

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1

DATE: September 15, 2016

ACTION REQUESTED: Discuss Bills of Interest to the Board and Adopt or Modify Positions on the Bills Introduced during the 2015-2016 Legislative Session

REQUESTED BY: Donna Gerber, Public Member, Chairperson

BACKGROUND:

Assembly Bills

Senate Bills

AB 12	AB 1351	AB 2272	SB 319	SB 960
AB 26	AB 1352	AB 2399	SB 323	SB 1039
AB 85	AB 1386	AB 2507	SB 390	SB 1076
AB 172	AB 1748	AB 2606	SB 408	SB 1139
AB 611	AB 1939	AB 2701	SB 464	SB 1155
AB 637	AB 1992	AB 2744	SB 466	SB 1194
AB 840	AB 2079	AB 2859	SB 467	SB 1195
AB 1060	AB 2105		SB 482	SB 1217
AB 1306	AB 2209		SB 531	SB 1334
			SB 800	SB 1348

NEXT STEP: Follow direction from the Board

**FINANCIAL
IMPLICATIONS,
IF ANY:**

As reflected by proposed legislation

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**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
September 15, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 12	Cooley	State government: administrative regulations: review	Watch (5/17/15)	Watch (6/4/15)	Senate APPR
AB 26	Jones-Sawyer	Medical cannabis	Watch (8/11/16)	Watch (2/11/16)	Senate Rules
AB 85	Wilk	Open meetings	Watch (5/17/15)	Oppose (6/4/15)	Vetoed 9/28/15
AB 172	Rodriguez	Emergency departments: assaults and batteries		Support (6/4/15)	Vetoed 10/10/15
AB 611	Dahle	Controlled substances: prescriptions: reporting	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
AB 637	Campos	Physician Orders for Life Sustaining Treatment forms		Watch (4/2/15)	Chapter 217, Statutes of 2015
AB 840	Ridley-Thomas	Nurses and certified nursing assistants: overtime		Support (4/2/15)	Governor
AB 1060	Bonilla	Professions and vocations: licensure	Support if Amended (5/7/15)	Support if Amended (6/4/15)	No longer applicable to the Board
AB 1306	Burke	Healing arts: certified nurse-midwives: scope of practice		Support (6/4/15)	Failed Assembly Concurrence
AB 1351	Eggman	Deferred entry of judgment: pretrial diversion	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Vetoed 10/8/15
AB 1352	Eggman	Deferred entry of judgment: withdrawal of plea	Oppose Unless Amended (8/6/15)	Oppose Unless Amended (9/3/15)	Chapter 646, Statutes of 2015
AB 1386	Low	Emergency medical care: epinephrine auto-injectors		Watch (2/11/16)	Governor
AB 1748	Mayes	Pupils: pupil health: opioid antagonist	Watch (5/12/16)	Watch (4/14/16)	Governor
AB 1939	Patterson	Licensing requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 1992	Jones	Pupil health: physical examinations		Watch (4/14/16)	Assembly B&P
AB 2079	Calderon	Skilled nursing facilities: staffing	Watch (3/10/16)	Watch (4/14/16)	Senate Inactive File

Bold denotes a bill that is a new bill for Committee or Board consideration or one that has been amended since the last Committee or Board meeting. It may also reflect a bill that has been acted on by the Governor since the last Committee or Board meeting.

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
September 15, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 2105	Rodriguez	Workforce development: allied health professions		Watch (4/14/16)	Governor
AB 2209	Bonilla	Health care coverage: clinical pathways	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2272	Thurmond	Occupational safety and health standards: plume	Support (8/11/16)		Enrolled
AB 2399	Nazarian	Pregnancy: prenatal blood testing	Watch (3/10/16)	Watch (4/14/16)	Senate Health
AB 2507	Gordon	Telehealth: access	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2606	Grove	Crimes against children, elders, dependent adults, and persons with disabilities	Watch (3/10/16)	Watch (4/14/16)	Assembly APPR
AB 2701	Jones	Department of Consumer Affairs: boards: training requirements	Watch (3/10/16)	Watch (4/14/16)	Assembly B&P
AB 2744	Gordon	Healing arts: referrals	Watch (3/10/16)	Watch (4/14/16)	Governor
AB 2859	Low	Professions and vocations: retired category: licenses	Watch (3/10/16)	Watch (4/14/16)	Governor

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**BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
September 15, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 319	Beall	Child welfare services: public health: nursing		Watch (4/2/15)	Chapter 535, Statutes of 2015
SB 323	Hernandez	Nurse practitioners: scope of practice	Watch (5/7/15)	Support (6/4/15)	Assembly B&P
SB 390	Bates	Home health agencies: skilled nursing services		Watch (4/2/15)	Senate Health
SB 408	Morrell	Midwife assistants		Oppose (6/4/15)	Chapter 280, Statutes of 2015
SB 464	Hernandez	Healing arts: self-reporting tools	Support (8/6/15)		Chapter 387, Statutes of 2015
SB 466	Hill	Nursing: Board of Registered Nursing	Watch (8/6/15)	Watch (9/3/15)	Chapter 489, Statutes of 2015
SB 467	Hill	Professions and vocations	Watch (8/6/15)	Watch (9/3/15)	Chapter 656, Statutes of 2015
SB 482	Lara	Controlled substances: CURES database	Support (5/12/16)	Support (6/16/16)	Enrolled
SB 531	Bates	Board of Behavioral Sciences		Watch (4/2/15)	No longer applicable to the Board
SB 800	Committee on BP&ED	Healing arts	Support (5/7/15)	Support (6/4/15)	Chapter 426, Statutes of 2015
SB 960	Hernandez	Medi-Cal: telehealth: reproductive health care	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1039	Hill	Professions and vocations	Support/ Watch (5/12/16)	Support/ Watch (6/16/16)	Enrolled
SB 1076	Hernandez	General acute care hospitals: observation services		Watch (6/16/16)	Governor
SB 1139	Lara	Health professionals: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayments	Watch (5/12/16)	Watch (6/16/16)	Enrolled
SB 1155	Morrell	Professions and vocations: licenses: military service	Watch (3/10/16)	Watch (6/16/16)	Assembly APPR
SB 1194	Hill	Professions and vocations: board actions and regulations			Assembly B&P
SB 1195	Hill	Professions and vocations: board actions	Oppose (5/12/16)	Oppose (6/16/16)	Senate Inactive File

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**BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
September 15, 2016**

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 1217	Stone	Healing arts: reporting requirements: professional liability resulting in death or personal injury	Watch (3/10/16)	Watch (4/14/16)	Senate BP&ED
SB 1334	Stone	Crime reporting: health practitioners: reports	Watch (3/10/16)	Watch (4/14/16)	Senate APPR
SB 1348	Cannella	Licensure applications: military experience	Watch (3/10/16)	Watch (4/14/16)	Chapter 174, Statutes of 2016

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Ridley-Thomas	BILL NUMBER:	AB 840
SPONSOR:	Service Employees International Union, Local 1000	BILL STATUS:	Governor
SUBJECT:	Nurses and certified nursing assistants: overtime	DATE LAST AMENDED:	August 18, 2016

SUMMARY:

The State Civil Service Act generally requires the workweek of state employees to be 40 hours, and the workday of state employees to be 8 hours. Under the act, it is the policy of the state to avoid the necessity for overtime work whenever possible.

ANALYSIS:

This bill, commencing January 1, 2017, would prohibit a nurse or Certified Nursing Assistant (CNA), as defined, employed by the State of California in a specified type of facility from being compelled to work in excess of the regularly scheduled workweek or work shift, except under certain circumstances. The bill would authorize a nurse or CNA to volunteer or agree to work hours in addition to his or her regularly scheduled workweek or work shift, but the refusal to accept those additional hours would not constitute patient abandonment or neglect or be grounds for discrimination, dismissal, discharge, or any other penalty or employment decision adverse to the nurse or CNA.

This bill would make a related statement of legislative intent.

Amended analysis as of 8/18/16:

This bill would change “certified nurse assistants” in the subject listing to “certified nursing assistants.”

This bill, commencing January 1, 2019, would prohibit a nurse or Certified Nursing Assistant (CNA), as defined, employed by the State of California in a specified type of facility from being compelled to work in excess of the regularly scheduled workweek or work shift, except under certain circumstances.

This bill would require such a facility to establish an 8-member joint labor management task force, with membership as prescribed, to meet quarterly to develop specific recommendations and a plan to reduce or eliminate mandatory overtime. The bill would require a task force, on or before November 1, 2018, to prepare and submit to the Legislature a report on its recommendations. Those task force and report provisions would be repealed on January 1, 2019.

BOARD POSITION: Support (4/2/15)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered

SUPPORT:

Service Employees International Union, Local 1000 (sponsor)
California Association of Psychiatric Technicians
California Employment Lawyers Association
California State Council of the Service Employees International

OPPOSE:

Department of Developmental Services
Department of State Hospitals

Assembly Bill No. 840

Passed the Assembly August 25, 2016

Chief Clerk of the Assembly

Passed the Senate August 22, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 19851.2 to, and to add and repeal Section 19851.3 of, the Government Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 840, Ridley-Thomas. Nurses and certified nursing assistants: overtime.

The State Civil Service Act generally requires the workweek of state employees to be 40 hours, and the workday of state employees to be 8 hours. Under the act, it is the policy of the state to avoid the necessity for overtime work whenever possible.

This bill, commencing January 1, 2019, would prohibit a nurse or Certified Nursing Assistant (CNA), as defined, employed by the State of California in a specified type of facility from being compelled to work in excess of the regularly scheduled workweek or work shift, except under certain circumstances. The bill would authorize a nurse or CNA to volunteer or agree to work hours in addition to his or her regularly scheduled workweek or work shift, but the refusal to accept those additional hours would not constitute patient abandonment or neglect or be grounds for discrimination, dismissal, discharge, or any other penalty or employment decision adverse to the nurse or CNA.

This bill would require such a facility to establish a 8-member joint labor management task force, with membership as prescribed, to meet quarterly to develop specific recommendations and a plan to reduce or eliminate mandatory overtime. The bill would require a task force, on or before November 1, 2018, to prepare and submit to the Legislature a report on its recommendations. Those task force and report provisions would be repealed on January 1, 2019.

The bill would make a related statement of legislative intent.

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

SECTION 1. It is the intent of the Legislature to ensure that there is a process that management and supervisors in a state health care facility are required to follow to avoid on-the-spot mandatory overtime of any nurse or certified nursing assistant (CNA) whose

regularly scheduled work shift is complete, and to prevent circumstances where an employee is stopped at the gate of, for example, a Department of Corrections and Rehabilitation and California Correctional Health Care Services facility, and is instructed to return to work at the end of the employee's regularly scheduled work shift. It is the intent of the Legislature to prohibit a state facility that employs nurses or CNAs from using mandatory overtime as a scheduling tool, or as an excuse for fulfilling an operational need that results from a management failure to properly staff those state facilities.

SEC. 2. Section 19851.2 is added to the Government Code, to read:

19851.2. (a) As used in this section:

(1) "Nurse" means all classifications of registered nurses represented by State Bargaining Unit 17, or the Licensed Vocational Nurse classifications represented by State Bargaining Unit 20.

(2) "CNA" means all Certified Nursing Assistant classifications represented by State Bargaining Unit 20.

(3) "Facility" means any facility that provides clinically related health services that is operated by the Division of Correctional Health Care Services of the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, the State Department of State Hospitals, the Department of Veteran Affairs, or the State Department of Developmental Services in which a nurse or CNA works as an employee of the state.

(4) "Emergency situation" means any of the following:

(A) An unforeseeable declared national, state, or municipal emergency.

(B) A highly unusual or extraordinary event that is unpredictable or unavoidable and that substantially affects providing needed health care services or increases the need for health care services, which includes any of the following:

(i) An act of terrorism.

(ii) A natural disaster.

(iii) A widespread disease outbreak.

(iv) A warden-, superintendent-, or executive director-declared emergency, or severe emergency that necessitates the assistance of an outside agency.

(b) A facility shall not require a nurse or CNA to work in excess of a regularly scheduled workweek or work shift. A nurse or CNA may volunteer or agree to work hours in addition to his or her regularly scheduled workweek or work shift but the refusal by a nurse or CNA to accept those additional hours shall not constitute either of the following:

(1) Grounds for discrimination, dismissal, discharge, or any other penalty or employment decision adverse to the nurse or CNA.

(2) Patient abandonment or neglect, except under circumstances provided for in the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code).

(c) This section shall not apply in any of the following situations:

(1) To a nurse or CNA participating in a surgical procedure in which the nurse is actively engaged and whose continued presence through the completion of the procedure is needed to ensure the health and safety of the patient.

(2) If a catastrophic event occurs in a facility and both of the following factors apply:

(A) The catastrophic event results in such a large number of patients in need of immediate medical treatment that the facility is incapable of providing sufficient nurses or CNAs to attend to the patients without resorting to mandatory overtime.

(B) The catastrophic event is an unanticipated and nonrecurring event.

(3) If an emergency situation occurs.

(d) Nothing in this section shall be construed to affect the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code), the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code), or a registered nurse's duty under the standards of competent performance.

(e) Nothing in this section shall be construed to preclude a facility from hiring part-time or intermittent employees.

(f) Nothing in this section shall prevent a facility from providing employees with more protections against mandatory overtime than the minimum protections established pursuant to this section.

(g) This section shall become operative on January 1, 2019.

SEC. 3. Section 19851.3 is added to the Government Code, to read:

19851.3. (a) Each facility, as defined in paragraph (3) of subdivision (a) of Section 19851.2, shall establish a joint labor management task force to make recommendations and develop a plan to reduce or eliminate mandatory overtime. A joint labor management task force shall be composed of eight members, which shall consist of four representatives for the facility and four labor union representatives. The joint labor management task force shall meet quarterly to develop recommendations.

(b) The recommendations shall include the following:

(1) Patient and staff needs by tracking trends in patient acuity, overtime use, and overall staffing procedures.

(2) Training, for applicable employees, on core staffing principles, best practices, the appropriate use of overtime, and ways to avoid mandatory overtime.

(3) Assessment and staffing best practices, a contingency staffing system, avenues for staff engagement in the scheduling process, and creative scheduling solutions.

(c) (1) On or before November 1, 2018, the task force shall prepare and submit to the Legislature a report on its recommendations, including the following information:

(A) The number of voluntary and mandatory overtime hours at each facility for registered nurses, licensed vocational nurses, and certified nursing assistants. Each facility shall submit the total number of voluntary and mandatory overtime hours worked.

(B) The number of complaints investigated and complaints that resulted in a civil action or criminal prosecution.

(C) Recommendations for modifying, eliminating, or continuing the task force's activities.

(D) Recommendations for statutory or regulatory changes, or both, needed to better allow for enforcement.

(2) The report required by this subdivision shall be submitted to the Legislature pursuant to Section 9795 of the Government Code.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHORS:	Burke Stone	BILL NUMBER:	AB 1306
SPONSOR:	California Nurse Midwives Association	BILL STATUS:	Failed Assembly Concurrence
SUBJECT:	Healing arts: certified nurse- midwives: scope of practice	DATE LAST AMENDED:	June 30, 2016

SUMMARY:

1. Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. The act makes the violation of any of its provisions a misdemeanor punishable upon conviction by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than \$20 nor more than \$1,000, or by both that fine and imprisonment.

2. The act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

3. The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistently with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, as specified.

4. The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and second-degree lacerations of the perineum in a licensed acute care hospital and a licensed alternate birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed and approved by the supervising physician and surgeon.

ANALYSIS:

1. This bill would additionally require an applicant for a certificate to practice nurse-midwifery to provide evidence of current advanced level national certification by a certifying body that meets

standards established and approved by the board. This bill would also require the board to create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital and nonhospital practice settings, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require the council to make recommendations to the board on all matters related to nurse-midwifery practice, education, and other matters specified by the board, and would require the council to meet regularly, but at least twice a year

2. This bill would delete those provisions and would instead authorize a certified nurse-midwife to manage a full range of primary health care services for women from adolescence beyond menopause, including, but not limited to, gynecologic and family planning services. The bill would authorize a certified nurse-midwife to practice in all settings, including, but not limited to, a home. This bill would declare that the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the client and the resources of the medical personnel available in the setting of care, and would provide that the practice of nurse-midwifery emphasizes informed consent, preventive care and early detection and referral of complications to a physician and surgeon. This bill would authorize a certified nurse-midwife to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated birth.

3. This bill would delete the requirement that drugs or devices are furnished or ordered in accordance with standardized procedures and protocols. The bill would authorize a certified nurse-midwife to furnish and order drugs or devices in connection with care rendered in a home, and would authorize a certified nurse-midwife to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and that are consistent with nurse-midwifery education preparation.

4. This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and second-degree lacerations of the perineum in a patient's home, and would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife to provide emergency care to a patient during times when a physician and surgeon is unavailable.

This bill would provide that a consultative relationship between a certified nurse-midwife and a physician and surgeon by itself is not a basis for finding the physician and surgeon liable for any acts or omissions on the part of the certified nurse-midwife. The bill would also update cross-references as needed.

Amended summary and analysis as of 5/28/15:

6. Existing law prohibits a licensee, as defined, from referring a person for laboratory, diagnostic, nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or entity that receives the referral, and makes a violation of that prohibition punishable as a misdemeanor. Under existing law, the Medical Board of California is required to review the facts and circumstances of any conviction for violating the prohibition, and to take appropriate disciplinary action if the licensee has committed

unprofessional conduct. Existing law provides that, among other exceptions, this prohibition does not apply to a licensee who refers a person to a health facility if specified conditions are met.

This bill would include a certified nurse-midwife under the definition of a licensee for purposes of making referrals to various medically related services, which would expand the scope of an existing crime and therefore impose a state-mandated local program. The bill would also require the Board of Registered Nursing to review the facts and circumstances of any conviction of a certified nurse-midwife for violating that prohibition, and would require the board to take appropriate disciplinary action if the certified nurse-midwife has committed unprofessional conduct.

This bill would also prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified.

Amended analysis as of 7/1/15:

1. This bill would also require the board to create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital and nonhospital practice settings, alternative birth settings, and home settings, a nurse-midwife educator, as specified, and a consumer of midwifery care. This bill would require the council to consist of a majority of certified nurse-midwives and would require the council to make recommendations to the board on all matters related to nurse-midwifery practice, education, disciplinary actions, standards of care, and other matters specified by the board, and would require the council to meet regularly, but at least twice a year.

The bill would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.

2. This bill would authorize a certified nurse-midwife to manage a full range of gynecological and obstetric care services for women from adolescence beyond menopause, as provided. The bill would authorize a certified nurse-midwife to practice in specified settings, including, but not limited to, a home setting.

This bill would delete the provision that would authorize a certified nurse-midwife to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have uncomplicated birth.

6. The bill would additionally authorize a licensee to refer a person to a licensed alternative birth center, as defined, or a nationally accredited alternative birth center.

Amended analysis as of 6/20/16:

1. The bill would also require the board to create and appoint a Nurse-Midwifery Advisory Committee consisting of certified nurse-midwives in good standing with experience in hospital settings, alternative birth settings, and home settings, a nurse-midwife educator, as specified, two qualified physicians, and a consumer of midwifery care. This bill would require the committee to consist of a majority of certified nurse-midwives and would require the committee to make recommendations to the board on all matters related to nurse-midwifery practice, education, disciplinary actions, standards of care, and other matters specified by the board, and would require the committee to meet regularly, but at least twice a year.

2. The bill would authorize a certified nurse-midwife to practice in certain settings, including, but not limited to, a home setting, as specified.

Amended summary and analysis as of 6/30:

1. This bill would now delete the provisions that prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified and that would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.

2. The bill would authorize a certified nurse-midwife to practice under that gynecological and obstetric care services authorization without supervision of a physician and surgeon in certain settings, including, but not limited to, a home setting, as specified. The bill would prohibit entities described in those specified settings from interfering with, controlling, or otherwise directing the professional judgment of such a certified nurse-midwife, as specified.

This bill renumbers 6. as 7., and adds as a new 6.:

Existing law provides prescribed protection against retaliation for health care practitioners who advocate for appropriate health care for their patients. Existing law defines “health care practitioner” for those purposes to mean a person who engages in acts that are the subject of licensure or regulation under specific law or initiative act and who is either a licentiate, as defined, a party to a contract with a payer whose decision, policy, or practice is subject to such advocacy, or an individual designated in a contract with a payer whose decision, policy, or practice is subject to such advocacy, where the individual is granted the right to appeal denials of payment or authorization for treatment under the contract.

This bill would expand that protection against retaliation to certified nurse-midwives.

BOARD POSITION: Support if amended (11/5/15)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Continue with previous Board position (8/11/16).

SUPPORT:

California Nurse Midwives Association (sponsor)

AARP

American Association of Birth Centers

American College of Nurse-Midwives

American Nurses Association/California

Association of California Healthcare Districts

Beachside Birth Center

Beach Cities Midwifery & Women’s Health Care

Black Women for Wellness

California Association for Nurse Practitioners

California Association of Midwives

California Association of Nurse Anesthetists, Inc.

California Hospital Association

Center on Reproductive Rights and Justice at the

University of California, Berkeley, School of Law
County of Santa Cruz Board of Supervisors
Inland Midwife Service
Maternal and Child Health Access
South Coast Midwifery & Women's Healthcare, Inc.
United Nurses Associations of California/Union of Health Care
Professionals
Numerous individuals

OPPOSE:

California Medical Association
Medical Board of California

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN SENATE JULY 1, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1306

**Introduced by Assembly Member Burke
(Coauthor: Assembly Member Mark Stone)**

February 27, 2015

An act to amend Sections 510, 650.01, 650.02, 2725.1, 2746.2, 2746.5, 2746.51, 2746.52, 4061, 4076, and 4170 of, and to add Section 2746.6 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, as amended, Burke. Healing arts: certified nurse-midwives: scope of practice.

(1) Existing law, the Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. The act makes the violation of any of its provisions a misdemeanor punishable upon conviction by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than \$20 nor more than \$1,000, or by both that fine and imprisonment.

This bill would additionally require an applicant for a certificate to practice nurse-midwifery to provide evidence of current advanced level

national certification by a certifying body that meets standards established and approved by the board. The bill would also require the board to create and appoint a Nurse-Midwifery Advisory Committee consisting of certified nurse-midwives in good standing with experience in hospital settings, alternative birth settings, and home settings, a nurse-midwife educator, as specified, 2 qualified physicians, and a consumer of midwifery care. ~~This~~ *The* bill would require the committee to consist of a majority of certified nurse-midwives and would require the committee to make recommendations to the board on all matters related to nurse-midwifery practice, education, disciplinary actions, standards of care, and other matters specified by the board, and would require the committee to meet regularly, but at least twice a year. ~~This bill would prohibit corporations and other artificial legal entities from having professional rights, privileges, or powers under the act, except as specified. The bill would authorize specified entities to employ a certified nurse-midwife and charge for professional services rendered by that certified nurse-midwife, as provided.~~

(2) The act authorizes a certified nurse-midwife, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn, and provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal.

This bill would delete those provisions and would instead authorize a certified nurse-midwife to manage a full range of gynecological and obstetric care services for women from adolescence beyond menopause, as provided. The bill would authorize a certified nurse-midwife to practice *under that gynecological and obstetric care services authorization without supervision of a physician and surgeon* in certain settings, including, but not limited to, a home setting, as specified. ~~This~~ *The bill would prohibit entities described in those specified settings from interfering with, controlling, or otherwise directing the professional judgment of such a certified nurse-midwife, as specified.* The bill would declare that the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the client and the resources of the medical personnel available in the setting of care, and would provide that the practice of

nurse-midwifery emphasizes informed consent, preventive care, and early detection and referral of complications to a physician and surgeon.

(3) The act authorizes a certified nurse-midwife to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistently with the certified nurse-midwife's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, as specified.

This bill would delete the requirement that drugs or devices are furnished or ordered in accordance with standardized procedures and protocols. The bill would authorize a certified nurse-midwife to furnish and order drugs or devices in connection with care rendered in a home, and would authorize a certified nurse-midwife to directly procure supplies and devices, to order, obtain, and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice as a certified nurse-midwife and that are consistent with nurse-midwifery education preparation.

(4) The act also authorizes a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a licensed acute care hospital and a licensed alternate birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed and approved by the supervising physician and surgeon.

This bill would also authorize a certified nurse-midwife to perform and repair episiotomies and to repair first-degree and 2nd-degree lacerations of the perineum in a home, and would delete all requirements that those procedures be performed pursuant to protocols developed and approved by the supervising physician and surgeon. The bill would require a certified nurse-midwife to provide emergency care to a patient during times when a physician and surgeon is unavailable.

This bill would provide that a consultative relationship between a certified nurse-midwife and a physician and surgeon by ~~it self~~ *itself* is not a basis for finding the physician and surgeon liable for any acts or omissions on the part of the certified nurse-midwife. The bill would also update cross-references as needed.

(5) Because the act makes a violation of any of its provisions a misdemeanor, this bill would expand the scope of an existing crime and therefore this bill would impose a state-mandated local program.

(6) Existing law provides prescribed protection against retaliation for health care practitioners who advocate for appropriate health care for their patients. Existing law defines “health care practitioner” for those purposes to mean a person who engages in acts that are the subject of licensure or regulation under specific law or initiative act and who is either a licentiate, as defined, a party to a contract with a payer whose decision, policy, or practice is subject to such advocacy, or an individual designated in a contract with a payer whose decision, policy, or practice is subject to such advocacy, where the individual is granted the right to appeal denials of payment or authorization for treatment under the contract.

This bill would expand that protection against retaliation to certified nurse-midwives.

~~(6)~~

(7) Existing law prohibits a licensee, as defined, from referring a person for laboratory, diagnostic, nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or entity that receives the referral, and makes a violation of that prohibition punishable as a misdemeanor. Under existing law, the Medical Board of California is required to review the facts and circumstances of any conviction for violating the prohibition, and to take appropriate disciplinary action if the licensee has committed unprofessional conduct. Existing law provides that, among other exceptions, this prohibition does not apply to a licensee who refers a person to a health facility if specified conditions are met.

This bill would include a certified nurse-midwife under the definition of a licensee, which would expand the scope of an existing crime and therefore impose a state-mandated local program. The bill would require the Board of Registered Nursing to review the facts and circumstances of any conviction of a certified nurse-midwife for violating that prohibition, and would require the board to take appropriate disciplinary action if the certified nurse-midwife has committed unprofessional conduct. The bill would additionally authorize a licensee to refer a person to a licensed alternative birth center, as defined, or a nationally accredited alternative birth center.

~~(7)~~

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

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

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

State-mandated local program: yes.

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

1 SECTION 1. Section 510 of the Business and Professions Code
2 is amended to read:

3 510. (a) The purpose of this section is to provide protection
4 against retaliation for health care practitioners who advocate for
5 appropriate health care for their patients pursuant to Wickline v.
6 State of California 192 Cal. App. 3d 1630.

7 (b) It is the public policy of the State of California that a health
8 care practitioner be encouraged to advocate for appropriate health
9 care for his or her patients. For purposes of this section, “to
10 advocate for appropriate health care” means to appeal a payer’s
11 decision to deny payment for a service pursuant to the reasonable
12 grievance or appeal procedure established by a medical group,
13 independent practice association, preferred provider organization,
14 foundation, hospital medical staff and governing body, or payer,
15 or to protest a decision, policy, or practice that the health care
16 practitioner, consistent with that degree of learning and skill
17 ordinarily possessed by reputable health care practitioners with
18 the same license or certification and practicing according to the
19 applicable legal standard of care, reasonably believes impairs the
20 health care practitioner’s ability to provide appropriate health care
21 to his or her patients.

22 (c) The application and rendering by any individual, partnership,
23 corporation, or other organization of a decision to terminate an
24 employment or other contractual relationship with or otherwise
25 penalize a health care practitioner principally for advocating for
26 appropriate health care consistent with that degree of learning and
27 skill ordinarily possessed by reputable health care practitioners
28 with the same license or certification and practicing according to
29 the applicable legal standard of care violates the public policy of
30 this state.

1 (d) This section shall not be construed to prohibit a payer from
2 making a determination not to pay for a particular medical
3 treatment or service, or the services of a type of health care
4 practitioner, or to prohibit a medical group, independent practice
5 association, preferred provider organization, foundation, hospital
6 medical staff, hospital governing body acting pursuant to Section
7 809.05, or payer from enforcing reasonable peer review or
8 utilization review protocols or determining whether a health care
9 practitioner has complied with those protocols.

10 (e) (1) Except as provided in paragraph (2), appropriate health
11 care in a hospital licensed pursuant to Section 1250 of the Health
12 and Safety Code shall be defined by the appropriate hospital
13 committee and approved by the hospital medical staff and the
14 governing body, consistent with that degree of learning and skill
15 ordinarily possessed by reputable health care practitioners with
16 the same license or certification and practicing according to the
17 applicable legal standard of care.

18 (2) To the extent the issue is under the jurisdiction of the medical
19 staff and its committees, appropriate health care in a hospital
20 licensed pursuant to Section 1250 of the Health and Safety Code
21 shall be defined by the hospital medical staff and approved by the
22 governing body, consistent with that degree of learning and skill
23 ordinarily possessed by reputable health care practitioners with
24 the same license or certification and practicing according to the
25 applicable legal standard of care.

26 (f) Nothing in this section shall be construed to prohibit the
27 governing body of a hospital from taking disciplinary actions
28 against a health care practitioner as authorized by Sections 809.05,
29 809.4, and 809.5.

30 (g) Nothing in this section shall be construed to prohibit the
31 appropriate licensing authority from taking disciplinary actions
32 against a health care practitioner.

33 (h) For purposes of this section, “health care practitioner” means
34 *either* a person who is described in subdivision (f) of Section 900
35 and who is either (1) a licentiate as defined in Section 805, or (2)
36 a party to a contract with a payer whose decision, policy, or practice
37 is subject to the advocacy described in subdivision (b), or (3) an
38 individual designated in a contract with a payer whose decision,
39 policy, or practice is subject to the advocacy described in
40 subdivision (b), where the individual is granted the right to appeal

1 denials of payment or authorization for treatment under the
2 ~~contract.~~ *contract, or a person who is described in Section 2746.2.*

3 (i) Nothing in this section shall be construed to revise or expand
4 the scope of practice of any health care practitioner, or to revise
5 or expand the types of health care practitioners who are authorized
6 to obtain medical staff privileges or to submit claims for
7 reimbursement to payers.

8 (j) The protections afforded health care practitioners by this
9 section shall be in addition to the protections available under any
10 other law of this state.

11 **SECTION 1.**

12 *SEC. 2.* Section 650.01 of the Business and Professions Code
13 is amended to read:

14 650.01. (a) Notwithstanding Section 650, or any other law, it
15 is unlawful for a licensee to refer a person for laboratory, diagnostic
16 nuclear medicine, radiation oncology, physical therapy, physical
17 rehabilitation, psychometric testing, home infusion therapy, or
18 diagnostic imaging goods or services if the licensee or his or her
19 immediate family has a financial interest with the person or in the
20 entity that receives the referral.

21 (b) For purposes of this section and Section 650.02, the
22 following shall apply:

23 (1) “Diagnostic imaging” includes, but is not limited to, all
24 X-ray, computed axial tomography, magnetic resonance imaging
25 nuclear medicine, positron emission tomography, mammography,
26 and ultrasound goods and services.

