 of the Penal Code.

8 The board may deny a license pursuant to this subparagraph  
9 only if the crime is directly and adversely related to the  
10 qualifications, functions, or duties of the business or profession  
11 for which application is made.

12 (B) The applicant has been subjected to formal discipline by a  
13 licensing board within the preceding five years based on  
14 professional misconduct that would have been cause for discipline  
15 before the board for which the present application is made and  
16 that is directly and adversely related to the qualifications,  
17 functions, or duties of the business or profession for which the  
18 present application is made. However, prior disciplinary action  
19 by a licensing board within the preceding five years shall not be  
20 the basis for denial of a license if the basis for that disciplinary  
21 action was a conviction that has been dismissed pursuant to Section  
22 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable  
23 dismissal or expungement.

24 (2) Denial of a license includes denial of an unrestricted license  
25 by issuance of a restricted or probationary license.

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

34 (c) Notwithstanding any other provision of this code, a person  
35 shall not be denied a license on the basis of any conviction, or on  
36 the basis of the acts underlying the conviction, that has been  
37 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the  
38 Penal Code, or a comparable dismissal or expungement. An  
39 applicant who has a conviction that has been dismissed pursuant  
40 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code

1 shall provide proof of the dismissal if it is not reflected on the  
2 report furnished by the Department of Justice.

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

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

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

16 (1) A board shall not require an applicant for licensure to  
17 disclose any information or documentation regarding the  
18 applicant's criminal history.

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

22 (A) The denial or disqualification of licensure.

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

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

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

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

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

1 (A) The number of applicants with a criminal record who  
 2 received notice of denial or disqualification of licensure.  
 3 (B) The number of applicants with a criminal record who  
 4 provided evidence of mitigation or rehabilitation.  
 5 (C) The number of applicants with a criminal record who  
 6 appealed any denial or disqualification of licensure.  
 7 (D) The final disposition and demographic information,  
 8 including, but not limited to, voluntarily provided information on  
 9 race or gender, of any applicants described in subparagraph (A),  
 10 (B), or (C).  
 11 (3) (A) Each board under this code shall annually make  
 12 available to the public through the board's Internet Web site and  
 13 through a report submitted to the appropriate policy committees  
 14 of the Legislature deidentified information collected pursuant to  
 15 this subdivision. Each board shall ensure confidentiality of the  
 16 individual applicants.  
 17 (B) A report pursuant to subparagraph (A) shall be submitted  
 18 in compliance with Section 9795 of the Government Code.  
 19 (h) "Conviction" as used in this section shall have the same  
 20 meaning as defined in Section 7.5.  
 21 (i) This section supersedes any contradictory provision in a  
 22 licensing act under this code or initiative act referred to in Division  
 23 2 (commencing with Section 500) that authorizes license denial  
 24 based on a criminal conviction, arrest, or the acts underlying an  
 25 arrest or conviction.  
 26 SEC. 3. Section 481 of the Business and Professions Code is  
 27 amended to read:  
 28 481. (a) Each board under the provisions of this code shall  
 29 develop criteria to aid it, when considering the denial, ~~suspension~~  
 30 suspension, or revocation of a license, to determine whether a  
 31 crime or act is substantially directly and adversely related to the  
 32 qualifications, functions, or duties of the business or profession it  
 33 regulates.  
 34 (b) Criteria for determining whether a crime is directly and  
 35 adversely related to the qualifications, functions, or duties of the  
 36 business or profession a board regulates shall include all of the  
 37 following:  
 38 (1) The nature and gravity of the offense.  
 39 (2) The number of years elapsed since the date of the offense.

1 (3) The nature and duties of the profession in which the  
 2 applicant seeks licensure or in which the licensee is licensed.  
 3 (c) A board shall not deny a license based in whole or in part  
 4 on a conviction without considering evidence of rehabilitation.  
 5 (d) Each board shall post on its Internet Web site a summary  
 6 of the criteria used to consider whether a crime is considered to  
 7 be directly and adversely related to the qualifications, functions,  
 8 or duties of the business or profession it regulates consistent with  
 9 this section.  
 10 SEC. 4. Section 481.5 is added to the Business and Professions  
 11 Code, to read:  
 12 481.5. (a) Probationary terms or restrictions placed on a  
 13 license by a board shall be limited to two years or less. Any  
 14 additional conditions may be imposed only if the board determines  
 15 that there is clear and convincing evidence that additional  
 16 conditions are necessary to address a risk shown by clear and  
 17 convincing evidence.  
 18 (b) Each board under this code shall develop criteria to aid it  
 19 when considering the imposition of probationary conditions or  
 20 restrictions to determine what conditions may be imposed to  
 21 address a risk shown by clear and convincing evidence.  
 22 (c) (1) A licensee or registrant whose license or registration  
 23 has been placed on probation may petition the board for a change  
 24 to the probation, including modification or termination of  
 25 probation, one year from the effective date of the decision. The  
 26 board shall issue its decision on the petition within 90 days of  
 27 submission of the petition. The petition shall be deemed granted  
 28 by operation of law if the board does not file a decision denying  
 29 the petition within 90 days of submission of the petition.  
 30 (2) The one-year time period to petition for modification or  
 31 termination of penalty shall control over longer time periods under  
 32 a licensing act under this code or initiative act referred to in  
 33 Division 2 (commencing with Section 500).  
 34 SEC. 5. Section 482 of the Business and Professions Code is  
 35 amended to read:  
 36 482. (a) Each board under the provisions of this code shall  
 37 develop criteria to evaluate the rehabilitation of a person when:  
 38 when doing either of the following:  
 39 (a)

1 (1) Considering the denial of a license by the board under  
2 Section 480, or 480.

3 (b)

4 (2) Considering suspension or revocation of a license under  
5 Section 490.

6 Each

7 (b) Each board shall take into account all competent evidence  
8 of rehabilitation furnished by the applicant or licensee; find that  
9 an applicant or licensee has made a showing of rehabilitation if  
10 any of the following are met:

11 (1) The applicant or licensee has completed the criminal  
12 sentence at issue without a violation of parole or probation.

13 (2) (A) The applicant or licensee documents that he or she has  
14 worked in a related field continuously for at least one year prior  
15 to licensure or successfully completed a course of training in a  
16 related field, unless the board finds a public record of an official  
17 finding that the applicant committed professional misconduct in  
18 the course of that work.

19 (B) Work in a related field may include, but is not limited to,  
20 work performed without compensation and work performed while  
21 incarcerated.

22 (C) "Related field," for purposes of this paragraph, means a  
23 field of employment whose duties are substantially similar to the  
24 field regulated by the board.

25 (3) The applicant or licensee has satisfied criteria for  
26 rehabilitation developed by the board.

27 SEC. 6. Section 488 of the Business and Professions Code is  
28 amended to read:

29 488. Except as otherwise provided by law, following a hearing  
30 requested by an applicant pursuant to subdivision (b) of Section  
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing  
33 requirements by the applicant.

34 (b) Grant the license effective upon completion of all licensing  
35 requirements by the applicant, grant the license and immediately  
36 issue a public reproof pursuant to Section 495, immediately  
37 revoke the license, stay the revocation, and impose probationary  
38 conditions on the license, which may include suspension.

39 (c) Deny the license.

1 (d) Take other action in relation to denying or granting the  
2 license as the board in its discretion may deem proper.

3 SEC. 7. Section 490 of the Business and Professions Code is  
4 amended to read:

5 490. (a) (1) In addition to any other action that a board is  
6 permitted to take against a licensee, a board may suspend or revoke  
7 a license on the ground that the licensee has been convicted of a  
8 crime, if the crime is substantially related to the qualifications,  
9 functions, or duties of the business or profession for which the  
10 license was issued: crime for which the applicant is presently  
11 incarcerated or for which the conviction occurred within the  
12 preceding five years. However, the preceding five year limitation  
13 shall not apply to a conviction for a violent felony, as defined in  
14 Section 667.5 of the Penal Code.

15 (2) The board may suspend or revoke a license pursuant to this  
16 subdivision only if the crime is directly and adversely related to  
17 the qualifications, functions, or duties of the business or profession  
18 for which application is made.

19 (b) Notwithstanding any other provision of law, a board may  
20 exercise any authority to discipline a licensee for conviction of a  
21 crime that is independent of the authority granted under subdivision  
22 (a) only if the both of the following are met:

23 (1) The crime is substantially directly and adversely related to  
24 the qualifications, functions, or duties of the business or profession  
25 for which the licensee's license was issued.