27 (2) A “financial interest” includes, but is not limited to, any
28 type of ownership interest, debt, loan, lease, compensation,
29 remuneration, discount, rebate, refund, dividend, distribution,
30 subsidy, or other form of direct or indirect payment, whether in
31 money or otherwise, between a licensee and a person or entity to
32 whom the licensee refers a person for a good or service specified
33 in subdivision (a). A financial interest also exists if there is an
34 indirect financial relationship between a licensee and the referral
35 recipient including, but not limited to, an arrangement whereby a
36 licensee has an ownership interest in an entity that leases property
37 to the referral recipient. Any financial interest transferred by a
38 licensee to any person or entity or otherwise established in any
39 person or entity for the purpose of avoiding the prohibition of this
40 section shall be deemed a financial interest of the licensee. For

1 purposes of this paragraph, “direct or indirect payment” shall not
2 include a royalty or consulting fee received by a physician and
3 surgeon who has completed a recognized residency training
4 program in orthopedics from a manufacturer or distributor as a
5 result of his or her research and development of medical devices
6 and techniques for that manufacturer or distributor. For purposes
7 of this paragraph, “consulting fees” means those fees paid by the
8 manufacturer or distributor to a physician and surgeon who has
9 completed a recognized residency training program in orthopedics
10 only for his or her ongoing services in making refinements to his
11 or her medical devices or techniques marketed or distributed by
12 the manufacturer or distributor, if the manufacturer or distributor
13 does not own or control the facility to which the physician is
14 referring the patient. A “financial interest” shall not include the
15 receipt of capitation payments or other fixed amounts that are
16 prepaid in exchange for a promise of a licensee to provide specified
17 health care services to specified beneficiaries. A “financial interest”
18 shall not include the receipt of remuneration by a medical director
19 of a hospice, as defined in Section 1746 of the Health and Safety
20 Code, for specified services if the arrangement is set out in writing,
21 and specifies all services to be provided by the medical director,
22 the term of the arrangement is for at least one year, and the
23 compensation to be paid over the term of the arrangement is set
24 in advance, does not exceed fair market value, and is not
25 determined in a manner that takes into account the volume or value
26 of any referrals or other business generated between parties.

27 (3) For the purposes of this section, “immediate family” includes
28 the spouse and children of the licensee, the parents of the licensee,
29 and the spouses of the children of the licensee.

30 (4) “Licensee” means a physician as defined in Section 3209.3
31 of the Labor Code, and a certified nurse-midwife as defined in
32 Article 2.5 (commencing with Section 2746) of Chapter 6 of
33 Division 2 of the Business and Professions Code.

34 (5) “Licensee’s office” means either of the following:

35 (A) An office of a licensee in solo practice.

36 (B) An office in which services or goods are personally provided
37 by the licensee or by employees in that office, or personally by
38 independent contractors in that office, in accordance with other
39 provisions of law. Employees and independent contractors shall

1 be licensed or certified when licensure or certification is required
2 by law.

3 (6) “Office of a group practice” means an office or offices in
4 which two or more licensees are legally organized as a partnership,
5 professional corporation, or not-for-profit corporation, licensed
6 pursuant to subdivision (a) of Section 1204 of the Health and Safety
7 Code, for which all of the following apply:

8 (A) Each licensee who is a member of the group provides
9 substantially the full range of services that the licensee routinely
10 provides, including medical care, consultation, diagnosis, or
11 treatment through the joint use of shared office space, facilities,
12 equipment, and personnel.

13 (B) Substantially all of the services of the licensees who are
14 members of the group are provided through the group and are
15 billed in the name of the group and amounts so received are treated
16 as receipts of the group, except in the case of a multispecialty
17 clinic, as defined in subdivision (l) of Section 1206 of the Health
18 and Safety Code, physician services are billed in the name of the
19 multispecialty clinic and amounts so received are treated as receipts
20 of the multispecialty clinic.

21 (C) The overhead expenses of, and the income from, the practice
22 are distributed in accordance with methods previously determined
23 by members of the group.

24 (c) It is unlawful for a licensee to enter into an arrangement or
25 scheme, such as a cross-referral arrangement, that the licensee
26 knows, or should know, has a principal purpose of ensuring
27 referrals by the licensee to a particular entity that, if the licensee
28 directly made referrals to that entity, would be in violation of this
29 section.

30 (d) No claim for payment shall be presented by an entity to any
31 individual, third party payer, or other entity for a good or service
32 furnished pursuant to a referral prohibited under this section.

33 (e) No insurer, self-insurer, or other payer shall pay a charge or
34 lien for any good or service resulting from a referral in violation
35 of this section.

36 (f) A licensee who refers a person to, or seeks consultation from,
37 an organization in which the licensee has a financial interest, other
38 than as prohibited by subdivision (a), shall disclose the financial
39 interest to the patient, or the parent or legal guardian of the patient,
40 in writing, at the time of the referral or request for consultation.

1 (1) If a referral, billing, or other solicitation is between one or
2 more licensees who contract with a multispecialty clinic pursuant
3 to subdivision (l) of Section 1206 of the Health and Safety Code
4 or who conduct their practice as members of the same professional
5 corporation or partnership, and the services are rendered on the
6 same physical premises, or under the same professional corporation
7 or partnership name, the requirements of this subdivision may be
8 met by posting a conspicuous disclosure statement at the
9 registration area or by providing a patient with a written disclosure
10 statement.

11 (2) If a licensee is under contract with the Department of
12 Corrections or the California Youth Authority, and the patient is
13 an inmate or parolee of either respective department, the
14 requirements of this subdivision shall be satisfied by disclosing
15 financial interests to either the Department of Corrections or the
16 California Youth Authority.

17 (g) A violation of subdivision (a) shall be a misdemeanor. In
18 the case of a licensee who is a physician, the Medical Board of
19 California shall review the facts and circumstances of any
20 conviction pursuant to subdivision (a) and take appropriate
21 disciplinary action if the licensee has committed unprofessional
22 conduct. In the case of a licensee who is a certified nurse-midwife,
23 the Board of Registered Nursing shall review the facts and
24 circumstances of any conviction pursuant to subdivision (a) and
25 take appropriate disciplinary action if the licensee has committed
26 unprofessional conduct. Violations of this section may also be
27 subject to civil penalties of up to five thousand dollars (\$5,000)
28 for each offense, which may be enforced by the Insurance
29 Commissioner, Attorney General, or a district attorney. A violation
30 of subdivision (c), (d), or (e) is a public offense and is punishable
31 upon conviction by a fine not exceeding fifteen thousand dollars
32 (\$15,000) for each violation and appropriate disciplinary action,
33 including revocation of professional licensure, by the Medical
34 Board of California, the Board of Registered Nursing, or other
35 appropriate governmental agency.

36 (h) This section shall not apply to referrals for services that are
37 described in and covered by Sections 139.3 and 139.31 of the
38 Labor Code.

39 (i) This section shall become operative on January 1, 1995.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 650.02 of the Business and Professions Code
3 is amended to read:

4 650.02. The prohibition of Section 650.01 shall not apply to
5 or restrict any of the following:

6 (a) A licensee may refer a patient for a good or service otherwise
7 prohibited by subdivision (a) of Section 650.01 if the licensee's
8 regular practice is located where there is no alternative provider
9 of the service within either 25 miles or 40 minutes traveling time,
10 via the shortest route on a paved road. If an alternative provider
11 commences furnishing the good or service for which a patient was
12 referred pursuant to this subdivision, the licensee shall cease
13 referrals under this subdivision within six months of the time at
14 which the licensee knew or should have known that the alternative
15 provider is furnishing the good or service. A licensee who refers
16 to or seeks consultation from an organization in which the licensee
17 has a financial interest under this subdivision shall disclose this
18 interest to the patient or the patient's parents or legal guardian in
19 writing at the time of referral.

20 (b) A licensee, when the licensee or his or her immediate family
21 has one or more of the following arrangements with another
22 licensee, a person, or an entity, is not prohibited from referring a
23 patient to the licensee, person, or entity because of the arrangement:

24 (1) A loan between a licensee and the recipient of the referral,
25 if the loan has commercially reasonable terms, bears interest at
26 the prime rate or a higher rate that does not constitute usury, is
27 adequately secured, and the loan terms are not affected by either
28 party's referral of any person or the volume of services provided
29 by either party.

30 (2) A lease of space or equipment between a licensee and the
31 recipient of the referral, if the lease is written, has commercially
32 reasonable terms, has a fixed periodic rent payment, has a term of
33 one year or more, and the lease payments are not affected by either
34 party's referral of any person or the volume of services provided
35 by either party.

36 (3) Ownership of corporate investment securities, including
37 shares, bonds, or other debt instruments that may be purchased on
38 terms generally available to the public and that are traded on a
39 licensed securities exchange or NASDAQ, do not base profit
40 distributions or other transfers of value on the licensee's referral

1 of persons to the corporation, do not have a separate class or
2 accounting for any persons or for any licensees who may refer
3 persons to the corporation, and are in a corporation that had, at the
4 end of the corporation's most recent fiscal year, or on average
5 during the previous three fiscal years, stockholder equity exceeding
6 seventy-five million dollars (\$75,000,000).

7 (4) Ownership of shares in a regulated investment company as
8 defined in Section 851(a) of the federal Internal Revenue Code, if
9 the company had, at the end of the company's most recent fiscal
10 year, or on average during the previous three fiscal years, total
11 assets exceeding seventy-five million dollars (\$75,000,000).

12 (5) A one-time sale or transfer of a practice or property or other
13 financial interest between a licensee and the recipient of the referral
14 if the sale or transfer is for commercially reasonable terms and the
15 consideration is not affected by either party's referral of any person
16 or the volume of services provided by either party.

17 (6) A personal services arrangement between a licensee or an
18 immediate family member of the licensee and the recipient of the
19 referral if the arrangement meets all of the following requirements:

20 (A) It is set out in writing and is signed by the parties.

21 (B) It specifies all of the services to be provided by the licensee
22 or an immediate family member of the licensee.

23 (C) The aggregate services contracted for do not exceed those
24 that are reasonable and necessary for the legitimate business
25 purposes of the arrangement.

26 (D) A person who is referred by a licensee or an immediate
27 family member of the licensee is informed in writing of the
28 personal services arrangement that includes information on where
29 a person may go to file a complaint against the licensee or the
30 immediate family member of the licensee.

31 (E) The term of the arrangement is for at least one year.

32 (F) The compensation to be paid over the term of the
33 arrangement is set in advance, does not exceed fair market value,
34 and is not determined in a manner that takes into account the
35 volume or value of any referrals or other business generated
36 between the parties.

37 (G) The services to be performed under the arrangement do not
38 involve the counseling or promotion of a business arrangement or
39 other activity that violates any state or federal law.

1 (c) (1) A licensee may refer a person to a health facility, as
2 defined in Section 1250 of the Health and Safety Code, a licensed
3 alternative birth center, as defined in paragraph (4) of subdivision
4 (b) of Section 1204 of the Health and Safety Code, or to any
5 facility, or nationally accredited alternative birth center, owned or
6 leased by a health facility, if the recipient of the referral does not
7 compensate the licensee for the patient referral, and any equipment
8 lease arrangement between the licensee and the referral recipient
9 complies with the requirements of paragraph (2) of subdivision
10 (b).

11 (2) Nothing shall preclude this subdivision from applying to a
12 licensee solely because the licensee has an ownership or leasehold
13 interest in an entire health facility or an entity that owns or leases
14 an entire health facility.

15 (3) A licensee may refer a person to a health facility for any
16 service classified as an emergency under subdivision (a) or (b) of
17 Section 1317.1 of the Health and Safety Code.

18 (4) A licensee may refer a person to any organization that owns
19 or leases a health facility licensed pursuant to subdivision (a), (b),
20 or (f) of Section 1250 of the Health and Safety Code if the licensee
21 is not compensated for the patient referral, the licensee does not
22 receive any payment from the recipient of the referral that is based
23 or determined on the number or value of any patient referrals, and
24 any equipment lease arrangement between the licensee and the
25 referral recipient complies with the requirements of paragraph (2)
26 of subdivision (b). For purposes of this paragraph, the ownership
27 may be through stock or membership, and may be represented by
28 a parent holding company that solely owns or controls both the
29 health facility organization and the affiliated organization.

30 (d) A licensee may refer a person to a nonprofit corporation that
31 provides physician services pursuant to subdivision (l) of Section
32 1206 of the Health and Safety Code if the nonprofit corporation
33 is controlled through membership by one or more health facilities
34 or health facility systems and the amount of compensation or other
35 transfer of funds from the health facility or nonprofit corporation
36 to the licensee is fixed annually, except for adjustments caused by
37 physicians joining or leaving the groups during the year, and is
38 not based on the number of persons utilizing goods or services
39 specified in Section 650.01.

1 (e) A licensee compensated or employed by a university may
2 refer a person for a physician service, to any facility owned or
3 operated by the university, or to another licensee employed by the
4 university, provided that the facility or university does not
5 compensate the referring licensee for the patient referral. In the
6 case of a facility that is totally or partially owned by an entity other
7 than the university, but that is staffed by university physicians,
8 those physicians may not refer patients to the facility if the facility
9 compensates the referring physicians for those referrals.

10 (f) The prohibition of Section 650.01 shall not apply to any
11 service for a specific patient that is performed within, or goods
12 that are supplied by, a licensee's office, or the office of a group
13 practice. Further, the provisions of Section 650.01 shall not alter,
14 limit, or expand a licensee's ability to deliver, or to direct or
15 supervise the delivery of, in-office goods or services according to
16 the laws, rules, and regulations governing his or her scope of
17 practice.

18 (g) The prohibition of Section 650.01 shall not apply to cardiac
19 rehabilitation services provided by a licensee or by a suitably
20 trained individual under the direct or general supervision of a
21 licensee, if the services are provided to patients meeting the criteria
22 for Medicare reimbursement for the services.

23 (h) The prohibition of Section 650.01 shall not apply if a licensee
24 is in the office of a group practice and refers a person for services
25 or goods specified in Section 650.01 to a multispecialty clinic, as
26 defined in subdivision (l) of Section 1206 of the Health and Safety
27 Code.

28 (i) The prohibition of Section 650.01 shall not apply to health
29 care services provided to an enrollee of a health care service plan
30 licensed pursuant to the Knox-Keene Health Care Service Plan
31 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of
32 Division 2 of the Health and Safety Code).

33 (j) The prohibition of Section 650.01 shall not apply to a request
34 by a pathologist for clinical diagnostic laboratory tests and
35 pathological examination services, a request by a radiologist for
36 diagnostic radiology services, or a request by a radiation oncologist
37 for radiation therapy if those services are furnished by, or under
38 the supervision of, the pathologist, radiologist, or radiation
39 oncologist pursuant to a consultation requested by another
40 physician.

1 (k) This section shall not apply to referrals for services that are
2 described in and covered by Sections 139.3 and 139.31 of the
3 Labor Code.

4 (l) This section shall become operative on January 1, 1995.

5 ~~SEC. 3.~~

6 *SEC. 4.* Section 2725.1 of the Business and Professions Code
7 is amended to read:

8 2725.1. (a) Notwithstanding any other law, a registered nurse
9 may dispense drugs or devices upon an order by a licensed
10 physician and surgeon or an order by a certified nurse-midwife,
11 nurse practitioner, or physician assistant issued pursuant to Section
12 2746.51, 2836.1, or 3502.1, respectively, if the registered nurse is
13 functioning within a licensed primary care clinic as defined in
14 subdivision (a) of Section 1204 of, or within a clinic as defined in
15 subdivision (b), (c), (h), or (j) of Section 1206 of, the Health and
16 Safety Code.

17 (b) No clinic shall employ a registered nurse to perform
18 dispensing duties exclusively. No registered nurse shall dispense
19 drugs in a pharmacy, keep a pharmacy, open shop, or drugstore
20 for the retailing of drugs or poisons. No registered nurse shall
21 compound drugs. Dispensing of drugs by a registered nurse, except
22 a certified nurse-midwife who functions pursuant to Section
23 2746.51 or a nurse practitioner who functions pursuant to a
24 standardized procedure described in Section 2836.1, or protocol,
25 shall not include substances included in the California Uniform
26 Controlled Substances Act (Division 10 (commencing with Section
27 11000) of the Health and Safety Code). Nothing in this section
28 shall exempt a clinic from the provisions of Article 13
29 (commencing with Section 4180) of Chapter 9.

30 (c) This section shall not be construed to limit any other
31 authority granted to a certified nurse-midwife pursuant to Article
32 2.5 (commencing with Section 2746), to a nurse practitioner
33 pursuant to Article 8 (commencing with Section 2834), or to a
34 physician assistant pursuant to Chapter 7.7 (commencing with
35 Section 3500).

36 (d) This section shall not be construed to affect the sites or types
37 of health care facilities at which drugs or devices are authorized
38 to be dispensed pursuant to Chapter 9 (commencing with Section
39 4000).

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 2746.2 of the Business and Professions Code
3 is amended to read:

4 2746.2. (a) Each applicant shall show by evidence satisfactory
5 to the board that he or she has met the educational standards
6 established by the board or has at least the equivalent thereof,
7 including evidence of current advanced level national certification
8 by a certifying body that meets standards established and approved
9 by the board.

10 (b) The board shall create and appoint a Nurse-Midwifery
11 Advisory Committee consisting of certified nurse-midwives in
12 good standing with experience in hospital settings, alternative birth
13 center settings, and home settings, a nurse-midwife educator who
14 has demonstrated familiarity with educational standards in the
15 delivery of maternal-child health care, a consumer of midwifery
16 care, and at least two qualified physicians, including an obstetrician
17 that has experience working with nurse-midwives. The committee
18 membership shall consist of a majority of certified nurse-midwives
19 and shall make recommendations to the board on all matters related
20 to nurse-midwifery practice, education, and other matters as
21 specified by the board. The committee shall meet regularly, but at
22 least twice a year.

23 ~~(c) Corporations and other artificial legal entities shall have no~~
24 ~~professional rights, privileges, or powers. However, the Board of~~
25 ~~Registered Nursing may in its discretion, after such investigation~~
26 ~~and review of such documentary evidence as it may require, and~~
27 ~~under regulations adopted by it, grant approval of the employment~~
28 ~~of licensees on a salary basis by licensed charitable institutions,~~
29 ~~foundations, or clinics, if no charge for professional services~~
30 ~~rendered patients is made by any such institution, foundation, or~~
31 ~~clinic.~~

32 ~~(d) Notwithstanding subdivision (c), the following entities may~~
33 ~~employ a certified nurse-midwife and charge for professional~~
34 ~~services rendered by a certified nurse-midwife; however, the entity~~
35 ~~shall not interfere with, control, or otherwise direct the professional~~
36 ~~judgment of a certified nurse-midwife:~~

37 ~~(1) A clinic operated under subdivision (h) or (p) of Section~~
38 ~~1206 of the Health and Safety Code.~~

1 ~~(2) A hospital owned and operated by a health care district~~
2 ~~pursuant to Division 23 (commencing with Section 32000) of the~~
3 ~~Health and Safety Code.~~

4 ~~(3) A clinic operated primarily for the purpose of medical~~
5 ~~education or nursing education by a public or private nonprofit~~
6 ~~university medical school, which is approved by the Medical Board~~
7 ~~or the Osteopathic Medical Board of California, provided the~~
8 ~~certified nurse-midwife holds an academic appointment on the~~
9 ~~faculty of the university, including, but not limited to, the~~
10 ~~University of California medical schools and hospitals.~~

11 ~~(4) A licensed alternative birth center, as defined in paragraph~~
12 ~~(4) of subdivision (b) of Section 1204 of the Health and Safety~~
13 ~~Code, or a nationally accredited alternative birth center owned or~~
14 ~~operated by a nursing corporation, as defined in Section 2775 of~~
15 ~~the Business and Professions Code.~~

16 ~~(5) A health facility described in Section 1250 of the Health~~
17 ~~and Safety Code if the certified nurse-midwife is practicing under~~
18 ~~the supervision of a physician and surgeon.~~

19 ~~(6) A clinic operated under subdivision (a) of Section 1204 of~~
20 ~~the Health and Safety code.~~

21 ~~(e) As used in this section, supervision shall not be construed~~
22 ~~to require the physical presence of a supervising physician and~~
23 ~~surgeon. A facility described in paragraphs (1) to (4), inclusive,~~
24 ~~of subdivision (d) that employs a certified nurse-midwife shall not~~
25 ~~require supervision by a physician and surgeon of the~~
26 ~~certified nurse-midwife.~~

27 ~~SEC. 5.~~

28 *SEC. 6.* Section 2746.5 of the Business and Professions Code
29 is amended to read:

30 2746.5. (a) The certificate to practice nurse-midwifery
31 authorizes the holder to manage a full range of primary
32 gynecological and obstetric care services for women from
33 adolescence to beyond menopause, consistent with the Core
34 Competencies for Basic Midwifery practice promulgated by the
35 American College of Nurse-Midwives, or its successor national
36 professional organization, as approved by the board. These services
37 include, but are not limited to, primary health care, gynecologic
38 and family planning services, preconception care, care during
39 pregnancy, childbirth, and the postpartum period, immediate care
40 of the newborn, and treatment of male partners for sexually

1 transmitted infections, utilizing consultation, collaboration, or
2 referral to appropriate levels of health care services, as indicated.

3 (b) A certified nurse-midwife may practice *under this section*
4 *without supervision of a physician and surgeon* in the following
5 settings:

6 (1) A licensed clinic as described in Chapter 1 (commencing
7 with Section 1200) of Division 2 of the Health and Safety Code.

8 (2) A facility as described in Chapter 2 (commencing with
9 Section 1250) of Division 2 of the Health and Safety Code.

10 (3) A facility as described in Chapter 2.5 (commencing with
11 Section 1440) of Division 2 of the Health and Safety Code.

12 (4) A medical group practice, including a professional medical
13 corporation, a medical partnership, a medical foundation exempt
14 from licensure pursuant to Section 1206 of the Health and Safety
15 Code, or another lawfully organized group of physicians that
16 delivers, furnishes, or otherwise arranges for or provides health
17 care services.

18 (5) A licensed alternative birth center, as described in Section
19 1204 of the Health and Safety Code, or nationally accredited birth
20 center.

21 (6) A nursing corporation, as defined in Section 2775 of the
22 Business and Professions Code.

23 (7) A home setting.

24 (A) Except as provided in subparagraph (B), a certified
25 nurse-midwife shall only attend during normal, low-risk pregnancy
26 and childbirth in the home setting when all of the following
27 conditions apply:

28 (i) There is the absence of all of the following:

29 (I) Any preexisting maternal disease or condition creating risks
30 beyond that of a normal, low-risk pregnancy or birth, as defined
31 in the American College of Nurse-Midwives' standard-setting
32 documents and any future changes to those documents.

33 (II) Disease arising from or during the pregnancy creating risks
34 beyond that of a normal, low-risk pregnancy or birth, as defined
35 in the American College of Nurse-Midwives' standard-setting
36 documents and any future changes to those documents.

37 (III) Prior caesarean delivery.

38 (ii) There is a singleton fetus.

39 (iii) There is cephalic presentation at the onset of labor.

1 (iv) The gestational age of the fetus is greater than 370/7 weeks
2 and less than 420/7 completed weeks of pregnancy at the onset of
3 labor.

4 (v) Labor is spontaneous or induced in an outpatient setting.

5 (B) If a potential certified nurse-midwife client meets the
6 conditions specified in subclauses (I) and (II) of clause (i) and
7 clauses (ii) to (v), inclusive, of subparagraph (A), but fails to meet
8 the condition specified in subclause (III) of clause (i) of
9 subparagraph (A), and the woman still desires to be a client of the
10 certified nurse-midwife, the certified nurse-midwife shall provide
11 the woman with a referral for an examination by a physician and
12 surgeon trained in obstetrics and gynecology. A certified
13 nurse-midwife may assist the woman in pregnancy and childbirth
14 only if an examination by a physician and surgeon trained in
15 obstetrics and gynecology is obtained and, based upon review of
16 the client's medical file, the certified nurse-midwife determines
17 that the risk factors presented by the woman's condition do not
18 increase the woman's risk beyond that of a normal, low-risk
19 pregnancy and birth. The certified nurse-midwife may continue
20 care of the client during a reasonable interval between the referral
21 and the initial appointment with the physician and surgeon.

22 (c) *An entity described in subdivision (b) shall not interfere*
23 *with, control, or otherwise direct the professional judgment of a*
24 *certified nurse-midwife functioning pursuant to this section in a*
25 *manner prohibited by Section 510 or any other law.*

26 (e)

27 (d) As used in this chapter, the practice of nurse-midwifery
28 within a health care system provides for consultation, collaboration,
29 or referral as indicated by the health status of the patient and the
30 resources and medical personnel available in the setting of care.
31 The practice of nurse-midwifery care emphasizes informed consent,
32 preventive care, and early detection and referral of complications
33 to physicians and surgeons. While practicing in a hospital setting,
34 the certified nurse-midwife shall collaboratively care for women
35 with more complex health needs.

36 (d)

37 (e) A certified nurse-midwife practicing under subdivision (a)
38 shall be subject to all credentialing and quality standards held by
39 the facility in which he or she practices. The peer review body
40 shall include nurse-midwives as part of the peer review body that

1 reviews nurse-midwives. The peer review body of that facility
2 shall impose standards that ensure quality and patient safety in
3 their facility. The standards shall be approved by the relevant
4 governing body unless found by a court to be arbitrary and
5 capricious.

6 ~~(e)~~

7 (f) The practice of nurse-midwifery does not include the assisting
8 of childbirth by any forcible or mechanical means or the
9 performance of a version.

10 ~~(f)~~

11 (g) A certified nurse-midwife is not authorized to practice
12 medicine and surgery by the provisions of this chapter.

13 ~~(g)~~

14 (h) Any regulations promulgated by a state department that
15 affect the scope of practice of a certified nurse-midwife shall be
16 developed in consultation with the board and the Nurse-Midwifery
17 Advisory Committee.

18 ~~SEC. 6.~~

19 SEC. 7. Section 2746.51 of the Business and Professions Code
20 is amended to read:

21 2746.51. (a) Neither this chapter nor any other law shall be
22 construed to prohibit a certified nurse-midwife from furnishing or
23 ordering drugs or devices, including controlled substances
24 classified in Schedule II, III, IV, or V under the California Uniform
25 Controlled Substances Act (Division 10 (commencing with Section
26 11000) of the Health and Safety Code), when the drugs or devices
27 are furnished or ordered related to the provision of any of the
28 following:

29 (1) Family planning services, as defined in Section 14503 of
30 the Welfare and Institutions Code.

31 (2) Routine health care or perinatal care, as defined in
32 subdivision (d) of Section 123485 of the Health and Safety Code.

33 (3) Care rendered, consistent with the certified nurse-midwife's
34 educational preparation or for which clinical competency has been
35 established and maintained, to persons within a facility specified
36 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the
37 Health and Safety Code, a clinic as specified in Section 1204 of
38 the Health and Safety Code, a general acute care hospital as defined
39 in subdivision (a) of Section 1250 of the Health and Safety Code,
40 a licensed birth center as defined in Section 1204.3 of the Health

1 and Safety Code, or a special hospital specified as a maternity
2 hospital in subdivision (f) of Section 1250 of the Health and Safety
3 Code.

4 (4) Care rendered in a home pursuant to subdivision (a) of
5 Section 2746.5.

6 (b) (1) The furnishing or ordering of drugs or devices by a
7 certified nurse-midwife is conditional on the issuance by the board
8 of a number to the applicant who has successfully completed the
9 requirements of paragraph (2). The number shall be included on
10 all transmittals of orders for drugs or devices by the certified
11 nurse-midwife. The board shall maintain a list of the certified
12 nurse-midwives that it has certified pursuant to this paragraph and
13 the number it has issued to each one. The board shall make the list
14 available to the California State Board of Pharmacy upon its
15 request. Every certified nurse-midwife who is authorized pursuant
16 to this section to furnish or issue a drug order for a controlled
17 substance shall register with the United States Drug Enforcement
18 Administration.

19 (2) The board has certified in accordance with paragraph (1)
20 that the certified nurse-midwife has satisfactorily completed a
21 course in pharmacology covering the drugs or devices to be
22 furnished or ordered under this section. The board shall establish
23 the requirements for satisfactory completion of this paragraph.

24 (3) Certified nurse-midwives who are certified by the board and
25 hold an active furnishing number, who are currently authorized to
26 furnish Schedule II controlled substances, and who are registered
27 with the United States Drug Enforcement Administration shall
28 provide documentation of continuing education specific to the use
29 of Schedule II controlled substances in settings other than a hospital
30 based on standards developed by the board.

31 (c) Drugs or devices furnished or ordered by a certified
32 nurse-midwife may include Schedule II controlled substances
33 under the California Uniform Controlled Substances Act (Division
34 10 (commencing with Section 11000) of the Health and Safety
35 Code) when the drugs and devices are furnished or ordered in
36 accordance with requirements referenced in paragraphs (1) to (3),
37 inclusive, of subdivision (b). In a nonhospital setting, a Schedule
38 II controlled substance shall be furnished by a certified
39 nurse-midwife only during labor and delivery and only after a
40 consultation with a physician and surgeon.

1 (d) Furnishing of drugs or devices by a certified nurse-midwife
2 means the act of making a pharmaceutical agent or agents available
3 to the patient.

4 (e) “Drug order” or “order” for purposes of this section means
5 an order for medication or for a drug or device that is dispensed
6 to or for an ultimate user, issued by a certified nurse-midwife as
7 an individual practitioner, within the meaning of Section 1306.03
8 of Title 21 of the Code of Federal Regulations. Notwithstanding
9 any other law, (1) a drug order issued pursuant to this section shall
10 be treated in the same manner as a prescription of a physician; (2)
11 all references to “prescription” in this code and the Health and
12 Safety Code shall include drug orders issued by certified
13 nurse-midwives; and (3) the signature of a certified nurse-midwife
14 on a drug order issued in accordance with this section shall be
15 deemed to be the signature of a prescriber for purposes of this code
16 and the Health and Safety Code.

17 (f) A certified nurse-midwife is authorized to directly procure
18 supplies and devices, to order, obtain, and administer drugs and
19 diagnostic tests, to order laboratory and diagnostic testing, and to
20 receive reports that are necessary to his or her practice as a certified
21 nurse-midwife and consistent with nurse-midwifery education
22 preparation.

23 ~~SEC. 7.~~

24 *SEC. 8.* Section 2746.52 of the Business and Professions Code
25 is amended to read:

26 2746.52. (a) Notwithstanding Section 2746.5, the certificate
27 to practice nurse-midwifery authorizes the holder to perform and
28 repair episiotomies, and to repair first-degree and second-degree
29 lacerations of the perineum, in a licensed acute care hospital, as
30 defined in subdivision (a) of Section 1250 of the Health and Safety
31 Code, in a licensed alternate birth center, as defined in paragraph
32 (4) of subdivision (b) of Section 1204 of the Health and Safety
33 Code, or a nationally accredited birth center, and in a home
34 pursuant to paragraph (7) of subdivision (b) of Section 2746.5.

35 (b) The certified nurse-midwife performing and repairing
36 first-degree and second-degree lacerations of the perineum shall
37 do both of the following:

38 (1) Ensure that all complications are referred to a physician and
39 surgeon immediately.

1 (2) Ensure immediate care of patients who are in need of care
2 beyond the scope of practice of the certified nurse-midwife, or
3 provide emergency care for times when a physician and surgeon
4 is not available.

5 ~~SEC. 8.~~

6 *SEC. 9.* Section 2746.6 is added to the Business and Professions
7 Code, to read:

8 2746.6. A consultative relationship between a certified
9 nurse-midwife and a physician and surgeon shall not, by itself,
10 provide the basis for finding a physician and surgeon liable for
11 any act or omission of the certified nurse-midwife.