26 (2) The licensee was convicted of the crime within the preceding  
27 five years or is presently incarcerated for the crime. However, the  
28 preceding five year limitation shall not apply to a conviction for  
29 a violent felony, as defined in Section 667.5 of the Penal Code.

30 (c) A conviction within the meaning of this section means a  
31 plea or verdict of guilty or a conviction following a plea of not  
32 contendere. An action that a board is permitted to take following  
33 the establishment of a conviction may be taken when the time for  
34 appeal has elapsed, or the judgment of conviction has been affirmed  
35 on appeal, or when an order granting probation is made suspending  
36 the imposition of sentence, irrespective of a subsequent order under  
37 Section 1203.4 of the Penal Code.

38 (d) The Legislature hereby finds and declares that the application  
39 of this section has been made unclear by the holding in *Petrooulos*  
40 v. Department of Real Estate (2006) 142 Cal.App.4th 554, and

1 that the holding in that case has placed a significant number of  
 2 statutes and regulations in question, resulting in potential harm to  
 3 the consumers of California from licensees who have been  
 4 convicted of crimes. Therefore, the Legislature finds and declares  
 5 that this section establishes an independent basis for a board to  
 6 impose discipline upon a licensee, and that the amendments to this  
 7 section made by Chapter 33 of the Statutes of 2008 do not  
 8 constitute a change to, but rather are declaratory of, existing law.

9 (c) Notwithstanding any other provision of this code, a board  
 10 shall not suspend or revoke a license on the basis of a conviction,  
 11 or of the acts underlying a conviction, where that conviction has  
 12 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or  
 13 1203.42 of the Penal Code or a comparable dismissal or  
 14 expungement.

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

20 (e) The board shall use the following procedures in requesting  
 21 or acting on a licensee's criminal history information:

22 (1) A board shall not require a licensee to disclose any  
 23 information or documentation regarding the licensee's criminal  
 24 history.

25 (2) If a board chooses to file an accusation against a licensee  
 26 based solely or in part on the licensee's conviction history, the  
 27 board shall notify the licensee in writing of the processes for the  
 28 licensee to request a copy of the licensee's complete conviction  
 29 history and question the accuracy or completeness of his or her  
 30 criminal record pursuant to Sections 11122 to 11127, inclusive,  
 31 of the Penal Code.

32 (f) (1) For a minimum of three years, each board under this  
 33 code shall retain all documents submitted by a licensee, notices  
 34 provided to a licensee, all other communications received from or  
 35 provided to a licensee, and criminal history reports of a licensee.

36 (2) Each board under this code shall retain all of the following  
 37 information:

38 (A) The number of licensees with a criminal record who received  
 39 notice of potential revocation or suspension of their license or who  
 40 had their license suspended or revoked.

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

3 (C) The number of licensees with a criminal record who  
 4 appealed any suspension or revocation of a license.

5 (D) The final disposition and demographic information,  
 6 including, but not limited to, voluntarily provided information on  
 7 race or gender, of any applicant described in subparagraph (A),  
 8 (B), or (C).

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

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

17 (g) (1) This section supersedes any contradictory provision in  
 18 a licensing act under this code or initiative act referred to in  
 19 Division 2 (commencing with Section 500) that authorizes action  
 20 based on a criminal conviction, arrest, or the acts underlying an  
 21 arrest or conviction.

22 (2) This section shall not prohibit any agency from taking  
 23 disciplinary action against a licensee for professional misconduct  
 24 in the course and scope of the licensee's profession that is based  
 25 on evidence that is independent of an arrest.

26 SEC. 8. Section 490.5 of the Business and Professions Code  
 27 is repealed.

28 490.5. A board may suspend a license pursuant to Section  
 29 17520 of the Family Code if a licensee is not in compliance with  
 30 a child support order or judgment.

31 SEC. 9. Section 492 of the Business and Professions Code is  
 32 amended to read:

33 492. (a) Notwithstanding any other provision of law, successful  
 34 completion of any diversion program under the Penal Code,  
 35 successful completion by a licensee or applicant of any  
 36 nonstatutory diversion program, deferred entry of judgment, or  
 37 successful completion of an alcohol and drug problem assessment  
 38 program under Article 5 (commencing with Section 23249.50) of  
 39 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
 40 any agency established under Division 2 (commencing with Section

500) of this code, or any initiative act referred to in that division; board from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest misconduct.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

(b) This section shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee for professional misconduct in the course and scope of the profession, which is based on evidence that is independent of an arrest.

SEC. 10. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially directly and adversely related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question, fact.

(b) (1) Criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

As

(c) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

SEC. 11. Section 1005 of the Business and Professions Code is amended to read:

1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716, 730.5, 731, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners under the Chiropractic Act.

SEC. 2.

SEC. 12. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

AMENDED IN ASSEMBLY APRIL 16, 2018  
AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL** **No. 2409**

Introduced by Assembly Member Kiley

February 14, 2018

An act to add Section 37 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2409, as amended, Kiley, Professions and vocations: occupational regulations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides that those boards are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities that have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law authorizes a board to deny a license if an applicant has been convicted of a crime, done any act involving dishonesty, fraud, or deceit with intent to substantially benefit himself or herself or another or substantially injure another, or does any act that, if done by a licentiate of the business or profession, would be grounds for suspension or revocation.

This bill would establish that a person has a right to engage in a lawful profession or vocation without being subject to an occupational regulation, as defined, that imposes a substantial burden on that right, and would require each occupational regulation to be limited to what

is demonstrably necessary and narrowly tailored to fulfill a legitimate public health, safety, or welfare objective. The bill would include within this the right of a person with a criminal record to obtain a license and not to have a board use the person's criminal record used by a board as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation. The bill would also include vocation, except as specified, and the right of a person who is behind on his or her taxes or student loans to petition a board not to use these factors against that person, as prescribed. loan payments to not have a board use that fact as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation.

The bill would authorize a person who is denied a license to file a petition and appeal to the board. The bill would prescribe procedures and legal standards by which a board may determine that a person's criminal record disqualifies that person. The bill would also permit a person, following the response to an administrative petition, to file an appeal to a court for a declaratory judgment or injunctive or other equitable relief, in accordance with certain legal procedures and criteria, to petition a board to review an occupational regulation, as defined, within the board's jurisdiction for compliance with the above rights, as specified. The bill would authorize a person with a criminal record to petition a board at any time for a determination of whether the person's criminal record will automatically disqualify the person from obtaining a license from the board and would specify the criteria a board is allowed to use in making that determination. The bill would include related definitions and declare the intent of the Legislature in this regard.

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. This act may be known as the "Occupational
- 2 Opportunity Act."
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Each individual has the right to pursue a chosen profession
- 5 and vocation, free from arbitrary or excessive government
- 6 interference.
- 7 (b) The freedom to earn an honest living traditionally has
- 8 provided the surest means for economic mobility.

(c) In recent years, many regulations of entry into professions and vocations have exceeded legitimate public purposes and have had the effect of arbitrarily limiting entry and reducing competition.

(d) The burden of excessive regulation is borne most heavily by individuals outside the economic mainstream, for whom opportunities for economic advancement are curtailed.

(e) It is in the public interest to do all of the following:

- (1) Ensure the right of all individuals to pursue legitimate entrepreneurial and professional opportunities to the limits of their talent and ambition.

(2) Provide the means for the vindication of this right.

(3) Ensure that regulations of entry into professions and vocations are demonstrably necessary and narrowly tailored to fulfill legitimate health, safety, and welfare objectives.

SEC. 3. Section 37 is added to the Business and Professions Code, to read:

37. (a) (1) Notwithstanding Section 480 or any other law, a person has a right to engage in a lawful profession or vocation without being subject to an occupational regulation that imposes a substantial burden on that right. To achieve this purpose, each occupational regulation shall be limited to what is demonstrably necessary and shall be narrowly tailored to fulfill a legitimate public health, safety, or welfare objective.

(2) Notwithstanding any other law, the right set forth in paragraph (1) includes the right of a person with a criminal record to obtain a license to engage in a profession or vocation, and the right to not have a board use the person's criminal record as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation: *to not have the person's criminal record be used by a board as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation, unless for reasons specified in this section.*

(3) Notwithstanding any other law, the right set forth in paragraph (1) also includes the right of a person who is behind on his or her taxes or student-loans *loan payments* to obtain a license to engage in a profession or vocation, and the right to not have the board use the person's status with respect to his or her taxes or student-loans *loan payments* as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation.