12 ~~SEC. 9.~~

13 *SEC. 10.* Section 4061 of the Business and Professions Code
14 is amended to read:

15 4061. (a) A manufacturer's sales representative shall not
16 distribute any dangerous drug or dangerous device as a
17 complimentary sample without the written request of a physician,
18 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
19 pursuant to Section 3640.7. However, a certified nurse-midwife
20 who functions pursuant to Section 2746.51, a nurse practitioner
21 who functions pursuant to a standardized procedure described in
22 Section 2836.1, or protocol, a physician assistant who functions
23 pursuant to a protocol described in Section 3502.1, or a
24 naturopathic doctor who functions pursuant to a standardized
25 procedure or protocol described in Section 3640.5, may sign for
26 the request and receipt of complimentary samples of a dangerous
27 drug or dangerous device that has been identified in the
28 standardized procedure, protocol, or practice agreement.
29 Standardized procedures, protocols, and practice agreements shall
30 include specific approval by a physician. A review process,
31 consistent with the requirements of Section 2725, 3502.1, or
32 3640.5, of the complimentary samples requested and received by
33 a nurse practitioner, certified nurse-midwife, physician assistant,
34 or naturopathic doctor, shall be defined within the standardized
35 procedure, protocol, or practice agreement.

36 (b) Each written request shall contain the names and addresses
37 of the supplier and the requester, the name and quantity of the
38 specific dangerous drug desired, the name of the certified
39 nurse-midwife, nurse practitioner, physician assistant, or
40 naturopathic doctor, if applicable, receiving the samples pursuant

1 to this section, the date of receipt, and the name and quantity of
2 the dangerous drugs or dangerous devices provided. These records
3 shall be preserved by the supplier with the records required by
4 Section 4059.

5 (c) Nothing in this section is intended to expand the scope of
6 practice of a certified nurse-midwife, nurse practitioner, physician
7 assistant, or naturopathic doctor.

8 ~~SEC. 10.—Section 4076 of the Business and Professions Code~~
9 ~~is amended to read:~~

10 ~~4076.—(a) A pharmacist shall not dispense any prescription~~
11 ~~except in a container that meets the requirements of state and~~
12 ~~federal law and is correctly labeled with all of the following:~~

13 ~~(1) Except when the prescriber or the certified nurse-midwife~~
14 ~~who functions pursuant to Section 2746.51, the nurse practitioner~~
15 ~~who functions pursuant to a standardized procedure described in~~
16 ~~Section 2836.1 or protocol, the physician assistant who functions~~
17 ~~pursuant to Section 3502.1, the naturopathic doctor who functions~~
18 ~~pursuant to a standardized procedure or protocol described in~~
19 ~~Section 3640.5, or the pharmacist who functions pursuant to a~~
20 ~~policy, procedure, or protocol pursuant to Section 4052.1, 4052.2,~~
21 ~~or 4052.6 orders otherwise, either the manufacturer's trade name~~
22 ~~of the drug or the generic name and the name of the manufacturer.~~
23 ~~Commonly used abbreviations may be used. Preparations~~
24 ~~containing two or more active ingredients may be identified by~~
25 ~~the manufacturer's trade name or the commonly used name or the~~
26 ~~principal active ingredients.~~

27 ~~(2) The directions for the use of the drug.~~

28 ~~(3) The name of the patient or patients.~~

29 ~~(4) The name of the prescriber or, if applicable, the name of the~~
30 ~~certified nurse-midwife who functions pursuant to Section 2746.51,~~
31 ~~the nurse practitioner who functions pursuant to a standardized~~
32 ~~procedure described in Section 2836.1 or protocol, the physician~~
33 ~~assistant who functions pursuant to Section 3502.1, the naturopathic~~
34 ~~doctor who functions pursuant to a standardized procedure or~~
35 ~~protocol described in Section 3640.5, or the pharmacist who~~
36 ~~functions pursuant to a policy, procedure, or protocol pursuant to~~
37 ~~Section 4052.1, 4052.2, or 4052.6.~~

38 ~~(5) The date of issue.~~

39 ~~(6) The name and address of the pharmacy, and prescription~~
40 ~~number or other means of identifying the prescription.~~

- 1 ~~(7) The strength of the drug or drugs dispensed.~~
- 2 ~~(8) The quantity of the drug or drugs dispensed.~~
- 3 ~~(9) The expiration date of the effectiveness of the drug~~
- 4 ~~dispensed.~~
- 5 ~~(10) The condition or purpose for which the drug was prescribed~~
- 6 ~~if the condition or purpose is indicated on the prescription.~~
- 7 ~~(11) (A) Commencing January 1, 2006, the physical description~~
- 8 ~~of the dispensed medication, including its color, shape, and any~~
- 9 ~~identification code that appears on the tablets or capsules, except~~
- 10 ~~as follows:~~
- 11 ~~(i) Prescriptions dispensed by a veterinarian.~~
- 12 ~~(ii) An exemption from the requirements of this paragraph shall~~
- 13 ~~be granted to a new drug for the first 120 days that the drug is on~~
- 14 ~~the market and for the 90 days during which the national reference~~
- 15 ~~file has no description on file.~~
- 16 ~~(iii) Dispensed medications for which no physical description~~
- 17 ~~exists in any commercially available database.~~
- 18 ~~(B) This paragraph applies to outpatient pharmacies only.~~
- 19 ~~(C) The information required by this paragraph may be printed~~
- 20 ~~on an auxiliary label that is affixed to the prescription container.~~
- 21 ~~(D) This paragraph shall not become operative if the board,~~
- 22 ~~prior to January 1, 2006, adopts regulations that mandate the same~~
- 23 ~~labeling requirements set forth in this paragraph.~~
- 24 ~~(b) If a pharmacist dispenses a prescribed drug by means of a~~
- 25 ~~unit dose medication system, as defined by administrative~~
- 26 ~~regulation, for a patient in a skilled nursing, intermediate care, or~~
- 27 ~~other health care facility, the requirements of this section will be~~
- 28 ~~satisfied if the unit dose medication system contains the~~
- 29 ~~mentioned information or the information is otherwise readily~~
- 30 ~~available at the time of drug administration.~~
- 31 ~~(c) If a pharmacist dispenses a dangerous drug or device in a~~
- 32 ~~facility licensed pursuant to Section 1250 of the Health and Safety~~
- 33 ~~Code, it is not necessary to include on individual unit dose~~
- 34 ~~containers for a specific patient, the name of the certified~~
- 35 ~~nurse-midwife who functions pursuant to Section 2746.51, the~~
- 36 ~~nurse practitioner who functions pursuant to a standardized~~
- 37 ~~procedure described in Section 2836.1 or protocol, the physician~~
- 38 ~~assistant who functions pursuant to Section 3502.1, the naturopathic~~
- 39 ~~doctor who functions pursuant to a standardized procedure or~~
- 40 ~~protocol described in Section 3640.5, or the pharmacist who~~

1 functions pursuant to a policy, procedure, or protocol pursuant to
 2 Section 4052.1, 4052.2, or 4052.6.

3 ~~(d) If a pharmacist dispenses a prescription drug for use in a~~
 4 ~~facility licensed pursuant to Section 1250 of the Health and Safety~~
 5 ~~Code, it is not necessary to include the information required in~~
 6 ~~paragraph (11) of subdivision (a) when the prescription drug is~~
 7 ~~administered to a patient by a person licensed under the Medical~~
 8 ~~Practice Act (Chapter 5 (commencing with Section 2000)), the~~
 9 ~~Nursing Practice Act (Chapter 6 (commencing with Section 2700)),~~
 10 ~~or the Vocational Nursing Practice Act (Chapter 6.5 (commencing~~
 11 ~~with Section 2840)), who is acting within his or her scope of~~
 12 ~~practice.~~

13 *SEC. 11. Section 4076 of the Business and Professions Code*
 14 *is amended to read:*

15 4076. (a) A pharmacist shall not dispense any prescription
 16 except in a container that meets the requirements of state and
 17 federal law and is correctly labeled with all of the following:

18 (1) Except when the prescriber or the certified nurse-midwife
 19 who functions pursuant to ~~a standardized procedure or protocol~~
 20 ~~described in Section 2746.51, the nurse practitioner who functions~~
 21 ~~pursuant to a standardized procedure described in Section 2836.1~~
 22 ~~or protocol, the physician assistant who functions pursuant to~~
 23 ~~Section 3502.1, the naturopathic doctor who functions pursuant~~
 24 ~~to a standardized procedure or protocol described in Section~~
 25 ~~3640.5, or the pharmacist who functions pursuant to a policy,~~
 26 ~~procedure, or protocol pursuant to Section 4052.1, 4052.2, or~~
 27 ~~4052.6 orders otherwise, either the manufacturer's trade name of~~
 28 ~~the drug or the generic name and the name of the manufacturer.~~
 29 ~~Commonly used abbreviations may be used. Preparations~~
 30 ~~containing two or more active ingredients may be identified by~~
 31 ~~the manufacturer's trade name or the commonly used name or the~~
 32 ~~principal active ingredients.~~

33 (2) The directions for the use of the drug.

34 (3) The name of the patient or patients.

35 (4) The name of the prescriber or, if applicable, the name of the
 36 certified nurse-midwife who functions pursuant to ~~a standardized~~
 37 ~~procedure or protocol described in Section 2746.51, the nurse~~
 38 ~~practitioner who functions pursuant to a standardized procedure~~
 39 ~~described in Section 2836.1 or protocol, the physician assistant~~
 40 ~~who functions pursuant to Section 3502.1, the naturopathic doctor~~

1 who functions pursuant to a standardized procedure or protocol
2 described in Section 3640.5, or the pharmacist who functions
3 pursuant to a policy, procedure, or protocol pursuant to Section
4 4052.1, 4052.2, or 4052.6.

5 (5) The date of issue.

6 (6) The name and address of the pharmacy, and prescription
7 number or other means of identifying the prescription.

8 (7) The strength of the drug or drugs dispensed.

9 (8) The quantity of the drug or drugs dispensed.

10 (9) The expiration date of the effectiveness of the drug
11 dispensed.

12 (10) The condition or purpose for which the drug was prescribed
13 if the condition or purpose is indicated on the prescription.

14 (11) (A) Commencing January 1, 2006, the physical description
15 of the dispensed medication, including its color, shape, and any
16 identification code that appears on the tablets or capsules, except
17 as follows:

18 (i) Prescriptions dispensed by a veterinarian.

19 (ii) An exemption from the requirements of this paragraph shall
20 be granted to a new drug for the first 120 days that the drug is on
21 the market and for the 90 days during which the national reference
22 file has no description on file.

23 (iii) Dispensed medications for which no physical description
24 exists in any commercially available database.

25 (B) This paragraph applies to outpatient pharmacies only.

26 (C) The information required by this paragraph may be printed
27 on an auxiliary label that is affixed to the prescription container.

28 (D) This paragraph shall not become operative if the board,
29 prior to January 1, 2006, adopts regulations that mandate the same
30 labeling requirements set forth in this paragraph.

31 (b) If a pharmacist dispenses a prescribed drug by means of a
32 unit dose medication system, as defined by administrative
33 regulation, for a patient in a skilled nursing, intermediate care, or
34 other health care facility, the requirements of this section will be
35 satisfied if the unit dose medication system contains the
36 aforementioned information or the information is otherwise readily
37 available at the time of drug administration.

38 (c) If a pharmacist dispenses a dangerous drug or device in a
39 facility licensed pursuant to Section 1250 of the Health and Safety
40 Code, it is not necessary to include on individual unit dose

1 containers for a specific patient, the name of the certified
2 nurse-midwife who functions pursuant to a standardized procedure
3 or protocol described in Section 2746.51, the nurse practitioner
4 who functions pursuant to a standardized procedure described in
5 Section 2836.1 or protocol, the physician assistant who functions
6 pursuant to Section 3502.1, the naturopathic doctor who functions
7 pursuant to a standardized procedure or protocol described in
8 Section 3640.5, or the pharmacist who functions pursuant to a
9 policy, procedure, or protocol pursuant to Section 4052.1, 4052.2,
10 or 4052.6.

11 (d) If a pharmacist dispenses a prescription drug for use in a
12 facility licensed pursuant to Section 1250 of the Health and Safety
13 Code, it is not necessary to include the information required in
14 paragraph (11) of subdivision (a) when the prescription drug is
15 administered to a patient by a person licensed under the Medical
16 Practice Act (Chapter 5 (commencing with Section 2000)), the
17 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),
18 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing
19 with Section 2840)), who is acting within his or her scope of
20 practice.

21 (e) A pharmacist shall use professional judgment to provide a
22 patient with directions for use that enhance the patient's
23 understanding of those directions, consistent with the prescriber's
24 instructions.

25 ~~SEC. 11.~~

26 *SEC. 12.* Section 4170 of the Business and Professions Code
27 is amended to read:

28 4170. (a) A prescriber shall not dispense drugs or dangerous
29 devices to patients in his or her office or place of practice unless
30 all of the following conditions are met:

31 (1) The dangerous drugs or dangerous devices are dispensed to
32 the prescriber's own patient, and the drugs or dangerous devices
33 are not furnished by a nurse or physician attendant.

34 (2) The dangerous drugs or dangerous devices are necessary in
35 the treatment of the condition for which the prescriber is attending
36 the patient.

37 (3) The prescriber does not keep a pharmacy, open shop, or
38 drugstore, advertised or otherwise, for the retailing of dangerous
39 drugs, dangerous devices, or poisons.

1 (4) The prescriber fulfills all of the labeling requirements
2 imposed upon pharmacists by Section 4076, all of the
3 recordkeeping requirements of this chapter, and all of the packaging
4 requirements of good pharmaceutical practice, including the use
5 of childproof containers.

6 (5) The prescriber does not use a dispensing device unless he
7 or she personally owns the device and the contents of the device,
8 and personally dispenses the dangerous drugs or dangerous devices
9 to the patient packaged, labeled, and recorded in accordance with
10 paragraph (4).

11 (6) The prescriber, prior to dispensing, offers to give a written
12 prescription to the patient that the patient may elect to have filled
13 by the prescriber or by any pharmacy.

14 (7) The prescriber provides the patient with written disclosure
15 that the patient has a choice between obtaining the prescription
16 from the dispensing prescriber or obtaining the prescription at a
17 pharmacy of the patient's choice.

18 (8) A certified nurse-midwife who functions pursuant to Section
19 2746.51, a nurse practitioner who functions pursuant to a
20 standardized procedure described in Section 2836.1, or protocol,
21 a physician assistant who functions pursuant to Section 3502.1, or
22 a naturopathic doctor who functions pursuant to Section 3640.5,
23 may hand to a patient of the supervising physician and surgeon,
24 if applicable, a properly labeled prescription drug prepackaged by
25 a physician and surgeon, a manufacturer as defined in this chapter,
26 or a pharmacist.

27 (b) The Medical Board of California, the State Board of
28 Optometry, the Bureau of Naturopathic Medicine, the Dental Board
29 of California, the Osteopathic Medical Board of California, the
30 Board of Registered Nursing, the Veterinary Medical Board, and
31 the Physician Assistant Committee shall have authority with the
32 California State Board of Pharmacy to ensure compliance with
33 this section, and those boards are specifically charged with the
34 enforcement of this chapter with respect to their respective
35 licensees.

36 (c) "Prescriber," as used in this section, means a person, who
37 holds a physician's and surgeon's certificate, a license to practice
38 optometry, a license to practice naturopathic medicine, a license
39 to practice dentistry, a license to practice veterinary medicine, or
40 a certificate to practice podiatry, and who is duly registered by the

1 Medical Board of California, the State Board of Optometry, the
2 Bureau of Naturopathic Medicine, the Dental Board of California,
3 the Veterinary Medical Board, or the Board of Osteopathic
4 Examiners of this state.

5 ~~SEC. 12.~~

6 *SEC. 13.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Low	BILL NUMBER:	AB 1386
SPONSORS:	Allergy and Asthma Network Mylan, Inc.	BILL STATUS:	Governor
SUBJECT:	Emergency medical care: epinephrine auto-injectors.	DATE LAST AMENDED:	June 28, 2016

SUMMARY:

1. Existing law authorizes a prehospital emergency medical care person, first responder, or lay rescuer to use an epinephrine auto-injector to render emergency care to another person, as specified. Existing law also requires the California Emergency Medical Services (EMS) Authority to establish or approve authorized training providers and minimum standards for training and the use and administration of epinephrine auto-injectors, in consultation with the local emergency medical system agency, the county health department, the manufacturer, the State Department of Health Care Services, and other private organizations. The Pharmacy Law also authorizes a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. A violation of the Pharmacy Law is a crime.

2. Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. Existing law also provides that a prehospital emergency care person, first responder, or lay rescuer who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards.

ANALYSIS:

1. This bill would authorize an "authorized entity," as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity pursuant to those provisions. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would also require an authorized entity to submit a report to the State Department of Public Health on incidents related to the administration of epinephrine auto-injectors, and for the department to issue an annual report summarizing and analyzing the reports submitted to it.

2. This bill would provide that employees, agents, or other trained individuals of an authorized entity who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards. The bill would also provide that an authorized entity located in this state shall not be liable, in this state, for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent would not have been liable for those injuries or related damages had the provision or administration occurred within this state.

Amended analysis as of 1/4/16:

1. This bill would permit an “authorized entity,” as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity pursuant to those provisions. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would require an authorized entity to create and maintain a specified operations plan relating to its use of epinephrine auto-injectors, and would require those entities to submit a report to the State Department of Public Health on incidents related to the administration of epinephrine auto-injectors. The bill would also require the department to issue an annual report summarizing and analyzing the reports submitted to the department pursuant to the bill’s provisions.

Amended analysis as of 1/5/16:

2. This bill would provide that any employee, agent, or other trained individual of an authorized entity who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards. The bill would also provide that an authorized entity is not liable for any civil damages resulting from any act or omission n connected to the administration of an epinephrine auto-injector, as specified.

Amended analysis as of 1/13:

2. This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified.

This bill would no longer provide for waiver of liability for an authorized health care provider who prescribes or dispenses an epinephrine auto-injector, as specified, or for a person who conducts the requisite training.

Amended analysis as of 5/31:

1. The bill would require an authorized entity to create and maintain a specified operations plan relating to its use of epinephrine auto-injectors, and would require those entities to submit a report to the Emergency Medical Services Authority of each incident that involves the administration of an auto-injector, not more than 30 days after each use. The bill would also require the authority to

publish an annual report summarizing the reports submitted to the department authority pursuant to the bill's provisions.

Amended summary and analysis as of 6/13:

Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors, as defined, to school nurses and trained personnel who have volunteered to use epinephrine auto-injectors under emergency circumstances, as specified, and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

1. The bill would define the term "epinephrine auto-injector" for purposes of these provisions and other related provisions that authorize the use of epinephrine auto-injectors, as specified.
2. This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified. The bill would also exempt an authorizing physician and surgeon from certain sanctions for the issuance of an epinephrine auto-injector under those provisions, except as specified.

Amended analysis as of 6/28:

1. The bill would provide that a pharmacy may furnish epinephrine auto-injectors to an authorized entity, as defined, for the purpose of rendering emergency care, as specified, and that an authorized health care provider shall provide a new prescription for any additional epinephrine auto injectors required for use.

BOARD POSITION: Watch (2/11/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Continue Board's position

SUPPORT:

Mylan, Inc. (co-sponsor)
Allergy and Asthma Network (co-sponsor)
American Latex Allergy Association
American Red Cross
California Chapter of the American College of Emergency Physicians
California Retailers Association
California Society of Allergy, Asthma and Immunology
Food Allergy Research & Education
San Francisco Bay Area Food Allergy Network
Two individuals

OPPOSE: None on file.

Assembly Bill No. 1386

Passed the Assembly August 22, 2016

Chief Clerk of the Assembly

Passed the Senate August 16, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 4119.4 to the Business and Professions Code, to amend Section 1714.23 of the Civil Code, to amend Section 49414 of the Education Code, and to amend Section 1797.197a of the Health and Safety Code, relating to emergency medical care.

LEGISLATIVE COUNSEL’S DIGEST

AB 1386, Low. Emergency medical care: epinephrine auto-injectors.

(1) Existing law authorizes a prehospital emergency medical care person, first responder, or lay rescuer to use an epinephrine auto-injector to render emergency care to another person, as specified. Existing law requires the Emergency Medical Services Authority to approve authorized training providers and the minimum standards for training and the use and administration of epinephrine auto-injectors. The existing Pharmacy Law also authorizes a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. A violation of the Pharmacy Law is a crime. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors, as defined, to school nurses and trained personnel who have volunteered to use epinephrine auto-injectors under emergency circumstances, as specified, and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

This bill would permit an “authorized entity,” as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity, as provided. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would require an authorized entity to create and maintain a specified operations plan relating

to its use of epinephrine auto-injectors, and would require those entities to submit a report to the Emergency Medical Services Authority of each incident that involves the administration of an epinephrine auto-injector, not more than 30 days after each use. The bill would also require the authority to publish an annual report summarizing the reports submitted to the authority pursuant to the bill's provisions. The bill would define the term "epinephrine auto-injector" for purposes of these provisions and other related provisions that authorize the use of epinephrine auto-injectors, as specified.

(2) Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. Existing law also provides that a prehospital emergency care person, first responder, or lay rescuer who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards.

This bill would provide that an authorized entity is not liable for any civil damages resulting from any act or omission connected to the administration of an epinephrine auto-injector, as specified. The bill would also exempt an authorizing physician and surgeon from certain sanctions for the issuance of an epinephrine auto-injector under those provisions, except as specified.

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

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

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

SECTION 1. Section 4119.4 is added to the Business and Professions Code, to read:

4119.4. (a) Notwithstanding any other law, a pharmacy may furnish epinephrine auto-injectors to an authorized entity, for the purpose of rendering emergency care in accordance with Section 1797.197a of the Health and Safety Code, if both of the following requirements are met:

(1) The epinephrine auto-injectors are furnished exclusively for use by, or in connection with, an authorized entity.

(2) An authorized health care provider provides a prescription that specifies the quantity of epinephrine auto-injectors to be furnished to an authorized entity described in subdivision (a) of Section 1797.197a of the Health and Safety Code. A new prescription shall be written for any additional epinephrine auto-injectors required for use.

(b) The pharmacy shall label each epinephrine auto-injector dispensed with all of the following:

(1) The name of the person or entity to whom the prescription was issued.

(2) The designations “Section 1797.197a Responder” and “First Aid Purposes Only.”

(3) The dosage, use, and expiration date.

(c) Each dispensed prescription shall include the manufacturer’s product information sheet for the epinephrine auto-injector.

(d) Records regarding the acquisition and disposition of epinephrine auto-injectors furnished pursuant to subdivision (a) shall be maintained by the authorized entity for a period of three years from the date the records were created. The authorized entity shall be responsible for monitoring the supply of epinephrine auto-injectors and ensuring the destruction of expired epinephrine auto-injectors.

(e) The epinephrine auto-injector dispensed pursuant to this section may be used only for the purpose, and under the circumstances, described in Section 1797.197a of the Health and Safety Code.

(f) For purposes of this section, “epinephrine auto-injector” means a disposable delivery device designed for the automatic

injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

SEC. 2. Section 1714.23 of the Civil Code is amended to read:

1714.23. (a) For purposes of this section, the following definitions shall apply:

(1) “Anaphylaxis” means a potentially life-threatening hypersensitivity or allergic reaction to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, insect stings or bites, foods, drugs, and other allergens, as well as idiopathic or exercise-induced anaphylaxis.

(2) “Epinephrine auto-injector” means a disposable delivery device designed for the automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(b) (1) Any person described in subdivision (b) of Section 1797.197a of the Health and Safety Code who administers an epinephrine auto-injector, in good faith and not for compensation, to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with the requirements and standards of Section 1797.197a of the Health and Safety Code.

(2) (A) An authorized entity shall not be liable for any civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct connected to the administration of an epinephrine auto-injector by any one of its employees, volunteers, or agents who is a lay rescuer, as defined by paragraph (4) of subdivision (a) of Section 1797.197a of the Health and Safety Code, if the entity has complied with all applicable requirements of Section 1797.197a of the Health and Safety Code.

(B) The failure of an authorized entity to possess or administer an epinephrine auto-injector shall not result in civil liability.

(3) This subdivision does not affect any other immunity or defense that is available under law.

(c) The protection specified in paragraph (1) of subdivision (b) shall not apply in a case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care treatment by the use of an epinephrine auto-injector.

(d) Nothing in this section relieves a manufacturer, designer, developer, distributor, or supplier of an epinephrine auto-injector of liability under any other applicable law.

(e) An authorizing physician and surgeon is not subject to professional review, liable in a civil action, or subject to criminal prosecution for the issuance of a prescription or order in accordance with Section 1797.197a of the Health and Safety Code unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

SEC. 3. Section 49414 of the Education Code is amended to read:

49414. (a) School districts, county offices of education, and charter schools shall provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, an insect sting, food allergy, drug reaction, and exercise.

(2) "Authorizing physician and surgeon" may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.

(3) "Epinephrine auto-injector" means a disposable delivery device designed for the automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(4) “Qualified supervisor of health” may include, but is not limited to, a school nurse.

(5) “Volunteer” or “trained personnel” means an employee who has volunteered to administer epinephrine auto-injectors to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, has been designated by a school, and has received training pursuant to subdivision (d).

(c) Each private elementary and secondary school in the state may voluntarily determine whether or not to make emergency epinephrine auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to epinephrine auto-injectors and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by an authorizing physician and surgeon.

(e) (1) Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of epinephrine auto-injectors that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering epinephrine auto-injectors and administering medication in a school environment, including, but not limited to, the State Department of Public Health, the Emergency Medical Services Authority, the American Academy of Allergy, Asthma and Immunology, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, Food Allergy Research and Education, the California Society of Allergy, Asthma and Immunology, the American College of Allergy, Asthma and Immunology, the Sean N. Parker Center for Allergy Research, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Techniques for recognizing symptoms of anaphylaxis.

(B) Standards and procedures for the storage, restocking, and emergency use of epinephrine auto-injectors.

(C) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil's parent and physician.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Instruction on how to determine whether to use an adult epinephrine auto-injector or a junior epinephrine auto-injector, which shall include consideration of a pupil's grade level or age as a guideline of equivalency for the appropriate pupil weight determination.

(F) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention and the most recent guidelines for medication administration issued by the department.

(4) A school shall retain for reference the written materials prepared under subparagraph (F) of paragraph (2).

(f) A school district, county office of education, or charter school shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer an epinephrine auto-injector to a person if the person is suffering, or reasonably believed to be suffering, from anaphylaxis, as specified in subdivision (b).

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(g) (1) A qualified supervisor of health at a school district, county office of education, or charter school shall obtain from an authorizing physician and surgeon a prescription for each school for epinephrine auto-injectors that, at a minimum, includes, for elementary schools, one regular epinephrine auto-injector and one

junior epinephrine auto-injector, and for junior high schools, middle schools, and high schools, if there are no pupils who require a junior epinephrine auto-injector, one regular epinephrine auto-injector. A qualified supervisor of health at a school district, county office of education, or charter school shall be responsible for stocking the epinephrine auto-injector and restocking it if it is used.

(2) If a school district, county office of education, or charter school does not have a qualified supervisor of health, an administrator at the school district, county office of education, or charter school shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers.

(4) An authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to this section, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

(h) A school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer may administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis at school or a school activity when a physician is not immediately available. If the epinephrine auto-injector is used it shall be restocked as soon as reasonably possible, but no later than two weeks after it is used. Epinephrine auto-injectors shall be restocked before their expiration date.

(i) A volunteer shall initiate emergency medical services or other appropriate medical followup in accordance with the training materials retained pursuant to paragraph (4) of subdivision (e).

(j) A school district, county office of education, or charter school shall ensure that each employee who volunteers under this section will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing,

provided to the volunteer, and retained in the volunteer's personnel file.

(k) A state agency, the department, or a public school may accept gifts, grants, and donations from any source for the support of the public school carrying out the provisions of this section, including, but not limited to, the acceptance of epinephrine auto-injectors from a manufacturer or wholesaler.

SEC. 4. Section 1797.197a of the Health and Safety Code is amended to read:

1797.197a. (a) For purposes of this section, the following definitions shall apply:

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity or allergic reaction to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, insect stings or bites, foods, drugs, and other allergens, as well as idiopathic or exercise-induced anaphylaxis.

(2) "Authorized entity" means any for-profit, nonprofit, or government entity or organization that employs at least one person or utilizes at least one volunteer or agent that has voluntarily completed a training course as described in subdivision (c).

(3) "Epinephrine auto-injector" means a disposable delivery device designed for the automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(4) "Lay rescuer" means any person who has met the training standards and other requirements of this section but who is not otherwise licensed or certified to use an epinephrine auto-injector on another person.

(5) "Prehospital emergency medical care person" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 1797.189.

(b) A prehospital emergency medical care person or lay rescuer may use an epinephrine auto-injector to render emergency care to another person if all of the following requirements are met:

(1) The epinephrine auto-injector is legally obtained by prescription from an authorized health care provider or from an

authorized entity that acquired the epinephrine auto-injector pursuant to subdivision (e).

(2) The epinephrine auto-injector is used on another, with the expressed or implied consent of that person, to treat anaphylaxis.

(3) The epinephrine auto-injector is stored and maintained as directed by the manufacturer's instructions for that product.

(4) The person using the epinephrine auto-injector has successfully completed a course of training with an authorized training provider, as described in subdivision (c), and has current certification of training issued by the provider.

(5) The epinephrine auto-injectors obtained by prehospital emergency medical care personnel pursuant to Section 4119.3 of the Business and Professions Code shall be used only when functioning outside the course of the person's occupational duties, or as a volunteer, pursuant to this section.

(6) The Emergency Medical Services System is activated as soon as practicable when an epinephrine auto-injector is used.

(c) (1) The authorized training providers shall be approved, and the minimum standards for training and the use and administration of epinephrine auto-injectors pursuant to this section shall be established and approved, by the authority. The authority may designate existing training standards for the use and administration of epinephrine auto-injectors by prehospital emergency medical care personnel to satisfy the requirements of this section.

(2) The minimum training and requirements shall include all of the following components:

(A) Techniques for recognizing circumstances, signs, and symptoms of anaphylaxis.

(B) Standards and procedures for proper storage and emergency use of epinephrine auto-injectors.

(C) Emergency followup procedures, including activation of the Emergency Medical Services System, by calling the emergency 9-1-1 telephone number or otherwise alerting and summoning more advanced medical personnel and services.

(D) Compliance with all regulations governing the training, indications, use, and precautions concerning epinephrine auto-injectors.

(E) Written material covering the information required under this provision, including the manufacturer product information sheets on commonly available models of epinephrine auto-injectors.

(F) Completion of a training course in cardiopulmonary resuscitation and the use of an automatic external defibrillator (AED) for infants, children, and adults that complies with regulations adopted by the authority and the standards of the American Heart Association or the American Red Cross, and a current certification for that training.

(3) Training certification shall be valid for no more than two years, after which recertification with an authorized training provider is required.

(4) The director may, in accordance with regulations adopted by the authority, deny, suspend, or revoke any approval issued under this subdivision or may place any approved training provider on probation upon a finding by the director of an imminent threat to public health and safety, as evidenced by any of the following:

(A) Fraud.

(B) Incompetence.

(C) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of training program directors or instructors.

(D) Conviction of any crime that is substantially related to the qualifications, functions, or duties of training program directors or instructors. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(E) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this section or the regulations promulgated by the authority pertaining to the review and approval of training programs in anaphylaxis and the use and administration of epinephrine auto-injectors, as described in this subdivision.

(d) (1) The authority shall assess a fee pursuant to regulation sufficient to cover the reasonable costs incurred by the authority for the ongoing review and approval of training and certification under subdivision (c).

(2) The fees shall be deposited in the Specialized First Aid Training Program Approval Fund, which is hereby created in the State Treasury. All moneys deposited in the fund shall be made

available, upon appropriation, to the authority for purposes described in paragraph (1).

(3) The authority may transfer unused portions of the Specialized First Aid Training Program Approval Fund to the Surplus Money Investment Fund. Funds transferred to the Surplus Money Investment Fund shall be placed in a separate trust account, and shall be available for transfer to the Specialized First Aid Training Program Approval Fund, together with the interest earned, when requested by the authority.