(b) (1) (A) A person denied a license may file a petition and appeal to the board.

(B) If the person has a criminal record, the person shall include in the petition a copy of his or her criminal record or shall authorize the board to obtain a copy that record. The person may additionally include information about his or her current circumstances, including, but not limited to, the time passed since the offense, completion of the criminal sentence, other evidence of rehabilitation, testimonials, employment history, and employment aspirations.

(C) Notwithstanding any other law, the board may find that the person's criminal record disqualifies that person from obtaining a license only if the person's criminal record includes a conviction for a felony or a violent misdemeanor and the board concludes that the state has an important interest in protecting public safety that is superior to the person's individual right. The board may make this conclusion only if it determines, by clear and convincing evidence at the time of the petition, all of the following:

(f) The specific offense for which the person was convicted is substantially related to the qualifications, functions, or duties of the profession or vocation for which application was denied.

(ii) The person, based on the nature of the specific offense for which he or she was convicted and his or her current circumstances, would be put in a position in which that person is more likely to reoffend by having the license than if the person did not obtain that license.

(iii) A reoffense by the person would cause greater harm than it would if the person did not have a license and was not put in a position in which the person is more likely to reoffend.

(2) Within 90 days of a petition filed pursuant to paragraph (1), the board shall make a determination on the appeal, based on the standards set forth in subdivision (a).

(e) (1) Following the response to an administrative petition pursuant to paragraph (2) of subdivision (b), a person may file an appeal to a court of general jurisdiction for a declaratory judgment or injunctive relief or other equitable relief for a violation of subdivision (a).

(2) In such an action, the board bears the burden of proving by preponderance of the evidence that the challenged occupational

1 regulation meets the criteria set forth in paragraph (1) of  
2 subdivision (a).

3 (3) If the board fails to meet the burden of proof and the court  
4 finds by a preponderance of evidence that the challenged  
5 occupational regulation fails to meet the criteria set forth in  
6 paragraph (1) of subdivision (a), the court shall enjoin further  
7 enforcement of the occupational regulation and shall award  
8 reasonable attorney's fees and costs to the plaintiff.

9 (4) A court shall liberally construe this section to protect the  
10 rights established in paragraph (1) of subdivision (a).

11 (b) (1) A person may petition a board to review an occupational  
12 regulation within the board's jurisdiction for compliance with  
13 subdivision (a). The board shall respond within 90 days after the  
14 petition is submitted, and shall, in writing, inform the petitioner  
15 of the board's decision to do one of the following depending on  
16 the circumstances:

17 (A) Subject to the Administrative Procedure Act (Chapter 3.5  
18 commencing with Section 11340) of Part 1 of Division 3 of Title  
19 2 of the Government Code), repeal the occupational regulation.

20 (B) Subject to the Administrative Procedure Act (Chapter 3.5  
21 commencing with Section 11340) of Part 1 of Division 3 of Title  
22 2 of the Government Code), amend the occupational regulation  
23 to bring it into compliance with subdivision (a).

24 (C) Recommend the enactment of legislation by the Legislature.

25 (D) State the basis on which the board concludes the  
26 occupational regulation complies with subdivision (a).

27 (2) A person may appeal the board's determination in paragraph  
28 (1) by filing an action in a court of general jurisdiction for  
29 declaratory judgment, injunctive relief, or other equitable relief.

30 (A) In such an action, the board bears the burden of proving  
31 by a preponderance of the evidence that the challenged  
32 occupational regulation is in compliance with subdivision (a).

33 (B) If the board fails to meet the burden of proof and the court  
34 finds by a preponderance of the evidence that the challenged  
35 occupational regulation does not comply with subdivision (a), the  
36 court shall enjoin further enforcement of the occupational  
37 regulation and shall award reasonable attorney's fees and costs  
38 to the petitioner.

39 (c) (1) Notwithstanding any other law, a person with a criminal  
40 record may petition a board at any time for a determination of

1 whether the person's criminal record will automatically disqualify  
2 the person from obtaining a license from the board.

3 (2) The person shall include in the petition the person's criminal  
4 record or authorize the board to obtain the person's criminal  
5 record.