(4) The authority shall maintain a reserve balance in the Specialized First Aid Training Program Approval Fund of 5 percent of annual revenues. Any increase in the fees deposited in the Specialized First Aid Training Program Approval Fund shall be effective upon determination by the authority that additional moneys are required to fund expenditures pursuant to subdivision (c).

(e) (1) An authorized health care provider may issue a prescription for an epinephrine auto-injector to a prehospital emergency medical care person or a lay rescuer for the purpose of rendering emergency care to another person upon presentation of a current epinephrine auto-injector certification card issued by the authority demonstrating that the person is trained and qualified to administer an epinephrine auto-injector pursuant to this section or any other law.

(2) An authorized health care provider may issue a prescription for an epinephrine auto-injector to an authorized entity if the authorized entity submits evidence it employs at least one person, or utilizes at least one volunteer or agent, who is trained and has a current epinephrine auto-injector certification card issued by the authority demonstrating that the person is qualified to administer an epinephrine auto-injector pursuant to this section.

(f) An authorized entity that possesses and makes available epinephrine auto-injectors shall do both of the following:

(1) Create and maintain on its premises an operations plan that includes all of the following:

(A) The name and contact number for the authorized health care provider who prescribed the epinephrine auto-injector.

(B) Where and how the epinephrine auto-injector will be stored.

(C) The names of the designated employees or agents who have completed the training program required by this section and who are authorized to administer the epinephrine auto-injector.

(D) How and when the epinephrine auto-injector will be inspected for an expiration date.

(E) The process to replace the expired epinephrine auto-injector, including the proper disposal of the expired epinephrine auto-injector or used epinephrine auto-injector in a sharps container.

(2) Submit to the authority, in a manner identified by the authority, a report of each incident that involves the use of an epinephrine auto-injector, not more than 30 days after each use. The authority shall annually publish a report that summarizes all reports submitted to it under this subdivision.

(g) This section shall not apply to a school district or county office of education, or its personnel, that provides and utilizes epinephrine auto-injectors to provide emergency medical aid pursuant to Section 49414 of the Education Code.

(h) This section shall not be construed to limit or restrict the ability of prehospital emergency medical care personnel, under any other statute or regulation, to administer epinephrine, including the use of epinephrine auto-injectors, or to require additional training or certification beyond what is already required under the other statute or regulation.

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

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Mayes	BILL NUMBER:	AB 1748
SPONSOR:	Mayes	BILL STATUS:	Governor
SUBJECT:	Pupils: pupil health: opioid antagonist	DATE LAST AMENDED:	August 1, 2016

SUMMARY:

Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district, county office of education, or charter school if certain conditions are met. Existing law requires the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of epinephrine auto-injectors furnished by the pharmacy for a period of 3 years from the date the records were created.

Under existing law, the governing board of any school district is required to give diligent care to the health and physical development of pupils, and may employ properly certified persons for that work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained volunteer personnel and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering or reasonably believed to be suffering, from an anaphylactic reaction, as provided.

ANALYSIS:

This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more

school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions.

The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards.

The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers.

The bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist, to immediately administer naloxone hydrochloride or another opioid antagonist under certain circumstances. The bill would require those individuals to initiate emergency medical services or other appropriate medical followup in accordance with written training materials.

The bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct.

The bill would prohibit a person trained under these provisions, who acts with reasonable care in administering naloxone hydrochloride or another opioid antagonist, in good faith, to a person who is experiencing or is suspected of experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

Amended analysis as of 4/14:

This bill would provide that an employee who volunteers pursuant to this section may rescind his or her offer to administer emergency naloxone hydrochloride or another opioid antagonist at any time, including after receipt of training. The bill would provide that a volunteer shall be allowed to administer naloxone hydrochloride or another opioid antagonist in the available form the volunteer is most comfortable with.

Amended analysis as of 4/25:

The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours.

The bill would delete the requirement that those individuals who are authorized to administer naloxone hydrochloride or another opioid antagonist under certain circumstances initiate emergency medical services or other appropriate medical followup in accordance with written training materials. The bill would provide that training include basic emergency followup procedures, including but not limited to, a school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The bill would provide that the requirement for the school or charter school administrator or other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.

The bill would provide that volunteers may only administer naloxone hydrochloride or another opioid antagonist by nasal spray.

The bill would prohibit a person trained under these provisions who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

Amended analysis as of 5/11:

This bill would clarify that its provisions apply to both public and private elementary and secondary schools.

Amended analysis as of 6/20:

The bill would provide that volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector, as specified, and in the form the volunteer is most comfortable with.

Amended analysis as of 8/1:

This bill would delete the State Department of Public Health from and add the California Society of Addiction Medicine to the list of organizations with which the Superintendent would consult every five years regarding the minimum standards of training.

The bill would include in the minimum standards for training that the required call to 911 would not also require the pupil to be transported to an emergency room.

BOARD POSITION: Watch (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (5/12/16) and, 8/11/16, continues Board position

SUPPORT:

American Nurses Association/California
California State PTA
County Behavioral Health Directors Association

OPPOSE: None received

Assembly Bill No. 1748

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

Passed the Senate August 19, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 4119.8 to the Business and Professions Code, and to add Section 49414.3 to the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1748, Mayes. Pupils: pupil health: opioid antagonist.

(1) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district, county office of education, or charter school if certain conditions are met. Existing law requires the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of epinephrine auto-injectors furnished by the pharmacy for a period of 3 years from the date the records were created.

This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

(2) Under existing law, the governing board of a school district is required to give diligent care to the health and physical development of pupils and may employ properly certified persons for that work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained volunteer personnel and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction, as provided.

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone

hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions.

The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards. The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils.

The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours. The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers.

The bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist to immediately administer naloxone hydrochloride or another opioid

antagonist under certain circumstances. The bill would provide that volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector, as specified.

The bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct. The bill would prohibit a person trained under these provisions who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

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

SECTION 1. Section 4119.8 is added to the Business and Professions Code, to read:

4119.8. (a) Notwithstanding any other law, a pharmacy may furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school pursuant to Section 49414.3 of the Education Code if all of the following are met:

(1) The naloxone hydrochloride or another opioid antagonist is furnished exclusively for use at a school district schoolsite, county office of education schoolsite, or charter school.

(2) A physician and surgeon provides a written order that specifies the quantity of naloxone hydrochloride or another opioid antagonist to be furnished.

(b) Records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished pursuant to subdivision (a) shall be maintained by the school district, county office of education, or charter school for a period of three years from the date the records were created. The school district, county office of education, or charter school shall be responsible for monitoring the supply of naloxone hydrochloride or another opioid antagonist and ensuring the destruction of expired naloxone hydrochloride or another opioid antagonist.

SEC. 2. Section 49414.3 is added to the Education Code, to read:

49414.3. (a) School districts, county offices of education, and charter schools may provide emergency naloxone hydrochloride or another opioid antagonist to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Authorizing physician and surgeon” may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.

(2) “Auto-injector” means a disposable delivery device designed for the automatic injection of a premeasured dose of an opioid antagonist into the human body and approved by the federal Food and Drug Administration for layperson use.

(3) “Opioid antagonist” means naloxone hydrochloride or another drug approved by the federal Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body, and has been approved for the treatment of an opioid overdose.

(4) “Qualified supervisor of health” may include, but is not limited to, a school nurse.

(5) “Volunteer” or “trained personnel” means an employee who has volunteered to administer naloxone hydrochloride or another opioid antagonist to a person if the person is suffering, or reasonably believed to be suffering, from an opioid overdose, has been designated by a school, and has received training pursuant to subdivision (d).

(c) Each public and private elementary and secondary school in the state may voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating

emergency medical services is an acceptable alternative to naloxone hydrochloride or another opioid antagonist and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) (1) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of naloxone hydrochloride or another opioid antagonist from the school nurse or other qualified person designated by an authorizing physician and surgeon. A benefit shall not be granted to or withheld from any individual based on his or her offer to volunteer, and there shall be no retaliation against any individual for rescinding his or her offer to volunteer, including after receiving training. Any school district, county office of education, or charter school choosing to exercise the authority provided under this subdivision shall provide the training for the volunteers at no cost to the volunteer and during the volunteer's regular working hours.

(2) An employee who volunteers pursuant to this section may rescind his or her offer to administer emergency naloxone hydrochloride or another opioid antagonist at any time, including after receipt of training.

(e) (1) The Superintendent shall establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist that satisfies the requirements of paragraph (2). Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of naloxone hydrochloride or other opioid antagonists that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment, including, but not limited to, the California Society of Addiction Medicine, the Emergency Medical Services Authority, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Techniques for recognizing symptoms of an opioid overdose.

(B) Standards and procedures for the storage, restocking, and emergency use of naloxone hydrochloride or another opioid antagonist.

(C) Basic emergency followup procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent guidelines for medication administration issued by the department.

(4) A school shall retain for reference the written materials prepared under subparagraph (E) of paragraph (2).

(5) The department shall include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils.

(f) Any school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer naloxone hydrochloride or another opioid antagonist to a person if the person is suffering, or reasonably believed to be suffering, from an opioid overdose.

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(3) The right of an employee to rescind his or her offer to volunteer pursuant to this section.

(4) A statement that no benefit will be granted to or withheld from any individual based on his or her offer to volunteer and that there will be no retaliation against any individual for rescinding his or her offer to volunteer, including after receiving training.

(g) (1) A qualified supervisor of health at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall obtain from an authorizing physician and surgeon a prescription for each school for naloxone hydrochloride or another opioid antagonist. A qualified supervisor of health at a school district, county office of education, or charter school shall be responsible for stocking the naloxone hydrochloride or another opioid antagonist and restocking it if it is used.

(2) If a school district, county office of education, or charter school does not have a qualified supervisor of health, an administrator at the school district, county office of education, or charter school shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers.

(4) An authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to this section, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

(h) (1) A school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer may administer naloxone hydrochloride or another opioid antagonist to a person exhibiting potentially life-threatening symptoms of an opioid overdose at school or a school activity when a physician is not immediately available. If the naloxone hydrochloride or another opioid antagonist is used it shall be restocked as soon as reasonably possible, but no later than two weeks after it is used. Naloxone hydrochloride or another opioid antagonist shall be restocked before its expiration date.

(2) Volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector.

(3) A volunteer shall be allowed to administer naloxone hydrochloride or another opioid antagonist in a form listed in paragraph (2) that the volunteer is most comfortable with.

(i) A school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall ensure that each employee who

volunteers under this section will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

(j) (1) Notwithstanding any other law, a person trained as required under subdivision (d), who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for his or her acts or omissions in administering the naloxone hydrochloride or another opioid antagonist.

(2) The protection specified in paragraph (1) shall not apply in a case of gross negligence or willful and wanton misconduct of the person who renders emergency care treatment by the use of naloxone hydrochloride or another opioid antagonist.

(3) Any public employee who volunteers to administer naloxone hydrochloride or another opioid antagonist pursuant to subdivision (d) is not providing emergency medical care "for compensation," notwithstanding the fact that he or she is a paid public employee.

(k) A state agency, the department, or a public school may accept gifts, grants, and donations from any source for the support of the public school carrying out the provisions of this section, including, but not limited to, the acceptance of naloxone hydrochloride or another opioid antagonist from a manufacturer or wholesaler.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Rodriguez	BILL NUMBER:	AB 2105
SPONSOR:	Rodriguez	BILL STATUS:	Governor
SUBJECT:	Workforce development: allied health professions	DATE LAST AMENDED:	August 10, 2016

SUMMARY:

This bill was introduced on February 17, 2016, as *Workforce development*.

Existing law establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. Existing law requires the board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding "earn and learn" job training opportunities, models, and programs. Under existing law, this reporting requirement is inoperative on January 1, 2019.

ANALYSIS:

This bill would extend that inoperative date to January 1, 2020.

Amended analysis as of 4/12:

The title of the bill is changed from *Workforce development* to *Workforce development: report: allied health care professionals*.

The bill would require the board to consider the recommendations in the report to determine whether the recommendations should be included within the board's work plan for the 2017–18 fiscal year, contact, or delegate to another state entity to contact, Medicare and Medicaid Services to determine how these federal entities could become engaged in a cross-sector collaboration on expanding the use of apprenticeship programs to help prepare allied health care professionals to meet the needs of California businesses and the public, and approve the progress and outcomes of these activities as an agenda item.

Amended analysis as of 4/28:

The bill would change the inoperative date back to January 1, 2019.

Amended summary and analysis as of 6/14:

The title of the bill is changed from *Workforce development: report: allied health care professionals* to *Workforce development: allied health professions*.

Existing law requires the California Workforce Development Board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding expanding job training and employment for allied health professions.

This bill would delete the amendment of April 14 and would now require the Department of Consumer Affairs, by January 1, 2020, to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report described above, as specified.

Amended analysis as of 8/15:

This bill would add the Division of Apprenticeship Standards and representatives appointed by the board of governors from the California community college system as parties to include in the stakeholder process.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (8/11/16)

SUPPORT:

Jewish Vocational Services of San Francisco
Service Employees International Union Local 1000

OPPOSE: None on file.

Assembly Bill No. 2105

Passed the Assembly August 22, 2016

Chief Clerk of the Assembly

Passed the Senate August 15, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14017 of the Unemployment Insurance Code, relating to workforce development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2105, Rodriguez. Workforce development: allied health professions.

Existing law establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. Existing law requires the board, among other things, to prepare and submit to the appropriate policy committees of the Legislature a report on the board's findings and recommendations regarding expanding job training and employment for allied health professions.

This bill would require the Department of Consumer Affairs, by January 1, 2020, to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report described above, as specified.

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

SECTION 1. Section 14017 of the Unemployment Insurance Code is amended to read:

14017. (a) In efforts to expand job training and employment for allied health professions, the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, shall do the following:

- (1) Identify opportunities for "earn and learn" job training opportunities that meet the industry's workforce demands and that are in high-wage, high-demand jobs.
- (2) Identify and develop specific requirements and qualifications for entry into "earn and learn" job training models.

(3) Establish standards for “earn and learn” job training programs that are outcome oriented and accountable. The standards shall measure the results from program participation, including a measurement of how many complete the program with an industry-recognized credential that certifies that the individual is ready to enter the specific allied health profession for which he or she has been trained.

(4) Develop means to identify, assess, and prepare a pool of qualified candidates seeking to enter “earn and learn” job training models.

(b) (1) The board, on or before December 1, 2015, shall prepare and submit to the appropriate policy committees of the Legislature a report on the findings and recommendations of the board.

(2) The requirement for submitting a report imposed pursuant to this subdivision is inoperative on January 1, 2019, pursuant to Section 10231.5 of the Government Code.

(c) (1) The Department of Consumer Affairs shall engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report prepared by the board pursuant to subdivision (b), entitled Expanding Earn and Learn Models in the California Health Care Industry. The stakeholder process shall include all of the following:

(A) The department convening allied health workforce stakeholders, which shall include, but are not limited to, the department’s relevant licensure boards, the Division of Apprenticeship Standards, representatives appointed by the board of governors from the California community college system, the California Workforce Development Board, and the State Department of Public Health, and which may include other relevant entities such as the Office of Statewide Health Planning and Development, employer and worker representatives, and community-based organizations.

(B) Addressing issues that include, but are not limited to, precensure classifications in allied health occupations that would allow students, in a supervised setting, to gain experience in their chosen field before obtaining licensure, and the payment of wages while in a workplace-based training program.

(C) The department ensuring that existing standards of consumer protection are maintained.

(D) Sharing any statutory barriers identified through this process with the relevant committees of the Legislature.

(2) The process described in paragraph (1) shall be completed by, and this subdivision shall be inoperative on, January 1, 2020.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Thurmond	BILL NUMBER:	AB 2272
SPONSOR:	California Nurses Association/National Nurses United	BILL STATUS:	Engrossing and Enrollment
SUBJECT:	Occupational safety and health standards	DATE LAST AMENDED:	August 15, 2016

SUMMARY:

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. A violation of these standards and regulations under specific circumstances is a crime.

ANALYSIS:

This bill would require the board to adopt standards to protect health care personnel and patients from plume, defined as noxious airborne contaminants generated as byproducts of the use of specific devices during surgical, diagnostic, or therapeutic procedures. The bill would require the board, in adopting these standards, to take into consideration and use as a benchmark certain standards adopted by specified organizations. The bill would require the board to use as the mandated requirement for plume scavenging systems recommendations of the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health, where the board determines those recommendations are more effective in the evacuation of plume and would be more protective of occupational health than the described standards.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks or respirators does not satisfy the requirements for protection from surgical plumes under these provisions.

Amended analysis as of 6/14:

This bill would require the board, by June 1, 2018, to adopt standards to protect health care personnel and patients from plume, defined as noxious airborne contaminants generated as byproducts of the use of specific devices during surgical, diagnostic, or therapeutic procedures.

The bill would require the board, as part of the standards, to include a requirement that employers provide training to all health care workers involved in procedures that involve the creation of plume, as specified.

Amended analysis as of 8/1:

The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer's instructions.

Amended summary and analysis as of 8/15:

Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified.

This bill would now, by June 1, 2017, require the division to convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume and would authorize certain entities and people to be on the advisory committee, including, among others, practicing physicians and surgeons from affected specialties. The bill would require the division, in developing the regulation to do certain things, including evaluating the use of certain standards adopted by specified organizations as a benchmark. The bill would also require the division, when developing the proposed regulation, to take into consideration recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health.

The bill would, by June 1, 2018, require the division to submit to the board the proposed regulation. The bill would, by July 1, 2019, require the board to adopt the proposed regulation.

This bill would delete the provision for the board to include a requirement related to employer-related training.

This bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified.

This bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by these provisions.

BOARD POSITION: Not previously considered

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (8/11/16)

SUPPORT:

California Nurses Association/National Nurses United (Sponsor)
American Lung Association in California
California Labor Federation, AFL-CIO
Service Employees International Union
The International Council on Surgical Plume

OPPOSE:

California Hospital Association
California Association of Health Facilities

Assembly Bill No. 2272

Passed the Assembly August 30, 2016

Chief Clerk of the Assembly

Passed the Senate August 24, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 144.9 to the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2272, Thurmond. Occupational safety and health standards: plume.

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

This bill would, by June 1, 2017, require the division to convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume and would authorize certain entities and people to be on the advisory committee, including, among others, practicing physicians and surgeons from affected specialties. The bill would require the division, in developing the regulation to do certain things, including evaluating the use of certain standards adopted by specified organizations as a benchmark. The bill would also require the division, when developing the proposed regulation, to take into consideration recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration or National Institute for Occupational Safety and Health. The bill would, by June 1, 2018, require the division to submit to the board the proposed regulation. The bill would, by July 1, 2019, require the board to adopt the proposed regulation.

The bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does

not satisfy the requirements for protection from surgical plumes under these provisions, except as specified. The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer's instructions.

The bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by these provisions.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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

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

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

SECTION 1. Section 144.9 is added to the Labor Code, to read:

144.9. (a) As used in this section:

(1) "Division" means the Division of Occupational Safety and Health.

(2) "Electrocautery device" means a device that is electrically heated to cut, ablate, or coagulate human tissue for therapeutic purposes.

(3) "Electrosurgical device" means a device that uses a radio frequency electric current passing through the patient to cut, ablate, or coagulate human tissue for therapeutic purposes.

(4) "Energy-based device" means a device that uses energy to ablate, cauterize, or mechanically manipulate target human tissue including lasers, electrosurgical generators, broadband light sources, ultrasonic instruments, plasma generators, bone saws, and drills.

(5) "Health facility" means a health facility as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(6) “Plume” means noxious airborne contaminants generated as byproducts of the use of energy-based devices, electrosurgical devices, electrocautery devices, or mechanical tools during surgical, diagnostic, or therapeutic procedures.

(7) “Plume scavenging system” means smoke evacuators, laser plume evacuators, plume scavengers, and local exhaust ventilators that capture and neutralize plume at the site of origin and before plume can make ocular contact or contact with the respiratory tract of employees.

(b) (1) The division, by June 1, 2017, shall convene an advisory committee to develop a regulation that requires a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume. The advisory committee may include health facilities, practicing physicians and surgeons from affected specialties, registered nurses and other affected health care personnel, labor and specialty organizations representing affected registered nurses, labor and specialty organizations representing other affected health care personnel, and other stakeholders.

(2) By June 1, 2018, the division shall submit to the board the proposed regulation requiring a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume.

(3) In developing the regulation, the division shall do all of the following:

(A) Evaluate using as a benchmark the standards titled “Systems for evacuation of plume generated by medical devices” (ISO 16571) adopted by the International Organization for Standardization and the standards titled “Plume scavenging in surgical, diagnostic, therapeutic, and aesthetic settings” (CSA Z305.13-13) adopted by the CSA Group.

(B) Take into consideration recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration and National Institute for Occupational Safety and Health.

(C) Take into consideration the standards titled “Systems for evacuation of plume generated by medical devices” (ISO 16571) adopted by the International Organization for Standardization in

developing a standard establishing how much plume shall be captured by a plume scavenging system.

(D) Include a requirement in the regulation for employers to provide training to all workers foreseeably participating in procedures that involve the creation of plume. The training shall include, but not be limited to, general education on the contents of plume, the circumstances in which it is generated, the associated health and safety hazards, and appropriate use of the plume scavenging equipment and systems utilized by the health facility. The training shall be designed to provide an opportunity for interactive questions and answers with a person knowledgeable about occupational exposure to plume and the specific equipment utilized to scavenge plume.

(c) The board shall, by July 1, 2019, adopt the proposed regulation of the division, except as specified in subdivision (f), requiring a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume.

(d) (1) Nothing in this section alters, amends, expands, or reduces existing general room ventilation standards or requirements. These plume scavenging standards are in addition to general room ventilation standards or requirements, and compliance with general room ventilation standards shall not satisfy the requirements of this section.

(2) Evidence that the plume scavenging system conforms to the minimum requirements of this section when installed, operated, and maintained in accordance with the manufacturer's instructions, shall be provided by the manufacturer.

(e) The use of surgical masks shall not satisfy the requirements of this section. The use of respirators shall not satisfy the requirements of this section except when, due to medical necessity, the plume scavenging system is not able to be located where it effectively captures plume.

(f) This section shall not limit the authority of the division to develop a regulation, or the authority of the board to adopt a regulation, that is broader in scope or broader in application than required by this section.

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

district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Gordon	BILL NUMBER:	AB 2744
SPONSOR:	The Internet Association	BILL STATUS:	Governor
SUBJECT:	Healing arts: referrals	DATE LAST AMENDED:	August 8, 2016

SUMMARY:

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

ANALYSIS:

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells prepaid services, does not constitute a referral of services.

Amended analysis as of 4/11:

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells services on an Internet platform, does not constitute a referral of patients. The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser. The bill would specify that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions.

Amended analysis as of 6/6:

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells services through a third-party advertiser does not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee.

The bill would require a third-party advertiser to make available for purchase services advertised by all licensees in the applicable geographic region.

Amended analysis as of 6/16:

The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service is not appropriate for the purchaser, as specified. The bill would require a third-party advertiser to make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region.

Amended analysis as of 8/8:

The bill would require that the fee paid to the third-party advertiser be commensurate with the service provided by the third-party advertiser.

The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service provided by the licensee is not appropriate for the purchaser, or if the purchaser elects not to receive the service for any reason and requests a refund, as specified. The bill would require that a licensee disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service.

The bill would require a third-party advertiser to make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region and to disclose, in any advertisement offering a discount price for a service, the regular, nondiscounted price for that service.

BOARD POSITION: Watch (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16) and, on 8/11/16, continues the Board's Watch position

SUPPORT:

The Internet Association (sponsor)
Groupon

OPPOSE:

California Society of Plastic Surgeons

Assembly Bill No. 2744

Passed the Assembly August 23, 2016

Chief Clerk of the Assembly

Passed the Senate August 16, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 650 of the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, Gordon. Healing arts: referrals.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for licensed healing arts practitioners, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person. Existing law makes a violation of this provision a public offense punishable upon a first conviction by imprisonment, as specified, or a fine not exceeding \$50,000, or by imprisonment and that fine.

This bill would provide that the payment or receipt of consideration for advertising, wherein a licensed healing arts practitioner offers or sells services through a third-party advertiser, does not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee. The bill would require that the fee paid to the third-party advertiser be commensurate with the service provided by the third-party advertiser. The bill would require the purchaser of the service to receive a refund of the full purchase price if the licensee determines, after consultation with the purchaser, that the service provided by the licensee is not appropriate for the purchaser, or if the purchaser elects not to receive the service for any reason and requests a refund, as specified. The bill would require that a licensee disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service. The bill would specify that these provisions do not apply to basic health care services or essential health benefits, as defined. The bill would also provide that the entity that provides advertising is required to be able to demonstrate that the licensee consented in writing to these provisions. The bill would require a

third-party advertiser to make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region and to disclose, in any advertisement offering a discount price for a service, the regular, nondiscounted price for that service.

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

SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person

licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and subsequently amended versions.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) Notwithstanding the other subdivisions of this section or any other provision of law, the payment or receipt of consideration for advertising, wherein a licensee offers or sells services through a third-party advertiser, shall not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee. The fee paid to the third-party advertiser shall be commensurate with the service provided by the third-party advertiser. If the licensee determines, after consultation with the purchaser of the service, that the service provided by the licensee is not appropriate for the purchaser or if the purchaser elects not to receive the service for any reason and requests a refund, the purchaser shall receive a refund of the full purchase price as determined by the terms of the advertising service agreement between the third-party advertiser and the licensee. The

licensee shall disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service. This subdivision shall not apply to basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code, or essential health benefits, as defined in Section 1367.005 of the Health and Safety Code and Section 10112.27 of the Insurance Code. The entity that provides the advertising shall be able to demonstrate that the licensee consented in writing to the requirements of this subdivision. A third-party advertiser shall make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region. In any advertisement offering a discount price for a service, the licensee shall also disclose the regular, nondiscounted price for that service.

(h) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by that imprisonment and a fine of fifty thousand dollars (\$50,000).

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Low	BILL NUMBER:	AB 2859
SPONSOR:	Low	BILL STATUS:	Governor
SUBJECT:	Professions and vocations: retired category: licenses	DATE LAST AMENDED:	August 3, 2016

SUMMARY:

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines “board” for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

ANALYSIS:

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession.

The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

Amended analysis as of 6/15:

This bill would additionally authorize any of the boards within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. The bill would require that regulation to include specified provisions, including that a retired license be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons. The bill also would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would not apply to a board that has other statutory authority to establish a retired license.

Amended analysis as of 8/3:

This bill would require that a board that will now provide this category of licensure shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

BOARD POSITION: Watch (4/14/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16) and, on 8/11/16, continue the Board's Watch position

SUPPORT:

California Board of Accountancy

Contractors State License Board

OPPOSE: None on file

Assembly Bill No. 2859

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 464 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2859, Low. Professions and vocations: retired category: licenses.

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines "board" for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. The bill would require that regulation to include specified provisions, including that a retired license be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons. The bill also would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive. The bill would not apply to a board that has other statutory authority to establish a retired license.

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

SECTION 1. Section 464 is added to the Business and Professions Code, to read:

464. (a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(3) The holder of a retired license shall not be required to renew that license.

(4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

(5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or

vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

(d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Lara	BILL NUMBER:	SB 482
SPONSOR:	California Narcotic Officers' Association Consumer Attorneys of California	BILL STATUS:	Enrolled
SUBJECT:	Controlled substances: CURES database	DATE LAST AMENDED:	August 19, 2016

SUMMARY:

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires dispensing pharmacies and clinics to report specified information for each prescription of a Schedule II, Schedule III, or Schedule IV controlled substance to the department.

ANALYSIS:

This bill would require all prescribers, as defined, prescribing a Schedule II or Schedule III controlled substance, to consult a patient's electronic history in the CURES database before prescribing the controlled substance to the patient for the first time. The bill would also require the prescriber to consult the CURES database at least annually when the prescribed controlled substance remains part of the patient's treatment. The bill would prohibit prescribing an additional Schedule II or Schedule III controlled substance to a patient with an existing prescription until the prescriber determines that there is a legitimate need for the controlled substance.

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber is not in violation of these requirements during any time that the CURES database is suspended or not accessible, or during any time that the Internet is not operational. The bill would make its provisions operative upon the Department of Justice's certification that the CURES database is ready for statewide use.

Amended analysis as of 4/7:

The bill would make the failure to consult a patient's electronic history in the CURES database a cause for disciplinary action by the prescriber's licensing board and would require the licensing boards to notify all prescribers authorized to prescribe controlled substances of these requirements. The bill would provide that a prescriber is not in violation of these requirements if a specified condition exists,

including any time that the CURES database is suspended or not accessible, an inability to access the CURES database in a timely manner because of an emergency, when the controlled substance is prescribed to a patient receiving hospice care, or when the controlled substance is directly administered to the patient by the person prescribing the controlled substance. The bill would make its provisions operative upon the Department of Justice's certification that the CURES database is ready for statewide use.

Amended analysis as of 6/6:

The analyses of the bill when introduced and as amended have been stricken.

This bill now would require a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least annually thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian from this requirement. The bill would also exempt a health care practitioner from this requirement under specified circumstances, including, among others, if prescribing, ordering, administering, furnishing, or dispensing a controlled substance to a patient receiving hospice care, to a patient admitted to a specified facility, or to a patient as part of a treatment for a surgical procedure in a specified facility if the quantity of the controlled substance does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use.

The bill would exempt a health care practitioner from this requirement if it is not reasonably possible for him or her to access the information in the CURES database in a timely manner, another health care practitioner or designee authorized to access the CURES database is not reasonably available, and the quantity of controlled substance prescribed, ordered, administered, furnished, or dispensed does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

The bill would provide that a health care practitioner who knowingly fails to consult the CURES database is required to be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

The bill would make the above-mentioned provisions operative 6 months after the Department of Justice certifies that the CURES database is ready for statewide use.

The bill would also exempt a health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, from civil or administrative liability arising from any false, incomplete, or inaccurate information submitted to, or reported by, the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

Amended analysis as of 6/21:

This bill would require a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours before prescribing a Schedule II, Schedule III, or

Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.

This bill would provide that the duty to consult the CURES database does not apply when a health care practitioner prescribes, orders, administers, furnishes, or dispenses a controlled substance in the emergency department of a general acute care hospital if the quantity of the controlled substance does not exceed a seven-day supply of the controlled substance to be used in accordance with the directions for use.

Amended analysis as of 8/1:

This bill would require, if a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient pursuant to one of those exemptions, the health care practitioner to consult the CURES database before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.

Amended summary and analysis as of 8/19:

This bill would further amend provisions:

This bill would require a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours, or the previous business day, before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian *and a pharmacist* from this requirement.

This bill would provide that a health care practitioner who fails to consult the CURES database is required to be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. The bill would make the above-mentioned provisions operative 6 months after the Department of Justice certifies that the CURES database is ready for statewide use *and that the department had adequate staff, user support, and education, as specified.*

This bill would also exempt a health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, from civil or administrative liability arising from any false, incomplete, inaccurate, *or misattributed* information *submitted to, reported by, or relied upon in* the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

This bill adds:

Existing law requires the operation of the CURES database to comply with all applicable federal and state privacy and security laws and regulations. Existing law authorizes the disclosure of data obtained from the CURES database to agencies and entities only for specified purposes and requires the Department of Justice to establish policies, procedures, and regulations regarding the use, access, disclosure, and security of the information within the CURES database.

This bill would authorize a health care practitioner to provide a patient with a copy of the patient's CURES patient activity report if no additional CURES data is provided. The bill would also prohibit a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances from obtaining data from the CURES database.

BOARD POSITION: Support (6/4/15) position continued on 6/16/16.