6 (3) Notwithstanding any other statute or rule, the board may  
7 find the individual's criminal record disqualifies the individual  
8 from obtaining a license only if both of the following are met:

9 (A) The person's criminal record includes a conviction for a  
10 felony or violent misdemeanor.

11 (B) The board concludes the state has an important interest in  
12 protecting public safety that is superior to the person's right in  
13 subdivision (a). The board may make this conclusion only if it  
14 determines, by clear and convincing evidence at the time of the  
15 petition, that all of the following are met:

16 (i) The specific offense for which the person was convicted is  
17 substantially related to the state's interest in protecting public  
18 safety.

19 (ii) The person, based on the nature of the specific offense for  
20 which he or she was convicted and the person's current  
21 circumstances, will be put in a position where the person is more  
22 likely to reoffend by having the license than if the individual did  
23 not have the license.

24 (iii) A reoffense will cause greater harm than if the individual  
25 did not have a license and was not put in the position where the  
26 individual is more likely to reoffend.

27 (4) The board shall issue its determination within 90 days after  
28 the board receives the petition. The determination shall be in  
29 writing and include, but not be limited to, the person's criminal  
30 record, findings of fact, and the board's legal conclusions.

31 (d) For purposes of this section, the following terms apply:

32 (1) "Board" has the same meaning as set forth in Section 22.

33 (2) "License" has the same meaning as set forth in Section 23.7.

34 (3) "Occupational regulation" means a regulation, rule, policy,  
35 condition, test, permit, administrative practice, or other state  
36 government-prescribed requirement for a person to engage in a  
37 lawful profession or vocation.



AMENDED IN ASSEMBLY APRIL 9, 2018  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL** **No. 2483**

Introduced by Assembly Member Voepel

February 14, 2018

An act to add Chapter 10 (commencing with Section 472) to Division 1 of the Business and Professions Code, amend Section 825 of the Government Code, relating to professions: liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Voepel, Department of Consumer Affairs: Office of Supervision of Occupational Boards—Indemnification of public officers and employees: anti-trust awards.

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage anti-trust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.

This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a "covered board," defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board's rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.

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 825 of the Government Code is amended
- 2 to read:
- 3 825. (a) Except as otherwise provided in this section, if an
- 4 employee or former employee of a public entity requests the public
- 5 entity to defend him or her against any claim or action against him
- 6 or her for an injury arising out of an act or omission occurring

1 within the scope of his or her employment as an employee of the  
 2 public entity and the request is made in writing not less than 10  
 3 days before the day of trial, and the employee or former employee  
 4 reasonably cooperates in good faith in the defense of the claim or  
 5 action, the public entity shall pay any judgment based thereon or  
 6 any compromise or settlement of the claim or action to which the  
 7 public entity has agreed.

8 If the public entity conducts the defense of an employee or  
 9 former employee against any claim or action with his or her  
 10 reasonable good-faith cooperation, the public entity shall pay any  
 11 judgment based thereon or any compromise or settlement of the  
 12 claim or action to which the public entity has agreed. However,  
 13 where the public entity conducted the defense pursuant to an  
 14 agreement with the employee or former employee reserving the  
 15 rights of the public entity not to pay the judgment, compromise,  
 16 or settlement until it is established that the injury arose out of an  
 17 act or omission occurring within the scope of his or her  
 18 employment as an employee of the public entity, the public entity  
 19 is required to pay the judgment, compromise, or settlement only  
 20 if it is established that the injury arose out of an act or omission  
 21 occurring in the scope of his or her employment as an employee  
 22 of the public entity.

23 Nothing in this section authorizes a public entity to pay that part  
 24 of a claim or judgment that is for punitive or exemplary damages.

25 (b) Notwithstanding subdivision (a) or any other provision of  
 26 law, a public entity is authorized to pay that part of a judgment  
 27 that is for punitive or exemplary damages if the governing body  
 28 of that public entity, acting in its sole discretion except in cases  
 29 involving an entity of the state government, finds all of the  
 30 following:

31 (1) The judgment is based on an act or omission of an employee  
 32 or former employee acting within the course and scope of his or  
 33 her employment as an employee of the public entity.

34 (2) At the time of the act giving rise to the liability, the employee  
 35 or former employee acted, or failed to act, in good faith, without  
 36 actual malice and in the apparent best interests of the public entity.

37 (3) Payment of the claim or judgment would be in the best  
 38 interests of the public entity.

39 As used in this subdivision with respect to an entity of state  
 40 government, "a decision of the governing body" means the

1 approval of the Legislature for payment of that part of a judgment  
 2 that is for punitive damages or exemplary damages, upon  
 3 recommendation of the appointing power of the employee or  
 4 former employee, based upon the finding by the Legislature and  
 5 the appointing authority of the existence of the three conditions  
 6 for payment of a punitive or exemplary damages claim. The  
 7 provisions of subdivision (a) of Section 965.6 shall apply to the  
 8 payment of any claim pursuant to this subdivision.

9 The discovery of the assets of a public entity and the introduction  
 10 of evidence of the assets of a public entity shall not be permitted  
 11 in an action in which it is alleged that a public employee is liable  
 12 for punitive or exemplary damages.

13 The possibility that a public entity may pay that part of a  
 14 judgment that is for punitive damages shall not be disclosed in any  
 15 trial in which it is alleged that a public employee is liable for  
 16 punitive or exemplary damages, and that disclosure shall be  
 17 grounds for a mistrial.

18 (c) Except as provided in subdivision (d), if the provisions of  
 19 this section are in conflict with the provisions of a memorandum  
 20 of understanding reached pursuant to Chapter 10 (commencing  
 21 with Section 3500) of Division 4 of Title 1, 4, the memorandum  
 22 of understanding shall be controlling without further legislative  
 23 action, except that if those provisions of a memorandum of  
 24 understanding require the expenditure of funds, the provisions  
 25 shall not become effective unless approved by the Legislature in  
 26 the annual Budget Act.

27 (d) The subject of payment of punitive damages pursuant to this  
 28 section or any other provision of law shall not be a subject of meet  
 29 and confer under the provisions of Chapter 10 (commencing with  
 30 Section 3500) of Division 4 of Title 1, 4, or pursuant to any other  
 31 law or authority.

32 (e) Nothing in this section shall affect the provisions of Section  
 33 818 prohibiting the award of punitive damages against a public  
 34 entity. This section shall not be construed as a waiver of a public  
 35 entity's immunity from liability for punitive damages under Section  
 36 1981, 1983, or 1985 of Title 42 of the United States Code.

37 (f) (1) Except as provided in paragraph (2), a public entity shall  
 38 not pay a judgment, compromise, or settlement arising from a  
 39 claim or action against an elected official, if the claim or action is  
 40 based on conduct by the elected official by way of tortiously

1 intervening or attempting to intervene in, or by way of tortiously  
 2 influencing or attempting to influence the outcome of, any judicial  
 3 action or proceeding for the benefit of a particular party by  
 4 contacting the trial judge or any commissioner, court-appointed  
 5 arbitrator, court-appointed mediator, or court-appointed special  
 6 referee assigned to the matter, or the court clerk, bailiff, or marshal  
 7 after an action has been filed, unless he or she was counsel of  
 8 record acting lawfully within the scope of his or her employment  
 9 on behalf of that party. Notwithstanding Section 825.6, if a public  
 10 entity conducted the defense of an elected official against such a  
 11 claim or action and the elected official is found liable by the trier  
 12 of fact, the court shall order the elected official to pay to the public  
 13 entity the cost of that defense.

14 (2) If an elected official is held liable for monetary damages in  
 15 the action, the plaintiff shall first seek recovery of the judgment  
 16 against the assets of the elected official. If the elected official's  
 17 assets are insufficient to satisfy the total judgment, as determined  
 18 by the court, the public entity may pay the deficiency if the public  
 19 entity is authorized by law to pay that judgment.

20 (3) To the extent the public entity pays any portion of the  
 21 judgment or is entitled to reimbursement of defense costs pursuant  
 22 to paragraph (1), the public entity shall pursue all available  
 23 creditor's remedies against the elected official, including  
 24 garnishment, until that party has fully reimbursed the public entity.

25 (4) This subdivision shall not apply to any criminal or civil  
 26 enforcement action brought in the name of the people of the State  
 27 of California by an elected district attorney, city attorney, or  
 28 attorney general.