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (5/12/16) and, on August 11, continue the Board's Support position.

SUPPORT:

California Narcotic Officers' Association (co-sponsor)
Consumer Attorneys of California (co-sponsor)
American Insurance Association
California Chamber of Commerce
California Teamsters Public Affairs Council
Center for Public Interest Law
Consumer Watchdog
National Alliance on Mental Illness
ShatterProof

OPPOSE:

California Medical Association

Senate Bill No. 482

Passed the Senate August 30, 2016

Secretary of the Senate

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 11165 and 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 482, Lara. Controlled substances: CURES database.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, administer, furnish, or dispense these controlled substances. Existing law requires dispensing pharmacies and clinics to report specified information for each prescription of a Schedule II, Schedule III, or Schedule IV controlled substance to the department.

This bill would require a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance to consult the CURES database to review a patient's controlled substance history no earlier than 24 hours, or the previous business day, before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the substance remains part of the treatment of the patient. The bill would exempt a veterinarian and a pharmacist from this requirement. The bill would also exempt a health care practitioner from this requirement under specified circumstances, including, among others, if prescribing, ordering, administering, or furnishing a controlled substance to a patient receiving hospice care, to a patient admitted to a specified facility for use while on facility premises, or to a patient as part of a treatment for a surgical procedure in a specified facility if the quantity of the controlled substance does not exceed a nonrefillable 5-day supply of the controlled substance that is to be used in accordance with the directions for use. The bill would require, if a health care practitioner authorized to prescribe, order, administer,

or furnish a controlled substance is not required to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient pursuant to one of those exemptions, the health care practitioner to consult the CURES database before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every 4 months thereafter if the substance remains part of the treatment of the patient.

This bill would provide that a health care practitioner who fails to consult the CURES database is required to be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. The bill would make the above-mentioned provisions operative 6 months after the Department of Justice certifies that the CURES database is ready for statewide use and that the department has adequate staff, user support, and education, as specified.

This bill would also exempt a health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, from civil or administrative liability arising from any false, incomplete, inaccurate, or misattributed information submitted to, reported by, or relied upon in the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

Existing law requires the operation of the CURES database to comply with all applicable federal and state privacy and security laws and regulations. Existing law authorizes the disclosure of data obtained from the CURES database to agencies and entities only for specified purposes and requires the Department of Justice to establish policies, procedures, and regulations regarding the use, access, disclosure, and security of the information within the CURES database.

This bill would authorize a health care practitioner to provide a patient with a copy of the patient's CURES patient activity report if no additional CURES data is provided. The bill would also prohibit a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances from obtaining data from the CURES database.

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

SECTION 1. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

(b) The Department of Justice may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

(c) (1) The operation of CURES shall comply with all applicable federal and state privacy and security laws and regulations.

(2) (A) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party, unless authorized by, or pursuant to, state and

federal privacy and security laws and regulations. The Department of Justice shall establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES, consistent with this subdivision.

(B) Notwithstanding subparagraph (A), a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances shall not be provided data obtained from CURES.

(3) In accordance with federal and state privacy laws and regulations, a health care practitioner may provide a patient with a copy of the patient's CURES patient activity report as long as no additional CURES data is provided and keep a copy of the report in the patient's medical record in compliance with subdivision (d) of Section 11165.1.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) The Department of Justice may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber and dispenser invitees shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The Department of Justice shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

(g) The Department of Justice may establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.

SEC. 2. Section 11165.1 of the Health and Safety Code is amended to read:

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

dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(ii) A pharmacist shall, before July 1, 2016, or upon licensure, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.

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

(i) Materially falsifying an application for a subscriber.

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

(iii) Suspended or revoked federal DEA registration.

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

(v) Any subscriber accessing information for any other reason than caring for his or her patients.

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

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

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

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled

substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

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

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

(f) A health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, is not subject to civil or administrative liability arising from any false, incomplete, inaccurate, or misattributed information submitted to, reported by, or relied upon in the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.

SEC. 3. Section 11165.4 is added to the Health and Safety Code, to read:

11165.4. (a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the CURES database to review a patient's controlled substance history before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every four months thereafter if the substance remains part of the treatment of the patient.

(ii) If a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required, pursuant to an exemption described in subdivision (c), to consult the CURES database the first time he or she prescribes, orders, administers, or furnishes a controlled substance to a patient, he or she shall consult the CURES database to review the patient's

controlled substance history before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every four months thereafter if the substance remains part of the treatment of the patient.

(B) For purposes of this paragraph, “first time” means the initial occurrence in which a health care practitioner, in his or her role as a health care practitioner, intends to prescribe, order, administer, or furnish a Schedule II, Schedule III, or Schedule IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

(2) A health care practitioner shall obtain a patient’s controlled substance history from the CURES database no earlier than 24 hours, or the previous business day, before he or she prescribes, orders, administers, or furnishes a Schedule II, Schedule III, or Schedule IV controlled substance to the patient.

(b) The duty to consult the CURES database, as described in subdivision (a), does not apply to veterinarians or pharmacists.

(c) The duty to consult the CURES database, as described in subdivision (a), does not apply to a health care practitioner in any of the following circumstances:

(1) If a health care practitioner prescribes, orders, or furnishes a controlled substance to be administered to a patient while the patient is admitted to any of the following facilities or during an emergency transfer between any of the following facilities for use while on facility premises:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(2) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance in the emergency department of a general acute care hospital and the quantity of the controlled substance does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use.

(3) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient as part of the patient's treatment for a surgical procedure and the quantity of the controlled substance does not exceed a nonrefillable five-day supply of the controlled substance to be used in accordance with the directions for use, in any of the following facilities:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(E) A place of practice, as defined in Section 1658 of the Business and Professions Code.

(4) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient currently receiving hospice care, as defined in Section 1339.40.

(5) (A) If all of the following circumstances are satisfied:

(i) It is not reasonably possible for a health care practitioner to access the information in the CURES database in a timely manner.

(ii) Another health care practitioner or designee authorized to access the CURES database is not reasonably available.

(iii) The quantity of controlled substance prescribed, ordered, administered, or furnished does not exceed a nonrefillable five-day supply of the controlled substance to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

(B) A health care practitioner who does not consult the CURES database under subparagraph (A) shall document the reason he or she did not consult the database in the patient's medical record.

(6) If the CURES database is not operational, as determined by the department, or when it cannot be accessed by a health care practitioner because of a temporary technological or electrical failure. A health care practitioner shall, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within his or her control.

(7) If the CURES database cannot be accessed because of technological limitations that are not reasonably within the control of a health care practitioner.

(8) If consultation of the CURES database would, as determined by the health care practitioner, result in a patient's inability to obtain a prescription in a timely manner and thereby adversely impact the patient's medical condition, provided that the quantity of the controlled substance does not exceed a nonrefillable five-day supply if the controlled substance were used in accordance with the directions for use.

(d) (1) A health care practitioner who fails to consult the CURES database, as described in subdivision (a), shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

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

(e) This section is not operative until six months after the Department of Justice certifies that the CURES database is ready for statewide use and that the department has adequate staff, which, at a minimum, shall be consistent with the appropriation authorized in Schedule (6) of Item 0820-001-0001 of the Budget Act of 2016 (Chapter 23 of the Statutes of 2016), user support, and education. The department shall notify the Secretary of State and the office of the Legislative Counsel of the date of that certification.

(f) All applicable state and federal privacy laws govern the duties required by this section.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1039
SPONSOR:	Hill	BILL STATUS:	Enrolled
SUBJECT:	Professions and Vocations	DATE LAST AMENDED:	August 25, 2016

SUMMARY:

This bill is an omnibus bill and applies to a number of boards and bureaus within the Department of Consumer Affairs.

Section 3: The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to adopt regulations establishing standards for continuing education for licensees, as specified. That act requires providers of continuing education programs approved by the board to make records of continuing education courses given to registered nurses available for board inspection.

ANALYSIS:

Section 3: This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements.

Amended summary and analysis as of 4/7:

Section 3 renumbered as Section 4 and adds: The Nursing Practice Act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

This bill would provide that standards for continuing education shall take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care.

Added Section 6: Existing law requires certain businesses that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, among other provisions, as specified.

This bill would repeal those provision and related provisions in the Health and Safety Code (HSC) and the Insurance Code (IC).

Amended analysis as of 4/12:

There were no further amendments to Section 4 or Section 6.

Amended analysis as of 4/21:

Section 4 renumbered to Section 3, otherwise no other amendments.

Section 6 renumbered to Section 5.

This bill now amends rather than repeals BPC, HSC, and IC sections related to telephone medical advice services. The bill would discontinue the requirement that those businesses be registered with the bureau and would instead make the respective healing arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

Amended analysis as of 5/31:

This bill makes an editing change to BPC Section 2811 (a).

Section 5 related to telephone medical advice now renumbered as Section 6, otherwise no other amendments.

Amended analysis as of 6/22:

Section 3 now renumbered as Section 5 related to the Nursing Practice Act and Section 6 renumbered as Section 8 related to telephone medical advice.

Amended analysis as of 6/30:

This bill would continue to amend various sections of the Business and Professions Code and the Corporations Code, but does not amend or repeal any sections related to the Nursing Practice Act or telephone medical advice.

Amended analysis as of 8/1:

This bill continues with amendments for other parts of the Business and Professions Code but does not amend or repeal any sections related to the Nursing Practice Act or telephone medical advice.

Amended analysis as of 8/19:

This bill would add a new section to the Business and Professions Code related to nurse-midwife furnishing that provides for an application fee, renewal fee, and penalty fee for failure to renew a furnishing number.

Amended analysis as of 8/25:

This bill would delete amending the code section related to furnishing by certified nurse-midwives.

BOARD POSITION: Support amendments to BPC 2746.51, 2786.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2. Watch position for the other provisions (4/14/16). No position taken on repeal/amend provisions related to Section 6; Language not available to members at the time of the meeting. Continue with previous positions (6/16/16).

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (5/12/16) and, on 8/11, continue the Board's previous Support/Watch position

SUPPORT: None on file related to the Nursing Practice Act

OPPOSE: Related to the amendments proposed for the Nursing Practice Act:
American Nurses Association/California

Senate Bill No. 1039

Passed the Senate August 30, 2016

Secretary of the Senate

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 655, 1944, 2733, 2786.5, 2811, 2811.5, 2815, 2815.5, 2816, 2830.7, 2836.3, 2838.2, 4128.2, 4830, 4999, 4999.2, 8516, and 8518 of, to amend, repeal, and add Sections 4400, 7137, and 7153.3 of, to add Sections 2746.53 and 3030 to, to repeal Sections 4999.1, 4999.3, 4999.4, and 4999.6 of, and to repeal and add Sections 2546.9, 2565, 2566, 2566.1, and 4999.5 of, the Business and Professions Code, to amend Section 1348.8 of the Health and Safety Code, and to amend Section 10279 of the Insurance Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, Hill. Professions and vocations.

(1) Existing law requires the Office of Statewide Health Planning and Development to establish the Health Professions Education Foundation to, among other things, solicit and receive funds for the purpose of providing scholarships, as specified.

The bill would state the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program, as specified, to increase the supply of dentists serving in medically underserved areas.

(2) Existing law, the Dental Practice Act, requires the Dental Hygiene Committee of California to establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. Existing law prohibits the biennial renewal fee from exceeding \$160. Existing law requires these fees to be deposited in the State Dental Hygiene Fund and makes these moneys subject to appropriation by the Legislature.

This bill would instead prohibit the biennial renewal fee from exceeding \$500.

(3) Existing law makes the State Board of Optometry responsible for the regulation of nonresident contact lens sellers, registered dispensing opticians, spectacle lens dispensers, and contact lens dispensers.

Existing law authorizes the State Board of Optometry to issue a citation containing an order of abatement, an order to pay an administrative fine not to exceed \$50,000, or both, as specified, for a violation of a specific section of law governing the permitted relationship of an optometrist with any registered dispensing optician or any optical company.

This bill would make that \$50,000 limit a limit per investigation.

Existing law establishes regulatory fees for the regulation of nonresident contact lens sellers, registered dispensing opticians, spectacle lens dispensers, and contact lens dispensers, including, but not limited to, an initial registration fee, a renewal fee, and a delinquency fee. Existing law requires these fees to be deposited in the Dispensing Opticians Fund and makes these fees available, subject to appropriation, to the State Board of Optometry.

This bill would establish a specified minimum and maximum application fee amount for nonresident contact lens sellers, registered dispensing opticians, and spectacle lens dispensers. The bill would also establish increased minimum and maximum amounts for those already established fees. The bill would authorize the State Board of Optometry to periodically revise and fix these fees, as specified.

Existing law authorizes the State Board of Optometry to inspect any premises at which the business of a registered dispensing optician is colocated with the practice of an optometrist for the purposes of determining compliance with the aforementioned written lease agreement provisions.

This bill would authorize the State Board of Optometry at any time to inspect the premises registered with the board in which optometry is being practiced or in which spectacle or contact lenses are fitted or dispensed.

(4) The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to adopt regulations establishing standards for continuing education for licensees, as specified. That act requires providers of continuing education programs approved by the board to make records of continuing education courses given to registered nurses available for board inspection. That act also prescribes various fees to be paid by licensees and applicants for licensure, and requires these fees to be credited to the Board of

Registered Nursing Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require that the content of a continuing education course be based on generally accepted scientific principles. The bill would also require the board to audit continuing education providers, at least once every 5 years, to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation of regulatory requirements. The bill would raise specified fees, and would provide for additional fees, to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(5) The Pharmacy Law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs. That law prescribes various fees to be paid by licensees and applicants for licensure, and requires all fees collected on behalf of the board to be credited to the Pharmacy Board Contingent Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would, on and after July 1, 2017, modify specified fees to be paid by licensees and applicants for licensure pursuant to that act. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(6) The Veterinary Medicine Practice Act provides for the licensure and regulation of veterinarians by the Veterinary Medical Board, which is within the Department of Consumer Affairs. Under the act, it is unlawful and a misdemeanor for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances, including regularly licensed veterinarians in actual consultation from other states, regularly licensed veterinarians actually called from other states to attend cases in this state who do not open an office or appoint a place to do business within the state, or veterinarians employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties.

This bill would replace those exceptions with an exception for veterinarians holding a current, valid license in good standing in another state or country who provide assistance to a California licensed veterinarian and attend on a specific case, subject to

specified conditions, and an exception for veterinarians called into the state by a law enforcement agency or animal control agency. By requiring additional persons to be licensed under the act that were previously exempt, the bill would expand the definition of an existing crime and, therefore, would result in a state-mandated local program.

(7) Existing law requires businesses that employ, or contract or subcontract with, the full-time equivalent of 5 or more persons functioning as health care professionals, as defined, whose primary function is to provide telephone medical advice, that provide telephone medical advice services to a patient at a California address to be registered with the Telephone Medical Advice Services Bureau and further requires telephone medical advice services to comply with the requirements established by the Department of Consumer Affairs, as specified.

This bill would discontinue the requirement that those businesses be registered with the bureau, would instead make the respective healing arts licensing boards responsible for enforcing those requirements and any other laws and regulations affecting those health care professionals licensed in California, and would make conforming and related changes.

(8) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. That law also prescribes various fees to be paid by licensees and applicants for licensure, requires the board to set the fees by regulation, and requires fees and civil penalties received under that law to be deposited in the Contractors' License Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill, on and after July 1, 2017, would raise specified fees, would instead authorize the board to set the fees by regulation, and would require the board to establish criteria for the approval of expedited processing of applications, as specified. By increasing fees deposited into a continuously appropriated fund, this bill would make an appropriation.

(9) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board, which is within the Department of Consumer Affairs, and requires a licensee to pay a specified license

fee. Existing law makes any violation of those provisions punishable as a misdemeanor. Existing law places certain requirements on a registered company or licensee with regards to wood destroying pests or organisms, including that a registered company or licensee is prohibited from commencing work on a contract until an inspection has been made by a licensed Branch 3 field representative or operator, that the address of each property inspected or upon which work was completed is required to be reported to the board, as specified, and that a written inspection report be prepared and delivered to the person requesting the inspection or his or her agent. Existing law requires the original inspection report to be submitted to the board upon demand. Existing law requires that written report to contain certain information, including a foundation diagram or sketch of the structure or portions of the structure inspected, and requires the report, and any contract entered into, to expressly state if a guarantee for the work is made, and if so, the terms and time period of the guarantee. Existing law establishes the Structural Pest Control Fund, which is a continuously appropriated fund as it pertains to fees collected by the board.

This bill would require the operator who is conducting the inspection prior to the commencement of work to be employed by a registered company, except as specified. The bill would not require the address of an inspection report prepared for use by an attorney for litigation to be reported to the board or assessed a filing fee. The bill would require instead that the written inspection report be prepared and delivered to the person requesting it, the property owner, or the property owner's designated agent, as specified. The bill would allow an inspection report to be a complete, limited, supplemental, or reinspection report, as defined. The bill would require all inspection reports to be submitted to the board and maintained with field notes, activity forms, and notices of completion until one year after the guarantee expires if the guarantee extends beyond 3 years. The bill would require the inspection report to clearly list the infested or infected wood members or parts of the structure identified in the required diagram or sketch. By placing new requirements on a registered company or licensee, this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

Existing law requires a registered company to prepare a notice of work completed to give to the owner of the property when the work is completed.

This bill would make this provision applicable only to work relating to wood destroying pests and organisms.

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

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

Appropriation: yes.

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

SECTION 1. It is the intent of the Legislature to enact future legislation that would establish a Dental Corps Scholarship Program within the Health Professions Education Foundation to increase the supply of dentists serving in medically underserved areas.

SEC. 2. Section 655 of the Business and Professions Code is amended to read:

655. (a) For the purposes of this section, the following terms have the following meanings:

(1) “Health plan” means a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(2) “Optical company” means a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products.

(3) “Optometrist” means a person licensed pursuant to Chapter 7 (commencing with Section 3000) or an optometric corporation, as described in Section 3160.

(4) “Registered dispensing optician” means a person licensed pursuant to Chapter 5.5 (commencing with Section 2550).

(5) “Therapeutic ophthalmic product” means lenses or other products that provide direct treatment of eye disease or visual rehabilitation for diseased eyes.

(b) No optometrist may have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.

(c) (1) A registered dispensing optician or an optical company may operate, own, or have an ownership interest in a health plan so long as the health plan does not directly employ optometrists to provide optometric services directly to enrollees of the health plan, and may directly or indirectly provide products and services to the health plan or its contracted providers or enrollees or to other optometrists. For purposes of this section, an optometrist may be employed by a health plan as a clinical director for the health plan pursuant to Section 1367.01 of the Health and Safety Code or to perform services related to utilization management or quality assurance or other similar related services that do not require the optometrist to directly provide health care services to enrollees. In addition, an optometrist serving as a clinical director may not employ optometrists to provide health care services to enrollees of the health plan for which the optometrist is serving as clinical director. For the purposes of this section, the health plan’s utilization management and quality assurance programs that are consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) do not constitute providing health care services to enrollees.

(2) The registered dispensing optician or optical company shall not interfere with the professional judgment of the optometrist.

(3) The Department of Managed Health Care shall forward to the State Board of Optometry any complaints received from consumers that allege that an optometrist violated the Optometry Practice Act (Chapter 7 (commencing with Section 3000)). The Department of Managed Health Care and the State Board of Optometry shall enter into an Inter-Agency Agreement regarding the sharing of information related to the services provided by an optometrist that may be in violation of the Optometry Practice Act that the Department of Managed Health Care encounters in the

course of the administration of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(d) An optometrist, a registered dispensing optician, an optical company, or a health plan may execute a lease or other written agreement giving rise to a direct or indirect landlord-tenant relationship with an optometrist, if all of the following conditions are contained in a written agreement establishing the landlord-tenant relationship:

(1) (A) The practice shall be owned by the optometrist and in every phase be under the optometrist's exclusive control, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, fees charged for optometric products and services, the examination procedures and treatment provided to patients and the optometrist's contracting with managed care organizations.

(B) Subparagraph (A) shall not preclude a lease from including commercially reasonable terms that: (i) require the provision of optometric services at the leased space during certain days and hours, (ii) restrict the leased space from being used for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other ophthalmic products, except that the optometrist shall be permitted to sell therapeutic ophthalmic products if the registered dispensing optician, health plan, or optical company located on or adjacent to the optometrist's leased space does not offer any substantially similar therapeutic ophthalmic products for sale, (iii) require the optometrist to contract with a health plan network, health plan, or health insurer, or (iv) permit the landlord to directly or indirectly provide furnishings and equipment in the leased space.

(2) The optometrist's records shall be the sole property of the optometrist. Only the optometrist and those persons with written authorization from the optometrist shall have access to the patient records and the examination room, except as otherwise provided by law.

(3) The optometrist's leased space shall be definite and distinct from space occupied by other occupants of the premises, have a sign designating that the leased space is occupied by an independent optometrist or optometrists and be accessible to the optometrist after hours or in the case of an emergency, subject to

the facility's general accessibility. This paragraph shall not require a separate entrance to the optometrist's leased space.

(4) All signs and displays shall be separate and distinct from that of the other occupants and shall have the optometrist's name and the word "optometrist" prominently displayed in connection therewith. This paragraph shall not prohibit the optometrist from advertising the optometrist's practice location with reference to other occupants or prohibit the optometrist or registered dispensing optician from advertising their participation in any health plan's network or the health plan's products in which the optometrist or registered dispensing optician participates.

(5) There shall be no signs displayed on any part of the premises or in any advertising indicating that the optometrist is employed or controlled by the registered dispensing optician, health plan or optical company.

(6) Except for a statement that an independent doctor of optometry is located in the leased space, in-store pricing signs and as otherwise permitted by this subdivision, the registered dispensing optician or optical company shall not link its advertising with the optometrist's name, practice, or fees.

(7) Notwithstanding paragraphs (4) and (6), this subdivision shall not preclude a health plan from advertising its health plan products and associated premium costs and any copayments, coinsurance, deductibles, or other forms of cost sharing, or the names and locations of the health plan's providers, including any optometrists or registered dispensing opticians that provide professional services, in compliance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(8) A health plan that advertises its products and services in accordance with paragraph (7) shall not advertise the optometrist's fees for products and services that are not included in the health plan's contract with the optometrist.

(9) The optometrist shall not be precluded from collecting fees for services that are not included in a health plan's products and services, subject to any patient disclosure requirements contained in the health plan's provider agreement with the optometrist or that are not otherwise prohibited by the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(10) The term of the lease shall be no less than one year and shall not require the optometrist to contract exclusively with a health plan. The optometrist may terminate the lease according to the terms of the lease. The landlord may terminate the lease for the following reasons:

(A) The optometrist's failure to maintain a license to practice optometry or the imposition of restrictions, suspension or revocation of the optometrist's license or if the optometrist or the optometrist's employee is or becomes ineligible to participate in state or federal government-funded programs.

(B) Termination of any underlying lease where the optometrist has subleased space, or the optometrist's failure to comply with the underlying lease provisions that are made applicable to the optometrist.

(C) If the health plan is the landlord, the termination of the provider agreement between the health plan and the optometrist, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(D) Other reasons pursuant to the terms of the lease or permitted under the Civil Code.

(11) The landlord shall act in good faith in terminating the lease and in no case shall the landlord terminate the lease for reasons that constitute interference with the practice of optometry.

(12) Lease or rent terms and payments shall not be based on number of eye exams performed, prescriptions written, patient referrals or the sale or promotion of the products of a registered dispensing optician or an optical company.

(13) The landlord shall not terminate the lease solely because of a report, complaint, or allegation filed by the optometrist against the landlord, a registered dispensing optician or a health plan, to the State Board of Optometry or the Department of Managed Health Care or any law enforcement or regulatory agency.

(14) The landlord shall provide the optometrist with written notice of the scheduled expiration date of a lease at least 60 days prior to the scheduled expiration date. This notice obligation shall not affect the ability of either party to terminate the lease pursuant to this section. The landlord may not interfere with an outgoing optometrist's efforts to inform the optometrist's patients, in

accordance with customary practice and professional obligations, of the relocation of the optometrist's practice.

(15) The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if such a request is made, the landlord or tenant, as applicable, shall promptly comply with the request. Failure or refusal to comply with the request for lease agreements within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. This section shall not affect the Department of Managed Health Care's authority to inspect all books and records of a health plan pursuant to Section 1381 of the Health and Safety Code.

Any financial information contained in the lease submitted to a regulatory entity, pursuant to this paragraph, shall be considered confidential trade secret information that is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(16) This subdivision shall not be applicable to the relationship between any optometrist employee and the employer medical group, or the relationship between a medical group exclusively contracted with a health plan regulated by the Department of Managed Health Care and that health plan.

(e) No registered dispensing optician may have any membership, proprietary interest, coownership, or profit-sharing arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as permitted under this section.

(f) Nothing in this section shall prohibit a person licensed under Chapter 5 (commencing with Section 2000) or its professional corporation from contracting with or employing optometrists, ophthalmologists, or optometric assistants and entering into a contract or landlord tenant relationship with a health plan, an optical company, or a registered dispensing optician, in accordance with Sections 650 and 654 of this code.

(g) Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section.

(h) (1) Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars (\$50,000) per investigation. In assessing the amount of the fine, the board shall give due consideration to all of the following:

- (A) The gravity of the violation.
- (B) The good faith of the cited person or entity.
- (C) The history of previous violations of the same or similar nature.
- (D) Evidence that the violation was or was not willful.
- (E) The extent to which the cited person or entity has cooperated with the board's investigation.
- (F) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

(G) Any other factors as justice may require.

(2) A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following:

- (A) The issuance of a citation without an administrative fine.
- (B) The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2).

(4) The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation

is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(5) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(i) Administrative fines collected pursuant to this section shall be deposited in the Dispensing Opticians Fund. It is the intent of the Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.

SEC. 3. Section 1944 of the Business and Professions Code is amended to read:

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

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

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

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

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

(5) The biennial renewal fee shall not exceed five hundred dollars (\$500).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment

of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. Section 2546.9 of the Business and Professions Code is repealed.

SEC. 5. Section 2546.9 is added to the Business and Professions Code, to read:

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

(a) The application fee for a nonresident contact lens seller shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).

(b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).

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

(f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.

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

SEC. 6. Section 2565 of the Business and Professions Code is repealed.

SEC. 7. Section 2565 is added to the Business and Professions Code, to read:

2565. The amount of fees prescribed in connection with the registration of dispensing opticians shall be as set forth in this section.

(a) The application fee for registration shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).

(b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).

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

(f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.

SEC. 8. Section 2566 of the Business and Professions Code is repealed.

SEC. 9. Section 2566 is added to the Business and Professions Code, to read:

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers is as follows:

(a) The application fee for a registered contact lens dispenser shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).

(b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(c) The biennial fee for the renewal of certificates shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).

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

(f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.

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

SEC. 10. Section 2566.1 of the Business and Professions Code is repealed.

SEC. 11. Section 2566.1 is added to the Business and Professions Code, to read:

2566.1. The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section:

(a) The application for registration fee shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).

(b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

(d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).

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

(f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.

SEC. 12. Section 2733 of the Business and Professions Code is amended to read:

2733. (a) (1) (A) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (k) of Section 2815, the board may issue a temporary license to practice professional nursing, and a temporary certificate to practice as a certified public health nurse for a period of six months from the date of issuance.

(B) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (d) of Section 2838.2, the board may issue a temporary certificate to practice as a certified clinical nurse specialist for a period of six months from the date of issuance.

(C) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (e) of Section 2815.5, the board may issue a temporary certificate to practice as a certified nurse-midwife for a period of six months from the date of issuance.

(D) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (d) of Section 2830.7, the board may issue a temporary certificate to practice as a certified nurse anesthetist for a period of six months from the date of issuance.

(E) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (p) of Section 2815, the board may issue a temporary certificate to practice as a certified nurse practitioner for a period of six months from the date of issuance.

(2) A temporary license or temporary certificate shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.

(b) Upon written application, the board may reissue a temporary license or temporary certificate to any person who has applied for a regular renewable license pursuant to subdivision (b) of Section 2732.1 and who, in the judgment of the board has been excusably delayed in completing his or her application for or the minimum requirements for a regular renewable license, but the board may not reissue a temporary license or temporary certificate more than twice to any one person.

SEC. 13. Section 2746.53 is added to the Business and Professions Code, to read:

2746.53. The board may charge the applicant a fee to cover all necessary costs to implement Section 2746.51, that shall be not less than four hundred dollars (\$400) nor more than one thousand five hundred dollars (\$1,500) for an initial application, nor less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000) for an application for renewal. The board may charge a penalty fee for failure to renew a furnishing number within the prescribed time that shall be not less than seventy-five dollars (\$75) nor more than five hundred dollars (\$500).

SEC. 14. Section 2786.5 of the Business and Professions Code is amended to read:

2786.5. (a) An institution of higher education or a private postsecondary school of nursing approved by the board pursuant to subdivision (b) of Section 2786 shall remit to the board for deposit in the Board of Registered Nursing Fund the following fees, in accordance with the following schedule:

(1) The fee for approval of a school of nursing shall be fixed by the board at not less than forty thousand dollars (\$40,000) nor more than eighty thousand dollars (\$80,000).

(2) The fee for continuing approval of a nursing program established after January 1, 2013, shall be fixed by the board at not less than fifteen thousand dollars (\$15,000) nor more than thirty thousand dollars (\$30,000).

(3) The processing fee for authorization of a substantive change to an approval of a school of nursing shall be fixed by the board at not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000).

(b) If the board determines that the annual cost of providing oversight and review of a school of nursing, as required by this article, is less than the amount of any fees required to be paid by that institution pursuant to this article, the board may decrease the fees applicable to that institution to an amount that is proportional to the board's costs associated with that institution.

SEC. 15. Section 2811 of the Business and Professions Code is amended to read:

2811. (a) Each person holding a regular renewable license under this chapter, whether in an active or inactive status, shall apply for a renewal of his or her license and pay the biennial

renewal fee required by this chapter each two years on or before the last day of the month following the month in which his or her birthday occurs, beginning with the second birthday following the date on which the license was issued, whereupon the board shall renew the license.

(b) Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

(c) A license in an inactive status may be restored to an active status if the licensee meets the continuing education standards of Section 2811.5.

SEC. 16. Section 2811.5 of the Business and Professions Code is amended to read:

2811.5. (a) Each person renewing his or her license under Section 2811 shall submit proof satisfactory to the board that, during the preceding two-year period, he or she has been informed of the developments in the registered nurse field or in any special area of practice engaged in by the licensee, occurring since the last renewal thereof, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of the licensee, and approved by the board, or by other means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to ensure that a variety of alternative forms of continuing education are available to licensees, including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the scientific knowledge

or technical skills required for the practice of nursing or be related to direct or indirect patient or client care. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) The board shall audit continuing education providers at least once every five years to ensure adherence to regulatory requirements, and shall withhold or rescind approval from any provider that is in violation of the regulatory requirements.

(d) The board shall encourage continuing education in spousal or partner abuse detection and treatment. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(e) In establishing standards for continuing education, the board shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

- (1) Pain and symptom management.
- (2) The psycho-social dynamics of death.
- (3) Dying and bereavement.
- (4) Hospice care.

(f) In establishing standards for continuing education, the board may include a course on pain management.

(g) This section shall not apply to licensees during the first two years immediately following their initial licensure in California or any other governmental jurisdiction.

(h) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

SEC. 17. Section 2815 of the Business and Professions Code is amended to read:

2815. Subject to the provisions of Section 128.5, the amount of the fees prescribed by this chapter in connection with the issuance of licenses for registered nurses under its provisions is that fixed by the following schedule:

(a) (1) The fee to be paid upon the filing by a graduate of an approved school of nursing in this state of an application for a

licensure by examination shall be fixed by the board at not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000).