29 (g) *Notwithstanding subdivision (a), a public entity shall pay*  
 30 *for a judgment or settlement for treble damage antitrust awards*  
 31 *against a member of a regulatory board within the Department of*  
 32 *Consumer Affairs for an act or omission occurring within the scope*  
 33 *of the member's official capacity as a member of that regulatory*  
 34 *board.*

35 (h) *For purposes of this section, treble damages awarded*  
 36 *pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,*  
 37 *of Title 15 of, and Sections 52 and 53 of Title 29 of, the United*  
 38 *States Code) for a violation of the federal Sherman Act (Sections*  
 39 *1 to 7, inclusive, of Title 15 of the United States Code) are not*  
 40 *punitive or exemplary damages under this division.*

1 SECTION 1. Chapter 10 (commencing with Section 473) is  
 2 added to Division 1 of the Business and Professions Code, to read:

3 CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL  
 4 BOARDS

5 473. The following are policies of the state:

6 (a) Occupational licensing laws should be construed and applied  
 7 to increase economic opportunity, promote competition, and  
 8 encourage innovation.

9 (b) Regulators should displace competition through occupational  
 10 licensing only where less restrictive regulation will not suffice to  
 11 protect consumers from present, significant, and substantiated  
 12 harms that threaten public health, safety, or welfare.

13 (c) An occupational licensing restriction should be enforced  
 14 against an individual only to the extent the individual sells goods  
 15 and services that are included explicitly in the statute or regulation  
 16 that defines the occupation's scope of practice.

17 473.1. As used in this chapter:

18 (a) "Covered board" means any entity listed in Section 101.  
 19 (b) "Office" means the Office of Supervision of Occupational  
 20 Boards established in Section 473.2.

21 473.2. (a) There is hereby established an Office of Supervision  
 22 of Occupational Boards within the department.

23 (b) (1) Notwithstanding Section 109, the office shall be  
 24 responsible for exercising active supervision over each covered  
 25 board to ensure compliance with the policies in Section 473.  
 26 (2) In exercising active supervision over covered boards under  
 27 paragraph (1), the office shall independently do the following:

28 (A) Play a substantial role in the development of a covered  
 29 board's rules and policies to ensure they benefit consumers and  
 30 do not serve the private interests of providers of goods and services  
 31 regulated by the covered board.

32 (B) Disapprove the use of any rule or policy of a covered board  
 33 and terminate any enforcement action, including any action pending  
 34 on January 1, 2019, that is not consistent with Section 473.

35 (C) Exercise control over each covered board by reviewing and  
 36 affirmatively approving only rules, policies, and enforcement  
 37 actions that are consistent with Section 473.

1 (D) Analyze existing and proposed rules and policies and  
2 conduct investigations to gain additional information to promote  
3 compliance with Section 473, including, but not limited to, less  
4 restrictive regulatory approaches.

5 (3) In exercising active supervision over covered boards under  
6 paragraph (1), the office shall be staffed by not fewer than one  
7 attorney who does not provide general counsel to any covered  
8 board.

9 (c) (1) Notwithstanding Section 109, the office shall review  
10 and approve or reject any rule, policy, enforcement action, or other  
11 occupational licensure action proposed by each covered board  
12 before the covered board may adopt or implement the rule, policy,  
13 enforcement action, or other occupational licensure action.

14 (2) For purposes of paragraph (1), approval by the office shall  
15 be express and silence or failure to act shall not constitute approval.  
16 473.3. (4) Any person may file a complaint to the office about  
17 a rule, policy, enforcement action, or other occupational licensure  
18 action of a covered board that the person believes is not consistent  
19 with Section 473.

20 (b) Not later than 90 days after the date on which the office  
21 receives a complaint filed under paragraph (1), notwithstanding  
22 Section 109, the office shall investigate the complaint, identify  
23 remedies, and instruct the covered board to take action as the office  
24 determines to be appropriate, and respond in writing to the  
25 complainant.

26 (c) (1) There shall be no right to appeal a decision of the office  
27 under subdivision (b) unless the challenged rule, policy,  
28 enforcement action, or other occupational licensure action would  
29 prevent the complainant from engaging in a lawful occupation or  
30 employing or contracting others for the performance of a lawful  
31 occupation and the complainant has taken material steps in an  
32 attempt to engage in a lawful occupation or employ or contract  
33 others for the performance of a lawful occupation.

34 (2) Any appeal authorized under paragraph (1) shall be to the  
35 superior court.