(2) The fee to be paid upon the filing by a graduate of a school of nursing in another state, district, or territory of the United States of an application for a licensure by examination shall be fixed by the board at not less than three hundred fifty dollars (\$350) nor more than one thousand dollars (\$1,000).

(3) The fee to be paid upon the filing by a graduate of a school of nursing in another country of an application for a licensure by examination shall be fixed by the board at not less than seven hundred fifty dollars (\$750) nor more than one thousand five hundred dollars (\$1,500).

(4) The fee to be paid upon the filing of an application for licensure by a repeat examination shall be fixed by the board at not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase an examination from a vendor approved by the board.

(c) (1) The fee to be paid for application by a person who is licensed or registered as a nurse in another state, district, or territory of the United States for licensure by endorsement shall be fixed by the board at not less than three hundred fifty dollars (\$350) nor more than one thousand dollars (\$1,000).

(2) The fee to be paid for application by a person who is licensed or registered as a nurse in another country for licensure by endorsement shall be fixed by the board at not less than seven hundred fifty dollars (\$750) nor more than one thousand five hundred dollars (\$1,500).

(d) (1) The biennial fee to be paid upon the filing of an application for renewal of the license shall be not less than one hundred eighty dollars (\$180) nor more than seven hundred fifty dollars (\$750). In addition, an assessment of ten dollars (\$10) shall be collected and credited to the Registered Nurse Education Fund, pursuant to Section 2815.1.

(2) The fee to be paid upon the filing of an application for reinstatement pursuant to subdivision (b) of Section 2811 shall be not less than three hundred fifty dollars (\$350) nor more than one thousand dollars (\$1,000).

(e) The penalty fee for failure to renew a license within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee, but not less than ninety dollars (\$90) nor more than three hundred seventy-five dollars (\$375).

(f) The fee to be paid for approval of a continuing education provider shall be fixed by the board at not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(g) The biennial fee to be paid upon the filing of an application for renewal of provider approval shall be fixed by the board at not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000).

(h) The penalty fee for failure to renew provider approval within the prescribed time shall be fixed at not more than 50 percent of the regular renewal fee, but not less than one hundred twenty-five dollars (\$125) nor more than five hundred dollars (\$500).

(i) The penalty for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the board shall be fixed at not less than fifteen dollars (\$15) nor more than thirty dollars (\$30).

(j) The fee to be paid for an interim permit shall be fixed by the board at not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

(k) The fee to be paid for a temporary license shall be fixed by the board at not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

(l) The fee to be paid for processing endorsement papers to other states shall be fixed by the board at not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

(m) The fee to be paid for a certified copy of a school transcript shall be fixed by the board at not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

(n) (1) The fee to be paid for a duplicate pocket license shall be fixed by the board at not less than fifty dollars (\$50) nor more than seventy-five dollars (\$75).

(2) The fee to be paid for a duplicate wall certificate shall be fixed by the board at not less than sixty dollars (\$60) nor more than one hundred dollars (\$100).

(o) (1) The fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title “nurse practitioner” shall

be fixed by the board at not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500).

(2) The fee to be paid by a registered nurse for a temporary certificate to practice as a nurse practitioner shall be fixed by the board at not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500).

(3) The fee to be paid upon the filing of an application for renewal of a certificate to practice as a nurse practitioner shall be not less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000).

(4) The penalty fee for failure to renew a certificate to practice as a nurse practitioner within the prescribed time shall be not less than seventy-five dollars (\$75) nor more than five hundred dollars (\$500).

(p) The fee to be paid by a registered nurse for listing as a “psychiatric mental health nurse” shall be fixed by the board at not less than three hundred fifty dollars (\$350) nor more than seven hundred fifty dollars (\$750).

(q) The fee to be paid for duplicate National Council Licensure Examination for registered nurses (NCLEX-RN) examination results shall be not less than sixty dollars (\$60) nor more than one hundred dollars (\$100).

(r) The fee to be paid for a letter certifying a license shall be not less than twenty dollars (\$20) nor more than thirty dollars (\$30).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 18. Section 2815.5 of the Business and Professions Code is amended to read:

2815.5. The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse-midwives is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500).

(b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at not less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000).

(c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than seventy-five dollars (\$75) nor more than five hundred dollars (\$500).

(d) The fee to be paid upon the filing of an application for the nurse-midwife equivalency examination shall be fixed by the board at not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

(e) The fee to be paid for a temporary certificate shall be fixed by the board at not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500).

SEC. 19. Section 2816 of the Business and Professions Code is amended to read:

2816. The nonrefundable fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title “public health nurse” shall be equal to the fees set out in subdivision (o) of Section 2815. The fee to be paid upon the application for renewal of the certificate to practice as a public health nurse shall be fixed by the board at not less than one hundred twenty-five dollars (\$125) and not more than five hundred dollars (\$500). All fees payable under this section shall be collected by and paid to the Registered Nursing Fund. It is the intention of the Legislature that the costs of carrying out the purposes of this article shall be covered by the revenue collected pursuant to this section.

SEC. 20. Section 2830.7 of the Business and Professions Code is amended to read:

2830.7. The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse anesthetists is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500).

(b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at not less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000).

(c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on

the date of the renewal of the license, but not less than seventy-five dollars (\$75) nor more than five hundred dollars (\$500).

(d) The fee to be paid for a temporary certificate shall be fixed by the board at not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500).

SEC. 21. Section 2836.3 of the Business and Professions Code is amended to read:

2836.3. (a) The furnishing of drugs or devices by nurse practitioners is conditional on issuance by the board of a number to the nurse applicant who has successfully completed the requirements of subdivision (g) of Section 2836.1. The number shall be included on all transmittals of orders for drugs or devices by the nurse practitioner. The board shall make the list of numbers issued available to the Board of Pharmacy. The board may charge the applicant a fee to cover all necessary costs to implement this section, that shall be not less than four hundred dollars (\$400) nor more than one thousand five hundred dollars (\$1,500) for an initial application, nor less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000) for an application for renewal. The board may charge a penalty fee for failure to renew a furnishing number within the prescribed time that shall be not less than seventy-five dollars (\$75) nor more than five hundred dollars (\$500).

(b) The number shall be renewable at the time of the applicant's registered nurse license renewal.

(c) The board may revoke, suspend, or deny issuance of the numbers for incompetence or gross negligence in the performance of functions specified in Sections 2836.1 and 2836.2.

SEC. 22. Section 2838.2 of the Business and Professions Code is amended to read:

2838.2. (a) A clinical nurse specialist is a registered nurse with advanced education, who participates in expert clinical practice, education, research, consultation, and clinical leadership as the major components of his or her role.

(b) The board may establish categories of clinical nurse specialists and the standards required to be met for nurses to hold themselves out as clinical nurse specialists in each category. The standards shall take into account the types of advanced levels of nursing practice that are or may be performed and the clinical and didactic education, experience, or both needed to practice safety

at those levels. In setting the standards, the board shall consult with clinical nurse specialists, physicians and surgeons appointed by the Medical Board of California with expertise with clinical nurse specialists, and health care organizations that utilize clinical nurse specialists.

(c) A registered nurse who meets one of the following requirements may apply to become a clinical nurse specialist:

(1) Possession of a master's degree in a clinical field of nursing.

(2) Possession of a master's degree in a clinical field related to nursing with coursework in the components referred to in subdivision (a).

(3) On or before July 1, 1998, meets the following requirements:

(A) Current licensure as a registered nurse.

(B) Performs the role of a clinical nurse specialist as described in subdivision (a).

(C) Meets any other criteria established by the board.

(d) (1) A nonrefundable fee of not less than five hundred dollars (\$500), but not to exceed one thousand five hundred dollars (\$1,500) shall be paid by a registered nurse applying to be a clinical nurse specialist for the evaluation of his or her qualifications to use the title "clinical nurse specialist."

(2) The fee to be paid for a temporary certificate to practice as a clinical nurse specialist shall be not less than thirty dollars (\$30) nor more than fifty dollars (\$50).

(3) A biennial renewal fee shall be paid upon submission of an application to renew the clinical nurse specialist certificate and shall be established by the board at no less than one hundred fifty dollars (\$150) and no more than one thousand dollars (\$1,000).

(4) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than seventy-five dollars (\$75) nor more than five hundred dollars (\$500).

(5) The fees authorized by this subdivision shall not exceed the amount necessary to cover the costs to the board to administer this section.

SEC. 23. Section 3030 is added to the Business and Professions Code, to read:

3030. The board may at any time inspect the premises in which optometry is being practiced or in which spectacle or contact lenses are fitted or dispensed. The board's inspection authority does not

extend to premises that are not registered with the board. Nothing in this section shall be construed to affect the board's ability to investigate alleged unlicensed activity or to inspect premises for which registration has lapsed or is delinquent.

SEC. 24. Section 4128.2 of the Business and Professions Code is amended to read:

4128.2. (a) In addition to the pharmacy license requirement described in Section 4110, a centralized hospital packaging pharmacy shall obtain a specialty license from the board prior to engaging in the functions described in Section 4128.

(b) An applicant seeking a specialty license pursuant to this article shall apply to the board on forms established by the board.

(c) Before issuing the specialty license, the board shall inspect the pharmacy and ensure that the pharmacy is in compliance with this article and regulations established by the board.

(d) A license to perform the functions described in Section 4128 may only be issued to a pharmacy that is licensed by the board as a hospital pharmacy.

(e) A license issued pursuant to this article shall be renewed annually and is not transferrable.

(f) An applicant seeking renewal of a specialty license shall apply to the board on forms established by the board.

(g) A license to perform the functions described in Section 4128 shall not be renewed until the pharmacy has been inspected by the board and found to be in compliance with this article and regulations established by the board.

(h) Until July 1, 2017, the fee for issuance or annual renewal of a centralized hospital packaging pharmacy license shall be six hundred dollars (\$600) and may be increased by the board to eight hundred dollars (\$800).

SEC. 25. Section 4400 of the Business and Professions Code is amended to read:

4400. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the board according to the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be four hundred dollars (\$400) and may be increased to five hundred twenty dollars (\$520). The fee for the issuance of a temporary nongovernmental pharmacy permit shall be two hundred fifty

dollars (\$250) and may be increased to three hundred twenty-five dollars (\$325).

(b) The fee for a nongovernmental pharmacy license annual renewal shall be two hundred fifty dollars (\$250) and may be increased to three hundred twenty-five dollars (\$325).

(c) The fee for the pharmacist application and examination shall be two hundred dollars (\$200) and may be increased to two hundred sixty dollars (\$260).

(d) The fee for regrading an examination shall be ninety dollars (\$90) and may be increased to one hundred fifteen dollars (\$115). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license and biennial renewal shall be one hundred fifty dollars (\$150) and may be increased to one hundred ninety-five dollars (\$195).

(f) The fee for a nongovernmental wholesaler or third-party logistics provider license and annual renewal shall be seven hundred eighty dollars (\$780) and may be decreased to no less than six hundred dollars (\$600). The application fee for any additional location after licensure of the first 20 locations shall be three hundred dollars (\$300) and may be decreased to no less than two hundred twenty-five dollars (\$225). A temporary license fee shall be seven hundred fifteen dollars (\$715) and may be decreased to no less than five hundred fifty dollars (\$550).

(g) The fee for a hypodermic license and renewal shall be one hundred twenty-five dollars (\$125) and may be increased to one hundred sixty-five dollars (\$165).

(h) (1) The fee for application, investigation, and issuance of a license as a designated representative pursuant to Section 4053, or as a designated representative-3PL pursuant to Section 4053.1, shall be three hundred thirty dollars (\$330) and may be decreased to no less than two hundred fifty-five dollars (\$255).

(2) The fee for the annual renewal of a license as a designated representative or designated representative-3PL shall be one hundred ninety-five dollars (\$195) and may be decreased to no less than one hundred fifty dollars (\$150).

(i) (1) The fee for the application, investigation, and issuance of a license as a designated representative for a veterinary food-animal drug retailer pursuant to Section 4053 shall be three

hundred thirty dollars (\$330) and may be decreased to no less than two hundred fifty-five dollars (\$255).

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be one hundred ninety-five dollars (\$195) and may be decreased to no less than one hundred fifty dollars (\$150).

(j) (1) The application fee for a nonresident wholesaler or third-party logistics provider license issued pursuant to Section 4161 shall be seven hundred eighty dollars (\$780) and may be decreased to no less than six hundred dollars (\$600).

(2) For nonresident wholesalers or third-party logistics providers that have 21 or more facilities operating nationwide the application fees for the first 20 locations shall be seven hundred eighty dollars (\$780) and may be decreased to no less than six hundred dollars (\$600). The application fee for any additional location after licensure of the first 20 locations shall be three hundred dollars (\$300) and may be decreased to no less than two hundred twenty-five dollars (\$225). A temporary license fee shall be seven hundred fifteen dollars (\$715) and may be decreased to no less than five hundred fifty dollars (\$550).

(3) The annual renewal fee for a nonresident wholesaler license or third-party logistics provider license issued pursuant to Section 4161 shall be seven hundred eighty dollars (\$780) and may be decreased to no less than six hundred dollars (\$600).

(k) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(l) The fee for an intern pharmacist license shall be ninety dollars (\$90) and may be increased to one hundred fifteen dollars (\$115). The fee for transfer of intern hours or verification of licensure to another state shall be twenty-five dollars (\$25) and may be increased to thirty dollars (\$30).

(m) The board may waive or refund the additional fee for the issuance of a license where the license is issued less than 45 days before the next regular renewal date.

(n) The fee for the reissuance of any license, or renewal thereof, that has been lost or destroyed or reissued due to a name change shall be thirty-five dollars (\$35) and may be increased to forty-five dollars (\$45).

(o) The fee for the reissuance of any license, or renewal thereof, that must be reissued because of a change in the information, shall be one hundred dollars (\$100) and may be increased to one hundred thirty dollars (\$130).

(p) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(q) The fee for any applicant for a nongovernmental clinic license shall be four hundred dollars (\$400) and may be increased to five hundred twenty dollars (\$520) for each license. The annual fee for renewal of the license shall be two hundred fifty dollars (\$250) and may be increased to three hundred twenty-five dollars (\$325) for each license.

(r) The fee for the issuance of a pharmacy technician license shall be eighty dollars (\$80) and may be increased to one hundred five dollars (\$105). The fee for renewal of a pharmacy technician license shall be one hundred dollars (\$100) and may be increased to one hundred thirty dollars (\$130).

(s) The fee for a veterinary food-animal drug retailer license shall be four hundred five dollars (\$405) and may be increased to four hundred twenty-five dollars (\$425). The annual renewal fee for a veterinary food-animal drug retailer license shall be two hundred fifty dollars (\$250) and may be increased to three hundred twenty-five dollars (\$325).

(t) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty-five dollars (\$35) and may be increased to forty-five dollars (\$45).

(u) The fee for issuance or renewal of a nongovernmental sterile compounding pharmacy license shall be six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780). The fee for a temporary license shall be five hundred fifty dollars (\$550) and may be increased to seven hundred fifteen dollars (\$715).

(v) The fee for the issuance or renewal of a nonresident sterile compounding pharmacy license shall be seven hundred eighty dollars (\$780). In addition to paying that application fee, the nonresident sterile compounding pharmacy shall deposit, when submitting the application, a reasonable amount, as determined by the board, necessary to cover the board's estimated cost of performing the inspection required by Section 4127.2. If the

required deposit is not submitted with the application, the application shall be deemed to be incomplete. If the actual cost of the inspection exceeds the amount deposited, the board shall provide to the applicant a written invoice for the remaining amount and shall not take action on the application until the full amount has been paid to the board. If the amount deposited exceeds the amount of actual and necessary costs incurred, the board shall remit the difference to the applicant.

(w) This section shall become inoperative on July 1, 2017, and as of January 1, 2018, is repealed.

SEC. 26. Section 4400 is added to the Business and Professions Code, to read:

4400. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the board according to the following schedule:

(a) The fee for a nongovernmental pharmacy license shall be five hundred twenty dollars (\$520) and may be increased to five hundred seventy dollars (\$570). The fee for the issuance of a temporary nongovernmental pharmacy permit shall be two hundred fifty dollars (\$250) and may be increased to three hundred twenty-five dollars (\$325).

(b) The fee for a nongovernmental pharmacy license annual renewal shall be six hundred sixty-five dollars (\$665) and may be increased to nine hundred thirty dollars (\$930).

(c) The fee for the pharmacist application and examination shall be two hundred sixty dollars (\$260) and may be increased to two hundred eighty-five dollars (\$285).

(d) The fee for regrading an examination shall be ninety dollars (\$90) and may be increased to one hundred fifteen dollars (\$115). If an error in grading is found and the applicant passes the examination, the regrading fee shall be refunded.

(e) The fee for a pharmacist license shall be one hundred ninety-five dollars (\$195) and may be increased to two hundred fifteen dollars (\$215). The fee for a pharmacist biennial renewal shall be three hundred sixty dollars (\$360) and may be increased to five hundred five dollars (\$505).

(f) The fee for a nongovernmental wholesaler or third-party logistics provider license and annual renewal shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820). The application fee for any

additional location after licensure of the first 20 locations shall be three hundred dollars (\$300) and may be decreased to no less than two hundred twenty-five dollars (\$225). A temporary license fee shall be seven hundred fifteen dollars (\$715) and may be decreased to no less than five hundred fifty dollars (\$550).

(g) The fee for a hypodermic license shall be one hundred seventy dollars (\$170) and may be increased to two hundred forty dollars (\$240). The fee for a hypodermic license renewal shall be two hundred dollars (\$200) and may be increased to two hundred eighty dollars (\$280).

(h) (1) The fee for application, investigation, and issuance of a license as a designated representative pursuant to Section 4053, or as a designated representative-3PL pursuant to Section 4053.1, shall be one hundred fifty dollars (\$150) and may be increased to two hundred ten dollars (\$210).

(2) The fee for the annual renewal of a license as a designated representative or designated representative-3PL shall be two hundred fifteen dollars (\$215) and may be increased to three hundred dollars (\$300).

(i) (1) The fee for the application, investigation, and issuance of a license as a designated representative for a veterinary food-animal drug retailer pursuant to Section 4053 shall be one hundred fifty dollars (\$150) and may be increased to two hundred ten dollars (\$210).

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be two hundred fifteen dollars (\$215) and may be increased to three hundred dollars (\$300).

(j) (1) The application fee for a nonresident wholesaler or third-party logistics provider license issued pursuant to Section 4161 shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820).

(2) For nonresident wholesalers or third-party logistics providers that have 21 or more facilities operating nationwide the application fees for the first 20 locations shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820). The application fee for any additional location after licensure of the first 20 locations shall be three hundred dollars (\$300) and may be decreased to no less than two hundred twenty-five dollars (\$225). A temporary license fee shall be seven

hundred fifteen dollars (\$715) and may be decreased to no less than five hundred fifty dollars (\$550).

(3) The annual renewal fee for a nonresident wholesaler license or third-party logistics provider license issued pursuant to Section 4161 shall be seven hundred eighty dollars (\$780) and may be increased to eight hundred twenty dollars (\$820).

(k) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(l) The fee for an intern pharmacist license shall be one hundred sixty-five dollars (\$165) and may be increased to two hundred thirty dollars (\$230). The fee for transfer of intern hours or verification of licensure to another state shall be twenty-five dollars (\$25) and may be increased to thirty dollars (\$30).

(m) The board may waive or refund the additional fee for the issuance of a license where the license is issued less than 45 days before the next regular renewal date.

(n) The fee for the reissuance of any license, or renewal thereof, that has been lost or destroyed or reissued due to a name change shall be thirty-five dollars (\$35) and may be increased to forty-five dollars (\$45).

(o) The fee for the reissuance of any license, or renewal thereof, that must be reissued because of a change in the information, shall be one hundred dollars (\$100) and may be increased to one hundred thirty dollars (\$130).

(p) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures.

(q) The fee for any applicant for a nongovernmental clinic license shall be five hundred twenty dollars (\$520) for each license and may be increased to five hundred seventy dollars (\$570). The annual fee for renewal of the license shall be three hundred twenty-five dollars (\$325) for each license and may be increased to three hundred sixty dollars (\$360).

(r) The fee for the issuance of a pharmacy technician license shall be one hundred forty dollars (\$140) and may be increased to one hundred ninety-five dollars (\$195). The fee for renewal of a pharmacy technician license shall be one hundred forty dollars

(\$140) and may be increased to one hundred ninety-five dollars (\$195).

(s) The fee for a veterinary food-animal drug retailer license shall be four hundred thirty-five dollars (\$435) and may be increased to six hundred ten dollars (\$610). The annual renewal fee for a veterinary food-animal drug retailer license shall be three hundred thirty dollars (\$330) and may be increased to four hundred sixty dollars (\$460).

(t) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty-five dollars (\$35) and may be increased to forty-five dollars (\$45).

(u) The fee for issuance of a nongovernmental sterile compounding pharmacy license shall be one thousand six hundred forty-five dollars (\$1,645) and may be increased to two thousand three hundred five dollars (\$2,305). The fee for a temporary license shall be five hundred fifty dollars (\$550) and may be increased to seven hundred fifteen dollars (\$715). The annual renewal fee of the license shall be one thousand three hundred twenty-five dollars (\$1,325) and may be increased to one thousand eight hundred fifty-five dollars (\$1,855).

(v) The fee for the issuance of a nonresident sterile compounding pharmacy license shall be two thousand three hundred eighty dollars (\$2,380) and may be increased to three thousand three hundred thirty-five dollars (\$3,335). The annual renewal of the license shall be two thousand two hundred seventy dollars (\$2,270) and may be increased to three thousand one hundred eighty dollars (\$3,180). In addition to paying that application fee, the nonresident sterile compounding pharmacy shall deposit, when submitting the application, a reasonable amount, as determined by the board, necessary to cover the board's estimated cost of performing the inspection required by Section 4127.2. If the required deposit is not submitted with the application, the application shall be deemed to be incomplete. If the actual cost of the inspection exceeds the amount deposited, the board shall provide to the applicant a written invoice for the remaining amount and shall not take action on the application until the full amount has been paid to the board. If the amount deposited exceeds the amount of actual and necessary costs incurred, the board shall remit the difference to the applicant.

(w) The fee for the issuance of an outsourcing facility license shall be two thousand two hundred seventy dollars (\$2,270) and

may be increased to up to three thousand one hundred eighty dollars (\$3,180) by the board. The fee for the renewal of an outsourcing facility license shall be one thousand three hundred twenty-five dollars (\$1,325) and may be increased to up to one thousand eight hundred fifty-five dollars (\$1,855) by the board. The fee for a temporary outsourcing facility license shall be seven hundred fifteen dollars (\$715).

(x) The fee for the issuance of a nonresident outsourcing facility license shall be two thousand three hundred eighty dollars (\$2,380) and may be increased to up to three thousand three hundred thirty-five dollars (\$3,335) by the board. The fee for the renewal of a nonresident outsourcing facility license shall be two thousand two hundred seventy dollars (\$2,270) and may be increased to up to three thousand one hundred eighty dollars (\$3,180) by the board. In addition to paying that application fee, the nonresident outsourcing facility shall deposit, when submitting the application, a reasonable amount, as determined by the board, necessary to cover the board's estimated cost of performing the inspection required by Section 4129.2. If the required deposit is not submitted with the application, the application shall be deemed to be incomplete. If the actual cost of the inspection exceeds the amount deposited, the board shall provide to the applicant a written invoice for the remaining amount and shall not take action on the application until the full amount has been paid to the board. If the amount deposited exceeds the amount of actual and necessary costs incurred, the board shall remit the difference to the applicant.

(y) The fee for the issuance of a centralized hospital packaging license shall be eight hundred twenty dollars (\$820) and may be increased to one thousand one hundred fifty dollars (\$1,150). The annual renewal of the license shall be eight hundred five dollars (\$805) and may be increased to one thousand one hundred twenty-five dollars (\$1,125).

(z) This section shall become operative on July 1, 2017.

SEC. 27. Section 4830 of the Business and Professions Code is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Veterinarians holding a current, valid license in good standing in another state or country who provide assistance to a California licensed veterinarian and attend on a specific case. The California licensed veterinarian shall maintain a valid veterinarian-client-patient relationship. The veterinarian providing the assistance shall not establish a veterinarian-client-patient relationship with the client by attending the case or at a future time and shall not practice veterinary medicine, open an office, appoint a place to meet patients, communicate with clients who reside within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient that is located within this state.

(3) Veterinarians called into the state by a law enforcement agency or animal control agency pursuant to subdivision (b).

(4) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(5) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(6) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) (1) For purposes of paragraph (3) of subdivision (a), a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency, as defined in Section 31606 of the Food and Agricultural

Code, to attend to cases that are a part of an investigation of an alleged violation of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from the licensing requirements of this chapter if the law enforcement agency or animal control agency determines that it is necessary to call the veterinarian in order for the agency or officer to conduct the investigation in a timely, efficient, and effective manner. In determining whether it is necessary to call a veterinarian from another state, consideration shall be given to the availability of veterinarians in this state to attend to these cases. An agency, department, or officer that calls a veterinarian pursuant to this subdivision shall notify the board of the investigation.

(2) Notwithstanding any other provision of this chapter, a regularly licensed veterinarian in good standing who is called from another state to attend to cases that are a part of an investigation described in paragraph (1) may provide veterinary medical care for animals that are affected by the investigation with a temporary shelter facility, and the temporary shelter facility shall be exempt from the registration requirement of Section 4853 if all of the following conditions are met:

(A) The temporary shelter facility is established only for the purpose of the investigation.

(B) The temporary shelter facility provides veterinary medical care, shelter, food, and water only to animals that are affected by the investigation.

(C) The temporary shelter facility complies with Section 4854.

(D) The temporary shelter facility exists for not more than 60 days, unless the law enforcement agency or animal control agency determines that a longer period of time is necessary to complete the investigation.

(E) Within 30 calendar days upon completion of the provision of veterinary health care services at a temporary shelter facility established pursuant to this section, the veterinarian called from another state by a law enforcement agency or animal control agency to attend to a case shall file a report with the board. The report shall contain the date, place, type, and general description of the care provided, along with a listing of the veterinary health care practitioners who participated in providing that care.

(c) For purposes of paragraph (3) of subdivision (a), the board may inspect temporary facilities established pursuant to this section.

SEC. 28. Section 4999 of the Business and Professions Code is amended to read:

4999. “Telephone medical advice service” means any business entity that employs, or contracts or subcontracts, directly or indirectly, with, the full-time equivalent of five or more persons functioning as health care professionals, whose primary function is to provide telephone medical advice, that provides telephone medical advice services to a patient at a California address. “Telephone medical advice service” does not include a medical group that operates in multiple locations in California if no more than five full-time equivalent persons at any one location perform telephone medical advice services and those persons limit the telephone medical advice services to patients being treated at that location.

SEC. 29. Section 4999.1 of the Business and Professions Code is repealed.

SEC. 30. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. A telephone medical advice service shall be responsible for complying with the following requirements:

(a) (1) Ensuring that all health care professionals who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as an occupational therapist pursuant to Chapter 5.6 (commencing with Section 2570), as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant to Chapter 8.2 (commencing with Section 3610), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), as an optometrist pursuant

to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in subdivision (b).

(2) Ensuring that all health care professionals who provide telephone medical advice services from an out-of-state location, as identified in paragraph (1), are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

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

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

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

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

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

SEC. 31. Section 4999.3 of the Business and Professions Code is repealed.

SEC. 32. Section 4999.4 of the Business and Professions Code is repealed.

SEC. 33. Section 4999.5 of the Business and Professions Code is repealed.

SEC. 34. Section 4999.5 is added to the Business and Professions Code, to read:

4999.5. The respective healing arts licensing boards shall be responsible for enforcing this chapter and any other laws and

regulations affecting California licensed health care professionals providing telephone medical advice services.

SEC. 35. Section 4999.6 of the Business and Professions Code is repealed.

SEC. 36. Section 7137 of the Business and Professions Code is amended to read:

7137. The board shall set fees by regulation. These fees shall not exceed the following schedule:

(a) The application fee for an original license in a single classification shall not be more than three hundred dollars (\$300).

The application fee for each additional classification applied for in connection with an original license shall not be more than seventy-five dollars (\$75).

The application fee for each additional classification pursuant to Section 7059 shall not be more than seventy-five dollars (\$75).

The application fee to replace a responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee pursuant to Section 7068.2 shall not be more than seventy-five dollars (\$75).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than sixty dollars (\$60).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than sixty dollars (\$60).

(d) The initial license fee for an active or inactive license shall not be more than one hundred eighty dollars (\$180).

(e) The renewal fee for an active license shall not be more than three hundred sixty dollars (\$360).

The renewal fee for an inactive license shall not be more than one hundred eighty dollars (\$180).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall not be more than seventy-five dollars (\$75).

(h) The renewal fee for a home improvement salesperson registration shall not be more than seventy-five dollars (\$75).

(i) The application fee for an asbestos certification examination shall not be more than seventy-five dollars (\$75).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall not be more than seventy-five dollars (\$75).

(k) In addition to any other fees charged to C-10 and C-7 contractors, the board may charge a fee not to exceed twenty dollars (\$20), which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

(l) This section shall become inoperative on July 1, 2017, and as of January 1, 2018, is repealed.

SEC. 37. Section 7137 is added to the Business and Professions Code, to read:

7137. The board may set fees by regulation. These fees shall be set according to the following schedule:

(a) (1) The application fee for an original license in a single classification shall be three hundred thirty dollars (\$330) and may be increased to not more than three hundred seventy-five dollars (\$375).

(2) The application fee for each additional classification applied for in connection with an original license shall not be more than eighty-five dollars (\$85).

(3) The application fee for each additional classification pursuant to Section 7059 shall be one hundred fifty dollars (\$150) and may be increased to not more than one hundred seventy-five dollars (\$175).

(4) The application fee to replace a responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee pursuant to Section 7068.2 shall be one hundred fifty dollars (\$150) and may be increased to not more than one hundred seventy-five dollars (\$175).

(5) The application fee to add personnel, other than a qualifying individual, to an existing license shall be one hundred dollars (\$100) and may be increased to not more than one hundred fifteen dollars (\$115).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer, responsible managing manager, responsible managing member, or responsible managing

employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than seventy dollars (\$70).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than seventy dollars (\$70).

(d) The initial license fee for an active or inactive license shall be two hundred dollars (\$200) and may be increased to not more than two hundred twenty-five dollars (\$225).

(e) (1) The renewal fee for an active license shall be four hundred dollars (\$400) and may be increased to not more than four hundred fifty dollars (\$450).

(2) The renewal fee for an inactive license shall be two hundred dollars (\$200) and may be increased to not more than two hundred twenty-five dollars (\$225).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(h) The renewal fee for a home improvement salesperson registration shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(i) The application fee for an asbestos certification examination shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(k) In addition to any other fees charged to C-10 and C-7 contractors, the board may charge a fee not to exceed twenty dollars (\$20), which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

(l) The board shall, by regulation, establish criteria for the approval of expedited processing of applications. Approved expedited processing of applications for licensure or registration, as required by other provisions of law, shall not be subject to this subdivision.

(m) This section shall become operative on July 1, 2017.

SEC. 38. Section 7153.3 of the Business and Professions Code is amended to read:

7153.3. (a) To renew a home improvement salesperson registration, which has not expired, the registrant shall before the time at which the registration would otherwise expire, apply for renewal on a form prescribed by the registrar and pay a renewal fee prescribed by this chapter. Renewal of an unexpired registration shall continue the registration in effect for the two-year period following the expiration date of the registration, when it shall expire if it is not again renewed.

(b) An application for renewal of registration is delinquent if the application is not postmarked or received via electronic transmission as authorized by Section 7156.6 by the date on which the registration would otherwise expire. A registration may, however, still be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the registrar and the payment of the renewal fee prescribed by this chapter and a delinquent renewal penalty in the amount of twenty-five dollars (\$25). If a registration is not renewed within three years, the person shall make a new application for registration pursuant to Section 7153.1.

(c) The registrar may refuse to renew a registration for failure by the registrant to complete the application for renewal of registration. If a registrant fails to return the application rejected for insufficiency or incompleteness within 90 days from the original date of rejection, the application and fee shall be deemed abandoned. Any application abandoned may not be reinstated. However, the person may file a new application for registration pursuant to Section 7153.1.

The registrar may review and accept the petition of a person who disputes the abandonment of his or her renewal application upon a showing of good cause. This petition shall be received within 90 days of the date the application for renewal is deemed abandoned.

(d) This section shall become inoperative on July 1, 2017, and as of January 1, 2018, is repealed.

SEC. 39. Section 7153.3 is added to the Business and Professions Code, to read:

7153.3. (a) To renew a home improvement salesperson registration, which has not expired, the registrant shall before the time at which the registration would otherwise expire, apply for

renewal on a form prescribed by the registrar and pay a renewal fee prescribed by this chapter. Renewal of an unexpired registration shall continue the registration in effect for the two-year period following the expiration date of the registration, when it shall expire if it is not again renewed.

(b) An application for renewal of registration is delinquent if the application is not postmarked or received via electronic transmission as authorized by Section 7156.6 by the date on which the registration would otherwise expire. A registration may, however, still be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the registrar and the payment of the renewal fee prescribed by this chapter and a delinquent renewal penalty equal to 50 percent of the renewal fee. If a registration is not renewed within three years, the person shall make a new application for registration pursuant to Section 7153.1.

(c) (1) The registrar may refuse to renew a registration for failure by the registrant to complete the application for renewal of registration. If a registrant fails to return the application rejected for insufficiency or incompleteness within 90 days from the original date of rejection, the application and fee shall be deemed abandoned. Any application abandoned may not be reinstated. However, the person may file a new application for registration pursuant to Section 7153.1.

(2) The registrar may review and accept the petition of a person who disputes the abandonment of his or her renewal application upon a showing of good cause. This petition shall be received within 90 days of the date the application for renewal is deemed abandoned.

(d) This section shall become operative on July 1, 2017.

SEC. 40. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) A registered company or licensee shall not commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator employed by a registered company, except as provided in Section 8519.5.

The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500). The address of an inspection report prepared for use by an attorney for litigation purposes shall not be required to be reported to the board and shall not be assessed a filing fee.

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection and the property owner, or to the property owner's designated agent, within 10 business days from the start of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board or the property owner. An inspection report may be a complete, limited, supplemental, or reinspection report, as defined by Section 1993 of Title 16 of the California Code of Regulations. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. All inspection reports or copies thereof shall be submitted to the board upon demand within two business days. The following shall be set forth in the report:

- (1) The start date of the inspection and the name of the licensed field representative or operator making the inspection.
- (2) The name and address of the person or firm ordering the report.
- (3) The name and address of the property owner and any person who is a party in interest.
- (4) The address or location of the property.
- (5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, including the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist. Reporting of the infested or infected wood members, or parts of the structure identified, shall be listed in the inspection report to clearly identify them, as is typical in standard construction components, including, but not limited to, siding, studs, rafters, floor joists, fascia, subfloor, sheathing, and trim boards.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control or prevention as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate or bid shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing each corrective measure.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled “Reinspection.” Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company’s original inspection price and shall be completed within 10 business days after a reinspection has been ordered.

(13) The inspection report shall contain the following statement, printed in boldface type:

“NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.”

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separate report is available pursuant to this subdivision. If a separate report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

- (1) The infestation or infection that is evident.
- (2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separate report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the property owner or the property owner's designated agent chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separate form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect. If a guarantee extends beyond three years, the registered company shall maintain all original inspection reports, field notes, activity forms, and notices of completion for the duration of the guarantee period and for one year after the guarantee expires.

(g) For purposes of this section, "control service agreement" means an agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and

other activities related to the control or eradication of wood destroying pests and organisms. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms covered by the control service agreement.

(B) Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) The original inspection report, the control service agreement, and completion report shall be maintained for three years after the cancellation of the control service agreement.

(3) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(4) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(5) Under a control service agreement, a written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(6) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 41. Section 8518 of the Business and Professions Code is amended to read:

8518. (a) When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within

10 business days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

(b) The address of each property inspected or upon which work was completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after completed work.

(c) A filing fee shall be assessed pursuant to Section 8674 for every property upon which work is completed.

(d) Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision (b) of Section 8516 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

(e) The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

(f) Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

(g) This section shall only apply to work relating to wood destroying pests or organisms.

SEC. 42. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) A health care service plan that provides, operates, or contracts for telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service complies with the requirements of Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in

the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a dentist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the Business and Professions Code, as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, as a professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 of the Business and Professions Code unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Require that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data

regarding complaints filed with the department concerning telephone medical advice services.

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

SEC. 43. Section 10279 of the Insurance Code is amended to read:

10279. (a) Every disability insurer that provides group or individual policies of disability, or both, that provides, operates, or contracts for, telephone medical advice services to its insureds shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service complies with the requirements of Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant and are operating consistent with the laws governing their respective scopes of practice.

(3) Ensure that a physician and surgeon is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the commissioner.

(5) Require that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the disability insurer’s insureds in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the insurer

shall, upon the request of the director, provide the records to the director within 10 days of the request.

(6) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The commissioner shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

SEC. 44. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Hernandez	BILL NUMBER:	SB 1076
SPONSOR:	California Nurses Association	BILL STATUS:	Governor
SUBJECT:	General acute care hospitals: observation services	DATE LAST AMENDED:	August 18, 2016

SUMMARY:

This bill was introduced on February 16, 2016.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

(2) Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of every calendar quarter.

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

ANALYSIS:

Amended analysis as of 4/18:

(1) This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) This bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.

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

Amended summary and analysis as of 8/1:

This bill would substitute the following language for Section (2), above:

Existing law, the Health Data and Advisory Council Consolidation Act, requires every organization that operates, conducts, or maintains a health facility to make and file with the Office of Statewide Health Planning and Development (OSHPD) specified reports containing various financial and patient data. Existing law requires OSHPD to maintain a file of those reports in its Sacramento office and to compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure.

This bill would require OSHPD to include summaries of observation services data, upon request, in the data summaries maintained by OSHPD under the act.

Amended analysis as of 8/18:

This bill would require that the Office of Statewide Planning and Development compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. Upon request, these shall include summaries of observation services data *in a format prescribed by the office*.

BOARD POSITION: Watch (6/16/16)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Continues, on 8/11, Board's previous Watch position.

SUPPORT: (as of 5/4/16)

California Nurses Association (source)
California Alliance for Retired Americans
California Labor Federation
California Psychiatric Association
California School Employees Association
Tenet Health

OPPOSE:

Marin Healthcare District

Senate Bill No. 1076

Passed the Senate August 24, 2016

Secretary of the Senate

Passed the Assembly August 22, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 128765 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, Hernandez. General acute care hospitals: observation services.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Health Data and Advisory Council Consolidation Act, requires every organization that operates, conducts, or maintains a health facility to make and file with the Office of Statewide Health Planning and Development (OSHPD)

specified reports containing various financial and patient data. Existing law requires OSHPD to maintain a file of those reports in its Sacramento office and to compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure.

This bill would require OSHPD to include summaries of observation services data, upon request, in the data summaries maintained by OSHPD under the act.

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

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

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

SECTION 1. Section 1253.7 is added to the Health and Safety Code, to read:

1253.7. (a) For purposes of this chapter, “observation services” means outpatient services provided by a general acute care hospital and that have been ordered by a provider, to those patients who have unstable or uncertain conditions potentially serious enough to warrant close observation, but not so serious as to warrant inpatient admission to the hospital. Observation services may include the use of a bed, monitoring by nursing and other staff, and any other services that are reasonable and necessary to safely evaluate a patient’s condition or determine the need for a possible inpatient admission to the hospital.

(b) When a patient in an inpatient unit of a hospital or in an observation unit, as defined in subdivision (c), is receiving observation services, or following a change in a patient’s status from inpatient to observation, the patient shall receive written notice, as soon as practicable, that he or she is on observation status. The notice shall state that while on observation status, the patient’s care is being provided on an outpatient basis, which may affect his or her health care coverage reimbursement.

(c) For purposes of this chapter, “observation unit” means an area in which observation services are provided in a setting outside of any inpatient unit and that is not part of an emergency

department of a general acute care hospital. A hospital may establish one or more observation units that shall be marked with signage identifying the observation unit area as an outpatient area. The signage shall use the term “outpatient” in the title of the designated area to indicate clearly to all patients and family members that the observation services provided in the center are not inpatient services. Identifying an observation unit by a name or term other than that used in this subdivision does not exempt the general acute care hospital from compliance with the requirements of this section.

(d) Notwithstanding subdivisions (d) and (e) of Section 1275, an observation unit shall comply with the same licensed nurse-to-patient ratios as supplemental emergency services. This subdivision is not intended to alter or amend the effect of any regulation adopted pursuant to Section 1276.4 as of the effective date of the act that added this subdivision.

SEC. 2. Section 128765 of the Health and Safety Code is amended to read:

128765. (a) The office shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the office may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on its Internet Web site, with the exception of discharge and encounter data that shall be available for public inspection unless the office determines, pursuant to applicable law, that an individual patient’s rights of confidentiality would be violated.

(b) The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the office’s Internet Web site.

(c) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this chapter,

together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. Upon request, these shall include summaries of observation services data, in a format prescribed by the office. The summaries shall be posted on the office's Internet Web site. The office may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to ensure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director with an annual report on changes that can be made to improve the public's access to data.

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

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Lara	BILL NUMBER:	SB 1139
SPONSOR:	California Pan-Ethnic Health Network Pre-Health Dreamers	BILL STATUS:	Enrolled
SUBJECT:	Health Professionals: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayments	DATE LAST AMENDED:	August 15, 2016

SUMMARY:

Existing law requires the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation known as the Health Professions Education Foundation to perform various duties with respect to implementing health professions scholarship and loan programs.

ANALYSIS:

This bill would prohibit specified programs within the foundation, including programs which are funded by the continuously appropriated Health Professions Education Fund, the Medically Underserved Account for Physicians, and the Mental Health Services Fund, from denying an application based on the citizenship status or immigration status of the applicant.

Amended analysis as of 4/4:

The bill as amended adds “medical residency programs” to its subject. The bill adds as Section (1) a section related to the Medical Practice Act regarding applicants, including those without lawful immigration status, to medical school programs and medical residency training programs. Please refer to the attached bill for the new language.

Section (2) refers to the Health Professions Education Foundation; no changes.

Amended summary and analysis as of 4/19:

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

Amended analysis as of 8/1:

This bill amends the title from *Health professions: medical residency programs: undocumented immigrants: scholarships, loans and loan repayments* to *Health professionals: medical school programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans and loan repayments*.

This bill would make further changes related to medical school admissions.

Amended analysis as of 8/15:

This bill would change some language related to the Medical Practice Act. Please refer to the bill.

BOARD POSITION: Watch (4/14/16) position continued 6/16/16

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/16) position continued 5/11/16. On 8/11, continues the Board's Watch position

SUPPORT:

California Pan-Ethnic Health Network (sponsor)
Pre-Health Dreamers (sponsor)
American Academy of Pediatrics
American Civil Liberties Union of California
Asian Law Alliance
California Immigrant Policy Center
California Mental Health Connection
California Primary Care Association
California State Council of the Service Employees
International Union (SEIU)
Community Health Partnership of Santa Clara
Courage Campaign
Department of Medicine at the University of California, Irvine
Doctors for America
Educators for Fair Consideration
Greenlining Institute
Having Our Say Coalition
Health Access California
Inland Empire Immigrant Youth Coalition
Latino Medical Student Association
National Association of Social Workers
National Immigration Law Center
Services, Immigrant Rights, and Education Network
Stanford University Latino Medical Student Association
Western Center on Law & Poverty
Six individuals

OPPOSE: Californians for Population Stabilization

Senate Bill No. 1139

Passed the Senate August 30, 2016

Secretary of the Senate

Passed the Assembly August 18, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 2064.3 and 2064.4 to the Business and Professions Code, and to add Section 128371 to the Health and Safety Code, relating to health professionals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1139, Lara. Health professionals: medical degree programs: healing arts residency training programs: undocumented immigrants: nonimmigrant aliens: scholarships, loans, and loan repayment.

(1) Existing law, known as the Medical Practice Act, provides for licensing and regulation of physicians and surgeons by the Medical Board of California and imposes various requirements in that regard. Existing law requires an applicant for a license as a physician and surgeon to successfully complete a specified medical curriculum, a clinical instruction program, and a training program. Existing law provides that nothing in the Medical Practice Act shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as part of a clinical service program, subject to certain conditions.

This bill would prohibit a student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to a specified statute, or a person who fits into both of those categories, who meets the requirements for admission to a medical degree program at any public or private postsecondary educational institution that offers such a program from being denied admission to that program based on his or her citizenship status or immigration status. The bill would also prohibit such a student from being denied admission, based on his or her citizenship status or immigration status, to a healing arts residency training program whose participants are not paid. These provisions would not apply, except as provided, to a nonimmigrant alien, as defined in a specified provision of federal law.

(2) Existing law establishes the Office of Statewide Health Planning and Development and makes the office responsible for

administering various programs with respect to the health care professions.

This bill would prohibit specified programs administered by the office from denying an application based on the citizenship status or immigration status of the applicant.

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

SECTION 1. Section 2064.3 is added to the Business and Professions Code, to read:

2064.3. (a) Notwithstanding any other law, except as specified in subdivision (b), no student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, or a person who is both without lawful immigration status and exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, who meets the requirements for admission to a medical degree program at any public or private postsecondary educational institution that offers that program shall be denied admission to that program based on his or her citizenship status or immigration status.

(b) Except for students granted status pursuant to Section 1101(a)(15)(T) or (U) of Title 8 of the United States Code, this section shall not apply to a nonimmigrant alien within the meaning of paragraph (15) of subdivision (a) of Section 1101 of Title 8 of the United States Code, as that paragraph exists on January 1, 2017.

SEC. 2. Section 2064.4 is added to the Business and Professions Code, to read:

2064.4. (a) Notwithstanding any other law, except as specified in subdivision (b), no student, including a person without lawful immigration status, a person who is exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, or a person who is both without lawful immigration status and exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code, who meets the requirements for admission to a healing arts residency training program whose participants are not paid shall be denied admission to that program based on his or her citizenship status or immigration status.

(b) Except for students granted status pursuant to Section 1101(a)(15)(T) or (U) of Title 8 of the United States Code, this section shall not apply to a nonimmigrant alien within the meaning of paragraph (15) of subdivision (a) of Section 1101 of Title 8 of the United States Code, as that paragraph exists on January 1, 2017.

SEC. 3. Section 128371 is added to the Health and Safety Code, to read:

128371. (a) The Legislature finds and declares that it is in the best interest of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by those programs listed in subdivision (d), and therefore, enacts this section pursuant to Section 1621(d) of Title 8 of the United States Code.

(b) A program listed in subdivision (d) shall not deny an application based on the citizenship status or immigration status of the applicant.

(c) For any program listed in subdivision (d), when mandatory disclosure of a social security number is required, an applicant shall provide his or her social security number, if one has been issued, or an individual tax identification number that has been or will be submitted.

(d) This section shall apply to all of the following:

(1) Programs supported through the Health Professions Education Fund pursuant to Section 128355.

(2) The Registered Nurse Education Fund created pursuant to Section 128400.

(3) The Mental Health Practitioner Education Fund created pursuant to Section 128458.

(4) The Vocational Nurse Education Fund created pursuant to Section 128500.

(5) The Medically Underserved Account for Physicians created pursuant to Section 128555.

(6) Loan forgiveness and scholarship programs created pursuant to Section 5820 of the Welfare and Institutions Code.

(7) The Song-Brown Health Care Workforce Training Act created pursuant to Article 1 (commencing with Section 128200) of Chapter 4.

(8) To the extent permitted under federal law, the program administered by the office pursuant to the federal National Health

Service Corps State Loan Repayment Program (42 U.S.C. Sec. 254q-1), commonly known as the California State Loan Repayment Program.

(9) The programs administered by the office pursuant to the Health Professions Career Opportunity Program (Section 127885), commonly known as the Mini Grants Program, and California's Student/Resident Experiences and Rotations in Community Health, commonly known as the Cal-SEARCH program.

Approved _____, 2016

Governor

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1194
SPONSOR:	Hill	BILL STATUS:	Assembly Committee on Business and Professions
SUBJECT:	Professions and vocations: board actions and regulations	DATE LAST AMENDED:	August 19, 2016

SUMMARY:

This bill was introduced on February 18, 2016, as *Psychology: Board of Psychology: personnel*. It was amended on April 11, April 21, and May 31. On August 19, the bill was amended to remove application to the Board of Psychology and became *Professions and vocations: board actions and regulations*. Content previously considered by the Board contained in SB 1195 now appears in SB 1194.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

(2) 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.

ANALYSIS:

(1) This bill would instead authorize the director, upon his or her own initiative, and require the director upon the request of the board making the decision or the Legislature, to review any nonministerial market-sensitive action, except as specified, of a board within the department to determine whether it furthers a clearly articulated and affirmatively expressed state policy and to approve, disapprove, or recommend modifications of the board action, as specified. The bill would require the director to issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals and recommended modifications of board actions. The bill would require the director to review rules or regulations, as described above, within 60 days. The bill would require the director to disapprove a proposed rule or regulation that is a market-sensitive action that does not further clearly articulated and affirmatively expressed state policy and authorize him or her to recommend modifications.

(2) 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 for an act or omission occurring within the scope of his or her employment as a member of a 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 Government Claims Act.

BOARD POSITION: Not previously considered. The Board previously took an Oppose position on SB 1195.

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Not previously considered. The Legislative Committee previously made an Oppose recommendation to the Board for SB 1195.

SUPPORT:

Center for Public Interest Law (if amended)

OPPOSE:

California Nurses Association/National Nurses United

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE APRIL 11, 2016

SENATE BILL

No. 1194

Introduced by Senator Hill

February 18, 2016

An act to amend Sections ~~2909.5, 2913, 2914, 2914.1, 2914.2, 2915, 2920, and 2933~~ of, to add Sections 2934.1 and 2988.5 to, and to repeal Section 2947 of, the Business and Professions Code, relating to healing arts: 109, 116, 153, 307, 313.1 of the Business and Professions Code, and to amend Section 825 of the Government Code, relating to professional regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1194, as amended, Hill. ~~Psychology: Board of Psychology: personnel. Professions and vocations: board actions and regulations.~~

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the

director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director upon the request of the board making the decision or the Legislature, to review any nonministerial market-sensitive action, except as specified, of a board within the department to determine whether it furthers a clearly articulated and affirmatively expressed state policy and to approve, disapprove, or recommend modifications of the board action, as specified. The bill would require the director to issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals and recommended modifications of board actions. The bill would require the director to review rules or regulations, as described above, within 60 days. The bill would require the director to disapprove a proposed rule or regulation that is a market-sensitive action that does not further clearly articulated and affirmatively expressed state policy and authorize him or her to recommend modifications.

(2) 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 for an act or omission occurring within the scope of his or her employment as a member of a 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 Government Claims Act.

~~(1) Existing law, the Psychology Licensing Law (hereafter law), establishes the Board of Psychology to license and regulate the practice of psychology, and authorizes the board to employ all personnel necessary to carry out that law and to employ an executive officer, as specified. These provisions are in effect only until January 1, 2017.~~

~~This bill would extend those provisions to January 1, 2021.~~

~~(2) The law defines the practice of psychology as rendering or offering to render, for a fee, psychological services involving the application of psychological principles and methods, including the diagnosis, prevention, and treatment of psychological problems and emotional and mental disorders. The law prohibits unlicensed persons from practicing psychology, but authorizes unlicensed persons, including psychological assistants who meet certain requirements and do not provide psychological services to the public, except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation, or medical corporation, to perform limited psychological functions. The law also prohibits its provisions from being construed as restricting or preventing specified nonprofit community agency employees from carrying out activities of a psychological nature or using their official employment title, as specified, provided the employees do not render or offer to render psychological services. The law provides that a violation of any of its provisions is a misdemeanor.~~

~~This bill would recast these provisions to authorize an unlicensed person preparing for licensure as a psychologist to perform psychological functions under certain conditions, including registration with the board as a psychological assistant and immediate supervision by a licensed psychologist or physician and surgeon who is board certified in psychiatry, as specified. The bill would prohibit a psychological assistant from providing psychological services to the public except as a supervisee. The bill would expand the prohibition~~

on construing the law's provisions as restricting or preventing specified activities of nonprofit community agency employees by making this prohibition contingent on the employees' not rendering or offering to render psychological services to the public. By changing the definition of a crime, this bill would create a state-mandated local program.

~~(3) The law conditions the issuance of a psychology license upon an applicant having received any of certain kinds of doctorate degrees, from an accredited educational institution. The law requires, with certain exceptions, the board to issue renewal licenses for psychology only to those applicants who have completed 36 hours of approved continuing education in the preceding two years. Existing law prescribes a biennial license renewal fee of not more than \$500. Existing law also requires a person applying for relicensure or for reinstatement to an active license to certify under penalty of perjury that he or she is in compliance with the continuing education requirements. Existing law requires continuing education instruction to be completed within the state or be approved for credit by the American Psychological Association or its equivalent.~~

~~This bill would revise and recast the doctorate degree requirements for licensure to include, until January 1, 2020, a doctorate degree from an unaccredited institution that is approved for operation by a specified entity. The bill would replace the term "continuing education" with "continuing professional development," define "continuing professional development," require a person applying for renewal or reinstatement to certify compliance with these requirements under penalty of perjury, require continuing professional courses to be approved by organizations approved by the board, as specified, and authorize the board to grant exemptions from, or extensions for compliance with, these requirements.~~

~~This bill would authorize the board to issue a retired license to a licensed psychologist if the psychologist has applied to the board for a retired license and pays a fee of not more than \$75. The bill would also prohibit the holder of a retired license from engaging in the practice of psychology in the same manner as an active licensee. Because a violation of this prohibition would be a crime, the bill would impose a state-mandated local program.~~

~~(4) The law authorizes the board to appoint qualified persons to give the whole or any portion of any examination provided for in the law, to be designated as commissioners on examination.~~

~~This bill would repeal this authorization.~~

~~This bill would authorize the board to post on its Internet Web site the prescribed information regarding all current and former licensees.~~

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

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

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

State-mandated local program: *yes-no*.

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

1 SECTION 1. Section 109 of the Business and Professions Code
2 is amended to read:

3 109. ~~(a) The decisions of any of the boards comprising the~~
4 ~~department with respect to setting standards, conducting~~
5 ~~examinations, passing candidates, and revoking licenses, are not~~
6 ~~subject to review by the director, but are final within the limits~~
7 ~~provided by this code which are applicable to the particular board,~~
8 ~~except as provided in this section.~~

9 ~~(b)~~

10 109. (a) The director may initiate an investigation of any
11 allegations of misconduct in the preparation, administration, or
12 scoring of an examination which is administered by a board, or in
13 the review of qualifications which are a part of the licensing process
14 of any board. A request for investigation shall be made by the
15 director to the Division of Investigation through the chief of the
16 division or to any law enforcement agency in the jurisdiction where
17 the alleged misconduct occurred.

18 ~~(e)~~

19 (1) The director may intervene in any matter of any board where
20 an investigation by the Division of Investigation discloses probable
21 cause to believe that the conduct or activity of a board, or its
22 members or ~~employees~~ *employees*, constitutes a violation of
23 criminal law.

24 ~~The~~

25 (2) *The* term “intervene,” as used in paragraph ~~(e)~~ (1) of this
26 section may include, but is not limited to, an application for a
27 restraining order or injunctive relief as specified in Section 123.5,
28 or a referral or request for criminal prosecution. For purposes of
29 this section, the director shall be deemed to have standing under
30 Section 123.5 and shall seek representation of the Attorney

1 General, or other appropriate counsel in the event of a conflict in
2 pursuing that action.

3 *(b) (1) For the purposes of this subdivision, the following*
4 *definitions shall apply:*

5 *(A) “Action” includes nonministerial formal actions as voted*
6 *on by a board and nonministerial informal decisions made by staff*
7 *as a result of explicit or implied delegated authority to act on*
8 *behalf of the board.*

9 *(B) Notwithstanding any other law, “board” means a board,*
10 *committee, or commission within the Department of Consumer*
11 *Affairs.*

12 *(C) “Market-sensitive actions” means those actions that create*
13 *barriers to market participation and restrict competition, including,*
14 *but not limited to, examination passage scores, advertising*
15 *restrictions, price regulation, enlarging or restricting the scope*
16 *of practice qualifications for licensure, and a pattern or program*
17 *of disciplinary actions affecting multiple individuals that create*
18 *barriers to market participation.*

19 *(D) “Clearly articulated and affirmatively expressed state*
20 *policy” includes federal statutes and regulations, California state*
21 *statutes and regulations, department policies, and executive orders.*

22 *(2) (A) (i) Within 60 days of an action taking place, the director*
23 *may, upon his or her own initiative, and shall, upon request by the*
24 *board making the decision or the Legislature, review any action*
25 *by a board to determine if it is a market-sensitive action.*

26 *(ii) If the action is found to be a market-sensitive action, the*
27 *director shall, within 90 days of receiving a request for a review*
28 *or initiating a review pursuant to this section, further determine*
29 *whether the market-sensitive action furthers a clearly articulated*
30 *and affirmatively expressed state policy.*

31 *(iii) If the director initiates a review of an action, he or she shall*
32 *notify the relevant board of the review and whether the review*
33 *resulted from a contact made by a specific member of the*
34 *Legislature, a specific organization, or a member of the public.*

35 *(iv) The director’s decision to review an action under this*
36 *section shall serve to cease implementation of the action until the*
37 *review is finalized and the action is found to further a clearly*
38 *articulated and affirmatively expressed state policy.*

39 *(v) Any review by the director under this subdivision shall*
40 *include a full substantive review of the board action based upon*

1 *all the relevant facts in the record provided by the board and any*
2 *additional information identified by the director.*

3 *(B) Upon completion of the review, the director shall take one*
4 *of the following actions:*

5 *(i) Approve the action or decision upon determination that it*
6 *further a clearly articulated and affirmatively expressed state*
7 *policy.*

8 *(ii) Disapprove the action or decision if it does not further a*
9 *clearly articulated and affirmatively expressed state policy. Upon*
10 *disapproval, the director may recommend modifications to the*
11 *board action that the board may vote to accept and resubmit for*
12 *review by the director. If the board rejects the recommended*
13 *modification, the board action shall not take effect.*

14 *(3) This subdivision shall not be construed to apply to any action*
15 *taken by any board prior to January 1, 2017.*

16 *(c) The director shall issue, and post on the department's*
17 *Internet Web site, his or her final written decision on the board*
18 *action with an explanation of the reasons that action or decision*
19 *does or does not further a clearly articulated and affirmatively*
20 *expressed state policy and the rationale behind the director's*
21 *decision.*

22 *(d) The review set forth in subdivision (b) shall not apply to the*
23 *review of any regulation promulgated by a board, singular*
24 *disciplinary action, official positions on legislation or legislative*
25 *proposals, or any other sanction or citation imposed by a board*
26 *upon a single licensee unless it is part of a pattern or program of*
27 *disciplinary actions affecting multiple individuals that create*
28 *barriers to market participation.*

29 *(e) The director shall report to the Chairs of the Senate*
30 *Committee on Business, Professions, and Economic Development*
31 *and the Assembly Committee on Business and Professions annually,*
32 *commencing March 1, 2017, regarding his or her disapprovals*
33 *and recommendations for modifications pursuant to this section.*
34 *This report shall be submitted in compliance with Section 9795 of*
35 *the Government Code.*

36 *(f) This section shall not be construed to affect, impede, or delay*
37 *any disciplinary actions of any board, except those actions that*
38 *are under review as part of a potential pattern or program of*
39 *disciplinary actions affecting multiple individuals that create*
40 *barriers to market participation.*

1 (g) *This section shall not affect, impede, or delay the availability*
2 *of judicial review under any other law, including, but not limited*
3 *to, Section 1085 of the Code of Civil Procedure.*

4 *SEC. 2. Section 116 of the Business and Professions Code is*
5 *amended to read:*

6 116. (a) The director may audit and review, upon his or her
7 own initiative, or upon the request of a consumer or licensee,
8 inquiries and complaints regarding licensees, dismissals of
9 disciplinary cases, the opening, conduct, or closure of
10 investigations, informal conferences, and discipline short of formal
11 accusation by ~~the Medical Board of California, the allied health~~
12 ~~professional boards, and the California Board of Podiatric~~
13 ~~Medicine. The director may make recommendations for changes~~
14 ~~to the disciplinary system to the appropriate board, the Legislature,~~
15 ~~or both. any board or bureau within the department.~~

16 (b) The director shall report to the ~~Chairpersons~~ *Chairs* of the
17 Senate ~~Business and Professions~~ *Committee on Business,*
18 *Professions, and Economic Development* and the Assembly ~~Health~~
19 *Committee on Business and Professions* annually, commencing
20 March 1, ~~1995, 2017,~~ regarding his or her findings from any audit,
21 review, or monitoring and evaluation conducted pursuant to this
22 section. *This report shall be submitted in compliance with Section*
23 *9795 of the Government Code.*

24 *SEC. 3. Section 153 of the Business and Professions Code is*
25 *amended to read:*

26 153. The director may investigate the work of the several
27 boards in his *or her* department and may obtain a copy of all
28 records and full and complete data in all official matters in
29 possession of the boards, their members, officers, or ~~employees;~~
30 ~~other than examination questions prior to submission to applicants~~
31 ~~at scheduled examinations. employees.~~

32 *SEC. 4. Section 307 of the Business and Professions Code is*
33 *amended to read:*

34 307. The director may contract for the services of experts and
35 consultants where necessary to carry out ~~the provisions of~~ this
36 chapter and may provide compensation and reimbursement of
37 expenses for ~~such~~ *those* experts and consultants in accordance with
38 state law.

39 *SEC. 5. Section 313.1 of the Business and Professions Code*
40 *is amended to read:*

1 313.1. (a) ~~Notwithstanding~~ *For the purposes of this section,*
2 *the following definitions shall apply:*

3 (1) *“Market-sensitive actions” means those actions that create*
4 *barriers to market participation and restrict competition, including,*
5 *but not limited to, examination passage scores, advertising*
6 *restrictions, price regulation, enlarging or restricting the scope*
7 *of practice qualifications for licensure, and a pattern or program*
8 *of disciplinary actions affecting multiple individuals that create*
9 *barriers to market participation.*

10 (2) *“Clearly articulated and affirmatively expressed state*
11 *policy” includes federal statutes and regulations, California state*
12 *statutes and regulations, department policies, and executive orders.*

13 (b) ~~Notwithstanding any other provision of law to the contrary,~~
14 ~~no rule or regulation, except those relating to examinations and~~
15 ~~qualifications for licensure, regulation and no fee change proposed~~
16 ~~or promulgated by any of the boards, commissions, or committees~~
17 ~~within the department, shall take effect pending compliance with~~
18 ~~this section.~~

19 ~~(b)~~

20 (c) ~~The director shall be formally notified of and shall be~~
21 ~~provided a full opportunity to review, in accordance with the~~
22 ~~requirements of Article 5 (commencing with Section 11346) of~~
23 ~~Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government~~
24 ~~Code, and this section, all of the following:~~

25 (1) ~~All notices of proposed action, any modifications and~~
26 ~~supplements thereto, and the text of proposed regulations.~~

27 (2) ~~Any notices of sufficiently related changes to regulations~~
28 ~~previously noticed to the public, and the text of proposed~~
29 ~~regulations showing modifications to the text.~~

30 (3) ~~Final rulemaking records.~~

31 (4) ~~All relevant facts in the rulemaking record, which may~~
32 ~~include data, public comments, or other documentary evidence~~
33 ~~pertaining to the proposed regulation to determine whether it~~
34 ~~further a clearly articulated and affirmatively expressed state~~
35 ~~policy.~~

36 ~~(e)~~

37 (d) ~~The submission of all notices and final rulemaking records~~
38 ~~to the director and the completion of the director’s review,~~
39 ~~director’s approval, as authorized by this section, shall be a~~
40 ~~precondition to the filing of any rule or regulation with the Office~~

1 of Administrative Law. The Office of Administrative Law shall
 2 have no jurisdiction to review a rule or regulation subject to this
 3 section until after the completion of the director's review and only
 4 then if the director has not disapproved it. *approval*. The filing of
 5 any document with the Office of Administrative Law shall be
 6 accompanied by a certification that the board, commission, or
 7 committee has complied with the requirements of this section.

8 ~~(d)~~

9 *(e) (1) Following the receipt of any final rulemaking record*
 10 *subject to subdivision (a), the director shall have the authority for*
 11 *a period of 30 days to disapprove a proposed rule or regulation*
 12 *approve or disapprove a proposed rule or regulation within 60*
 13 *days. Disapproval shall only be allowed on the ground that it is*
 14 *injurious to the public health, safety, or welfare; welfare or is a*
 15 *market-sensitive action that does not further a clearly articulated*
 16 *and affirmatively expressed state policy.*

17 *(2) If the regulation is a market-sensitive action that does not*
 18 *further a clearly articulated and affirmatively expressed state*
 19 *policy, it shall be disapproved. If the director disapproves the*
 20 *regulation because it is a market-sensitive action that does not*
 21 *further a clearly articulated and affirmatively expressed state*
 22 *policy, he or she may recommend modifications. The disapproval*
 23 *shall be in writing and express the director's rationale for the*
 24 *disapproval.*

25 ~~(e)~~

26 *(f) Final rulemaking records shall be filed with the director*
 27 *within the one-year notice period specified in Section 11346.4 of*
 28 *the Government Code. If necessary for compliance with this*
 29 *section, the one-year notice period may be extended, as specified*
 30 *by this subdivision.*

31 *(1) In the event that the one-year notice period lapses during*
 32 *the director's 30-day review period, or within 60 days following*
 33 *the notice of the director's disapproval, it may be extended for a*
 34 *maximum of 90 days.*

35 *(2) If the director approves the final rulemaking record or*
 36 *declines to take action on it within 30 days, record, the board,*
 37 *commission, or committee board shall have five days from the*
 38 *receipt of the record from the director within which to file it with*
 39 *the Office of Administrative Law.*

1 (3) (A) If the director disapproves a rule or regulation, it shall
2 have no force or effect unless, within 60 days of the notice of
3 disapproval, (A) the disapproval is overridden by a unanimous
4 vote of the members of the board, commission, or committee, and
5 (B) the board, commission, or committee files the final rulemaking
6 record with the Office of Administrative Law in compliance with
7 this section and the procedures required by Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code.

10 (B) *Any regulation disapproved because it does not further a*
11 *clearly articulated and affirmatively expressed state policy shall*
12 *not be subject to this subdivision.*

13 ~~(f) Nothing in this~~

14 (g) This section shall not be construed to prohibit the director
15 from affirmatively approving a proposed rule, regulation, or fee
16 change at any time within the 30-day period after it has been
17 submitted to him or her, in which event it shall become effective
18 upon compliance with this section and the procedures required by
19 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
20 3 of Title 2 of the Government Code.

21 (h) *This section shall not affect, impede, or delay the availability*
22 *of judicial review under any other law, including, but not limited*
23 *to, Section 1085 of the Code of Civil Procedure.*

24 SEC. 6. *Section 825 of the Government Code is amended to*
25 *read:*

26 825. (a) Except as otherwise provided in this section, if an
27 employee or former employee of a public entity requests the public
28 entity to defend him or her against any claim or action against him
29 or her for an injury arising out of an act or omission occurring
30 within the scope of his or her employment as an employee of the
31 public entity and the request is made in writing not less than 10
32 days before the day of trial, and the employee or former employee
33 reasonably cooperates in good faith in the defense of the claim or
34 action, the public entity shall pay any judgment based thereon or
35 any compromise or settlement of the claim or action to which the
36 public entity has agreed.

37 If the public entity conducts the defense of an employee or
38 former employee against any claim or action with his or her
39 reasonable good-faith cooperation, the public entity shall pay any
40 judgment based thereon or any compromise or settlement of the

1 claim or action to which the public entity has agreed. However,
 2 where the public entity conducted the defense pursuant to an
 3 agreement with the employee or former employee reserving the
 4 rights of the public entity not to pay the judgment, compromise,
 5 or settlement until it is established that the injury arose out of an
 6 act or omission occurring within the scope of his or her
 7 employment as an employee of the public entity, the public entity
 8 is required to pay the judgment, compromise, or settlement only
 9 if it is established that the injury arose out of an act or omission
 10 occurring in the scope of his or her employment as an employee
 11 of the public entity.

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

14 (b) Notwithstanding subdivision (a) or any other provision of
 15 law, a public entity is authorized to pay that part of a judgment
 16 that is for punitive or exemplary damages if the governing body
 17 of that public entity, acting in its sole discretion except in cases
 18 involving an entity of the state government, finds all of the
 19 following:

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

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

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

28 As used in this subdivision with respect to an entity of state
 29 government, “a decision of the governing body” means the
 30 approval of the Legislature for payment of that part of a judgment
 31 that is for punitive damages or exemplary damages, upon
 32 recommendation of the appointing power of the employee or
 33 former employee, based upon the finding by the Legislature and
 34 the appointing authority of the existence of the three conditions
 35 for payment of a punitive or exemplary damages claim. The
 36 provisions of subdivision (a) of Section 965.6 shall apply to the
 37 payment of any claim pursuant to this subdivision.

38 The discovery of the assets of a public entity and the introduction
 39 of evidence of the assets of a public entity shall not be permitted

1 in an action in which it is alleged that a public employee is liable
2 for punitive or exemplary damages.

3 The possibility that a public entity may pay that part of a
4 judgment that is for punitive damages shall not be disclosed in any
5 trial in which it is alleged that a public employee is liable for
6 punitive or exemplary damages, and that disclosure shall be
7 grounds for a mistrial.

8 (c) Except as provided in subdivision (d), if the provisions of
9 this section are in conflict with the provisions of a memorandum
10 of understanding reached pursuant to Chapter 10 (commencing
11 with Section 3500) of Division 4 of Title 1, the memorandum of
12 understanding shall be controlling without further legislative action,
13 except that if those provisions of a memorandum of understanding
14 require the expenditure of funds, the provisions shall not become
15 effective unless approved by the Legislature in the annual Budget
16 Act.

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

22 (e) Nothing in this section shall affect the provisions of Section
23 818 prohibiting the award of punitive damages against a public
24 entity. This section shall not be construed as a waiver of a public
25 entity's immunity from liability for punitive damages under Section
26 1981, 1983, or 1985 of Title 42 of the United States Code.

27 (f) (1) Except as provided in paragraph (2), a public entity shall
28 not pay a judgment, compromise, or settlement arising from a
29 claim or action against an elected official, if the claim or action is
30 based on conduct by the elected official by way of tortiously
31 intervening or attempting to intervene in, or by way of tortiously
32 influencing or attempting to influence the outcome of, any judicial
33 action or proceeding for the benefit of a particular party by
34 contacting the trial judge or any commissioner, court-appointed
35 arbitrator, court-appointed mediator, or court-appointed special
36 referee assigned to the matter, or the court clerk, bailiff, or marshal
37 after an action has been filed, unless he or she was counsel of
38 record acting lawfully within the scope of his or her employment
39 on behalf of that party. Notwithstanding Section 825.6, if a public
40 entity conducted the defense of an elected official against such a

1 claim or action and the elected official is found liable by the trier
2 of fact, the court shall order the elected official to pay to the public
3 entity the cost of that defense.

4 (2) If an elected official is held liable for monetary damages in
5 the action, the plaintiff shall first seek recovery of the judgment
6 against the assets of the elected official. If the elected official's
7 assets are insufficient to satisfy the total judgment, as determined
8 by the court, the public entity may pay the deficiency if the public
9 entity is authorized by law to pay that judgment.

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

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

19 (g) *Notwithstanding subdivision (a), a public entity shall pay*
20 *for a judgment or settlement for treble damage antitrust awards*
21 *against a member of a regulatory board for an act or omission*
22 *occurring within the scope of his or her official capacity as a*
23 *member of a regulatory board.*

24 (h) *Treble damages awarded pursuant to the federal Clayton*
25 *Act (Sections 12 to 27, inclusive, of Title 15 of, and Sections 52*
26 *and 53 of Title 29 of, the United States Code) for a violation of*
27 *the federal Sherman Act (Sections 1 to 7, inclusive, of Title 15 of*
28 *the United States Code) are not punitive or exemplary damages*
29 *under the Government Claims Act (Division 3.6 (commencing with*
30 *Section 810) of Title 1 of the Government Code) for purposes of*
31 *this section.*

32 ~~SECTION 1. Section 2909.5 of the Business and Professions~~
33 ~~Code is amended to read:~~

34 ~~2909.5. This chapter shall not be construed as restricting or~~
35 ~~preventing activities of a psychological nature or the use of the~~
36 ~~official title of the position for which persons were employed on~~
37 ~~the part of persons who meet the educational requirements of~~
38 ~~subdivision (b) of Section 2914 and who have one year or more~~
39 ~~of the supervised professional experience referenced in subdivision~~
40 ~~(e) of Section 2914, if they are employed by nonprofit community~~

1 agencies that receive a minimum of 25 percent of their financial
2 support from any federal, state, county, or municipal governmental
3 organizations for the purpose of training and providing services,
4 provided those persons are performing those activities as part of
5 the duties for which they were employed, are performing those
6 activities solely within the confines of or under the jurisdiction of
7 the organization in which they are employed and do not render or
8 offer to render psychological services to the public, as defined in
9 Section 2903. Those persons shall be registered by the agency with
10 the board at the time of employment and shall be identified in the
11 setting as a “registered psychologist.” Those persons shall be
12 exempt from this chapter for a maximum period of 30 months from
13 the date of registration.

14 ~~SEC. 2.~~ Section 2913 of the Business and Professions Code is
15 amended to read:

16 ~~2913.~~ A person other than a licensed psychologist may perform
17 psychological functions in preparation for licensure as a
18 psychologist only if all of the following conditions are met:

19 (a) ~~The person shall register himself or herself with the board~~
20 ~~as a “psychological assistant.” This registration shall be renewed~~
21 ~~annually in accordance with regulations adopted by the board.~~

22 (b) ~~The person (1) has completed a master’s degree in~~
23 ~~psychology or education with the field of specialization in~~
24 ~~psychology or counseling psychology, or (2) has been admitted to~~
25 ~~candidacy for a doctoral degree in psychology or education with~~
26 ~~the field of specialization in psychology or counseling psychology;~~
27 ~~after having satisfactorily completed three or more years of~~
28 ~~postgraduate education in psychology and having passed~~
29 ~~preliminary doctoral examinations, or (3) has completed a doctoral~~
30 ~~degree that qualifies for licensure under Section 2914.~~

31 (c) ~~(1) The psychological assistant is at all times under the~~
32 ~~immediate supervision, as defined in regulations adopted by the~~
33 ~~board, of a licensed psychologist, or a licensed physician and~~
34 ~~surgeon who is certified in psychiatry by the American Board of~~
35 ~~Psychiatry and Neurology, who shall be responsible for insuring~~
36 ~~that the extent, kind, and quality of the psychological services that~~
37 ~~the psychological assistant performs are consistent with his or her~~
38 ~~training and experience and be responsible for the psychological~~
39 ~~assistant’s compliance with this chapter and regulations.~~

1 ~~(2) A licensed psychologist or board-certified psychiatrist shall~~
2 ~~not supervise more than three psychological assistants at any given~~
3 ~~time. No psychological assistant may provide psychological~~
4 ~~services to the public except as a supervisee pursuant to this~~
5 ~~section.~~

6 ~~(d) The psychological assistant shall comply with regulations~~
7 ~~that the board may, from time to time, duly adopt relating to the~~
8 ~~fulfillment of requirements in continuing education.~~

9 ~~SEC. 3. Section 2914 of the Business and Professions Code is~~
10 ~~amended to read:~~

11 ~~2914. Each applicant for licensure shall comply with all of the~~
12 ~~following requirements:~~

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

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

22 ~~(e) (1) On or after January 1, 2020, possess an earned doctorate~~
23 ~~degree in psychology, in educational psychology, or in education~~
24 ~~with the field of specialization in counseling psychology or~~
25 ~~educational psychology from a college or institution of higher~~
26 ~~education that is accredited by a regional accrediting agency~~
27 ~~recognized by the United States Department of Education. Until~~
28 ~~January 1, 2020, the board may accept an applicant who possesses~~
29 ~~a doctorate degree in psychology, educational psychology, or in~~
30 ~~education with the field of specialization in counseling psychology~~
31 ~~or educational psychology from an institution that is not accredited~~
32 ~~by an accrediting agency recognized by the United States~~
33 ~~Department of Education, but is approved to operate in this state~~
34 ~~by the Bureau for Private Postsecondary Education.~~

35 ~~(2) No educational institution shall be denied recognition as an~~
36 ~~accredited academic institution solely because its program is not~~
37 ~~accredited by any professional organization of psychologists, and~~
38 ~~nothing in this chapter or in the administration of this chapter shall~~
39 ~~require the registration with the board by educational institutions~~

1 of their departments of psychology or their doctoral programs in
2 psychology.

3 ~~(3) An applicant for licensure trained in an educational~~
4 ~~institution outside the United States or Canada shall demonstrate~~
5 ~~to the satisfaction of the board that he or she possesses a doctorate~~
6 ~~degree in psychology that is equivalent to a degree earned from a~~
7 ~~regionally accredited university in the United States or Canada.~~
8 ~~These applicants shall provide the board with a comprehensive~~
9 ~~evaluation of the degree performed by a foreign credential~~
10 ~~evaluation service that is a member of the National Association~~
11 ~~of Credential Evaluation Services (NACES), and any other~~
12 ~~documentation the board deems necessary.~~

13 ~~(d) (1) Have engaged for at least two years in supervised~~
14 ~~professional experience under the direction of a licensed~~
15 ~~psychologist, the specific requirements of which shall be defined~~
16 ~~by the board in its regulations, or under suitable alternative~~
17 ~~supervision as determined by the board in regulations duly adopted~~
18 ~~under this chapter, at least one year of which shall be after being~~
19 ~~awarded the doctorate in psychology. The supervisor shall submit~~
20 ~~verification of the experience required by this subdivision to the~~
21 ~~trainee in a manner prescribed by the board. If the supervising~~
22 ~~licensed psychologist fails to provide verification to the trainee in~~
23 ~~a timely manner, the board may establish alternative procedures~~
24 ~~for obtaining the necessary documentation. Absent good cause,~~
25 ~~the failure of a supervising licensed psychologist to provide the~~
26 ~~verification to the board upon request shall constitute~~
27 ~~unprofessional conduct.~~

28 ~~(2) The board shall establish qualifications by regulation for~~
29 ~~supervising psychologists.~~

30 ~~(e) Take and pass the examination required by Section 2941~~
31 ~~unless otherwise exempted by the board under this chapter.~~

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

36 ~~(g) (1) Show by evidence satisfactory to the board that he or~~
37 ~~she has completed coursework in spousal or partner abuse~~
38 ~~assessment, detection, and intervention. This requirement applies~~
39 ~~to applicants who began graduate training during the period~~

1 commencing on January 1, 1995, and ending on December 31,
2 2003.

3 (2) An applicant who began graduate training on or after January
4 1, 2004, shall show by evidence satisfactory to the board that he
5 or she has completed a minimum of 15 contact hours of coursework
6 in spousal or partner abuse assessment, detection, and intervention
7 strategies, including knowledge of community resources, cultural
8 factors, and same gender abuse dynamics. An applicant may request
9 an exemption from this requirement if he or she intends to practice
10 in an area that does not include the direct provision of mental health
11 services.

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

20 (h) Until January 1, 2020, an applicant holding a doctoral degree
21 in psychology from an approved institution is deemed to meet the
22 requirements of this section if both of the following are true:

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

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

30 SEC. 4. Section 2914.1 of the Business and Professions Code
31 is amended to read:

32 2914.1. The board shall encourage every licensed psychologist
33 to take continuing professional development in geriatric
34 pharmacology.

35 SEC. 5. Section 2914.2 of the Business and Professions Code
36 is amended to read:

37 2914.2. The board shall encourage licensed psychologists to
38 take continuing professional development in psychopharmacology
39 and biological basis of behavior.

1 ~~SEC. 6.— Section 2915 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~2915. (a) Except as provided in this section, the board shall~~
4 ~~issue a renewal license only to an applicant who has completed~~
5 ~~36 hours of approved continuing professional development in the~~
6 ~~preceding two years.~~

7 ~~(b) Each person who applies to renew or reinstate his or her~~
8 ~~license issued pursuant to this chapter shall certify under penalty~~
9 ~~of perjury that he or she is in compliance with this section and~~
10 ~~shall retain proof of this compliance for submission to the board~~
11 ~~upon request. False statements submitted pursuant to this section~~
12 ~~shall be a violation of Section 2970.~~

13 ~~(c) Continuing professional development means certain~~
14 ~~continuing education learning activities approved in four different~~
15 ~~categories:~~

16 ~~(1) Professional.~~

17 ~~(2) Academic.~~

18 ~~(3) Sponsored continuing education coursework.~~

19 ~~(4) Board certification from the American Board of Professional~~
20 ~~Psychology.~~

21 ~~The board may develop regulations further defining acceptable~~
22 ~~continuing professional development activities.~~

23 ~~(d) (1) The board shall require a licensed psychologist who~~
24 ~~began graduate study prior to January 1, 2004, to take a continuing~~
25 ~~education course during his or her first renewal period after the~~
26 ~~operative date of this section in spousal or partner abuse~~
27 ~~assessment, detection, and intervention strategies, including~~
28 ~~community resources, cultural factors, and same gender abuse~~
29 ~~dynamics. Equivalent courses in spousal or partner abuse~~
30 ~~assessment, detection, and intervention strategies taken prior to~~
31 ~~the operative date of this section or proof of equivalent teaching~~
32 ~~or practice experience may be submitted to the board and at its~~
33 ~~discretion, may be accepted in satisfaction of this requirement.~~

34 ~~(2) Continuing education courses taken pursuant to this~~
35 ~~subdivision shall be applied to the 36 hours of approved continuing~~
36 ~~professional development required under subdivision (a).~~

37 ~~(e) Continuing education courses approved to meet the~~
38 ~~requirements of this section shall be approved by organizations~~
39 ~~approved by the board. An organization previously approved by~~

1 the board to provide or approve continuing education is deemed
2 approved under this section.

3 (f) The board may accept sponsored continuing education
4 courses that have been approved by a private, nonprofit
5 organization that has demonstrated to the board in writing that it
6 has, at a minimum, a 10-year history of providing educational
7 programming for psychologists and has documented procedures
8 for maintaining a continuing education approval program. The
9 board shall adopt regulations as necessary for implementing this
10 section.

11 (g) The board may grant an exemption, or an extension of the
12 time for compliance with, from the continuing professional
13 development requirement of this section.

14 (h) The administration of this section may be funded through
15 professional license fees and continuing education provider and
16 course approval fees, or both. The fees related to the administration
17 of this section shall not exceed the costs of administering the
18 corresponding provisions of this section.

19 SEC. 7.— Section 2920 of the Business and Professions Code is
20 amended to read:

21 2920. (a) The Board of Psychology shall enforce and
22 administer this chapter. The board shall consist of nine members,
23 four of whom shall be public members.

24 (b) This section shall remain in effect only until January 1, 2021,
25 and as of that date is repealed.

26 (c) Notwithstanding any other law, the repeal of this section
27 renders the board subject to review by the appropriate policy
28 committees of the Legislature.

29 SEC. 8.— Section 2933 of the Business and Professions Code is
30 amended to read:

31 2933. (a) Except as provided by Section 159.5, the board shall
32 employ and shall make available to the board within the limits of
33 the funds received by the board all personnel necessary to carry
34 out this chapter. The board may employ, exempt from the State
35 Civil Service Act, an executive officer to the Board of Psychology.
36 The board shall make all expenditures to carry out this chapter.
37 The board may accept contributions to effectuate the purposes of
38 this chapter.

39 (b) This section shall remain in effect only until January 1, 2021,
40 and as of that date is repealed.

1 ~~SEC. 9.~~ Section 2934.1 is added to the Business and Professions
2 Code, to read:

3 2934.1. (a) ~~The board may post on its Internet Web site the~~
4 ~~following information on the current status of the license for all~~
5 ~~current and former licensees:~~

6 ~~(1) Whether or not the licensee has a record of a disciplinary~~
7 ~~action.~~

8 ~~(2) Any of the following enforcement actions or proceedings~~
9 ~~against the licensee:~~

10 ~~(A) Temporary restraining orders.~~

11 ~~(B) Interim suspension orders.~~

12 ~~(C) Revocations, suspensions, probations, or limitations on~~
13 ~~practice ordered by the board or by a court with jurisdiction in the~~
14 ~~state, including those made part of a probationary order, cease~~
15 ~~practice order, or stipulated agreement.~~

16 ~~(D) Accusations filed by the board, including those accusations~~
17 ~~that are on appeal, excluding ones that have been dismissed or~~
18 ~~withdrawn where the action is no longer pending.~~

19 ~~(E) Citations issued by the board. Unless withdrawn, citations~~
20 ~~shall be posted for five years from the date of issuance.~~

21 ~~(b) The board may also post on its Internet Web site all of the~~
22 ~~following historical information in its possession, custody, or~~
23 ~~control regarding all current and former licensees:~~

24 ~~(1) Institutions that awarded the qualifying educational degree~~
25 ~~and type of degree awarded.~~

26 ~~(2) A link to the licensee's professional Internet Web site.~~

27 ~~(c) The board may also post other information designated by~~
28 ~~the board in regulation.~~

29 ~~SEC. 10.~~ Section 2947 of the Business and Professions Code
30 ~~is repealed.~~

31 ~~SEC. 11.~~ Section 2988.5 is added to the Business and
32 ~~Professions Code, to read:~~

33 2988.5. (a) ~~The board may issue, upon an application~~
34 ~~prescribed by the board and payment of a fee not to exceed~~
35 ~~seventy-five dollars (\$75), a retired license to a psychologist who~~
36 ~~holds a current license issued by the board, or one capable of being~~
37 ~~renewed, and whose license is not suspended, revoked, or otherwise~~
38 ~~restricted by the board or subject to discipline under this chapter.~~

39 ~~(b) The holder of a retired license issued pursuant to this section~~
40 ~~shall not engage in any activity for which an active license is~~

1 required. A psychologist holding a retired license shall be permitted
2 to use the title “psychologist, retired” or “retired psychologist.”
3 The designation of retired shall not be abbreviated in any way.

4 (e) A retired license shall not be subject to renewal.
5 (d) The holder of a retired license may apply to obtain an active
6 status license as follows:

7 (1) If that retired license was issued less than three years prior
8 to the application date, the applicant shall meet all of the following
9 requirements:

10 (A) Has not committed an act or crime constituting grounds for
11 denial or discipline of a license.

12 (B) Pays the renewal fee required by this chapter.

13 (C) Completes the continuing professional development required
14 for the renewal of a license within two years of the date of
15 application for restoration.

16 (D) Complies with the fingerprint submission requirements
17 established by the board.

18 (2) Where the applicant has held a retired license for three or
19 more years, the applicant shall do all of the following:

20 (A) Submit a complete application for a new license.

21 (B) Take and pass the California Psychology Law and Ethics
22 Examination.

23 (C) Pay all fees required to obtain a new license.

24 (D) Comply with the fingerprint submission requirements
25 established by the board.

26 (E) Be deemed to have met the educational and experience
27 requirements of subdivisions (b) and (c) of Section 2914.

28 (F) Establish that he or she has not been subject to denial or
29 discipline of a license.

30 SEC. 12. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 15, 2016**

BILL ANALYSIS

AUTHOR:	Hill	BILL NUMBER:	SB 1195
SPONSOR:	Hill	BILL STATUS:	Senate Inactive file
SUBJECT:	Professions and vocations: board actions	DATE LAST AMENDED:	June 1, 2016

SUMMARY:

This bill was introduced on February 18, 2016, under a different title. It was amended on April 6.

Section 1. Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

Section 2. Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

Section 3. Refers to the Veterinary Medical Practice Act; please refer to the bill.

Section 4. Existing law, 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.

Section 5. The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.

Section 6. Please refer to the bill.

ANALYSIS:

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.

Section 2. This bill would instead prohibit the executive officer from being a licensee of the board.

Section 3. Please refer to the bill.

Section 4. 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 for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.

Section 5. This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decision makers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the

proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decision makers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.

Section 6. Please refer to the bill.

Amended analysis as of 6/1:

This bill changes the subject from *Professions and vocations: board actions: competitive impact* to *Professions and vocations: board actions*.

Section 1. This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of the board making the decision or the Legislature, to review any nonministerial market-sensitive decision or other action, except as specified, of a board within the department to determine whether it furthers state law and to approve, disapprove, request further information, or modify the board decision or action, as specified. The bill would require the director to issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request for review or the director's decision to review the board decision.

The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.

The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified.

The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.

Section 4. Analysis: The Government Claims 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 for an act or omission occurring within the scope of his or her employment as a member of a 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 Government Claims Act.

Section 5. This bill would delete language related to competitive impact. The bill would require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.

BOARD POSITION: Oppose (4/14/16) position continued 6/16/16

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (5/12/16) and, on 8/11, continue Board's Oppose position

SUPPORT:

Center for Public Interest Law

OPPOSE:

California Nurses Association

California Pharmacists Association

California Psychiatric Association

California Society of Certified Public Accountants

Presented by Donna Gerber, Chair of the Legislative Committee on August 11, 2016.

Respectfully update and clarify BRN's opposition letter regarding SB 1195 (or an amended vehicle in the current legislative session)

- BRN supports the deletion of the section that prohibited an RN EO.
- BRN is opposed to a wholesale transfer of authority from the BRN to the DCA Director because it is not necessary, is not what the Attorney General's office recommended as a reasonable response to "North Carolina Dental", it's overly broad, and has unintended consequences that would negatively affect the BRN's mission to protect patient consumers.
- BRN understands that SB 1195 purports to define California's response to the NC Dental Board court decision; but happily there are vast differences between NC and CA. We agree with the Ca Attorney General's opinion that California Boards already have significant oversight and State supervision as well as Legislative oversight. We agree with the view expressed by the AG that "the free market and consumer oriented principles underlying "NC Dental" are nothing new to CA and no bureaucratic paradigms need to be radically shifted as a result."
- BRN agrees with the CA AG citation that "The B&P Code gives broad powers to the DCA Director to protect the interests of consumers at every level. The Director has the power to investigate the work of the boards and to obtain their data and records; to investigate alleged misconduct in licensing examinations and qualifications reviews; to require reports; to receive consumer complaints and to initiate audits and reviews of disciplinary cases and complaints about licensees."
- BRN agrees with the Section of SB 1195 that makes it clear that treble damages are included in the indemnification of Board Members who are licensees.
- BRN believes that licensing RNs and regulating nursing education are vitally important for maintaining the high standards of consumer protection in California. But we are concerned that SB 1195 inadvertently sets up an overly cumbersome and expensive (time and money) bureaucratic infrastructure and focus on process and supervision that will have a dampening effect on patient/consumer protection that is provided by licensure regulation and nursing educational standards. We are very concerned that this will pit real health and safety benefits in CA against "potential" impacts on "competition".

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1195

Introduced by Senator Hill

February 18, 2016

An act to amend Sections 109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, ~~4825.1~~, 4830, ~~and 4846.5~~ 4846.5, 4904, and 4905 of, and to add Sections ~~4826.3, 4826.5, 4826.7,~~ 109.5, 4826.5, 4848.1, and 4853.7 to, the Business and Professions Code, and to amend Sections ~~825, 11346.5, 11349, and 11349.1~~ 825 and 11346.5 of the Government Code, relating to professional regulation, and making an appropriation therefor: *regulations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. Professions and vocations: board ~~actions:~~ ~~competitive impact.~~ *actions.*

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or

monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of ~~a consumer or licensee~~, *the board making the decision or the Legislature*, to review ~~a~~ *any nonministerial market-sensitive* decision or other action, except as specified, of a board within the department to determine whether it ~~unreasonably restrains trade furthers state law~~ and to approve, disapprove, *request further information*, or modify the board decision or action, as specified. The bill would require the director to *issue and* post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the ~~request of a consumer or licensee~~ *request for review or the director's decision to review the board decision*. *The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.* The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. ~~The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect.~~ *The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law.* The

bill would prohibit any rule or regulation from having any force or effect if the director does not approve the ~~regulation because it has an impermissible anticompetitive effect.~~ *rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.*

(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

This bill would instead prohibit the executive officer from being a licensee of the board.

(3) The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. The bill would authorize a veterinarian ~~and or~~ registered veterinary technician who is under the direct supervision of a *licensed* veterinarian ~~with a current and active license~~ to compound a drug for ~~anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified.~~ *animal use pursuant to federal law and regulations promulgated by the board and would require those regulations to, at*

a minimum, address the storage of drugs, the level and type of supervision required for compounding drugs by a registered veterinary technician, and the equipment necessary for safe compounding of drugs. The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences—~~while and~~ engaged in the performance of specified duties to be licensed as a veterinarian in the state or ~~hold be issued a university license issued by the board. license,~~ *as specified.* The bill would ~~require an applicant~~ *authorize an individual to apply for and be issued a university license to meet if he or she meets certain requirements, including that the applicant passes a specified exam, paying an application and license fee.* The bill would require a university license, among other things, to automatically cease to be valid upon termination or cessation of employment by the University of California or the Western University of Health Sciences. The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. ~~By requiring additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation.~~ *This bill would provide that the Veterinary Medical Board Contingent Fund is available for expenditure only upon an appropriation by the Legislature.* By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.

(4) ~~Existing law,~~ *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 for an act or omission occurring within the scope of his or her employment as a member of a 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 Government Claims Act.*

(5) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. ~~That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.~~

~~This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy. also require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.~~

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

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

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

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

1 SECTION 1. Section 109 of the Business and Professions Code
2 is amended to read:

3 109. (a) ~~The director~~ *decisions of any of the boards comprising*
4 *the department with respect to passing candidates and revoking*
5 *or otherwise imposing discipline on licenses shall not be subject*
6 *to review by the director and are final within the limits provided*
7 *by this code that are applicable to the particular board.*

8 (b) *The director may initiate an investigation of any allegations*
9 *of misconduct in the preparation, administration, or scoring of an*
10 *examination which is administered by a board, or in the review of*
11 *qualifications which are a part of the licensing process of any*
12 *board. A request for investigation shall be made by the director to*
13 *the Division of Investigation through the chief of the division or*
14 *to any law enforcement agency in the jurisdiction where the alleged*
15 *misconduct occurred.*

16 ~~(b)-(1)-~~

17 (1) *The director may intervene in any matter of any board where*
18 *an investigation by the Division of Investigation discloses probable*
19 *cause to believe that the conduct or activity of a board, or its*
20 *members or ~~employees~~ employees, constitutes a violation of*
21 *criminal law.*

22 (2) *The term “intervene,” as used in paragraph (1) of this section*
23 *may include, but is not limited to, an application for a restraining*
24 *order or injunctive relief as specified in Section 123.5, or a referral*
25 *or request for criminal prosecution. For purposes of this section,*
26 *the director shall be deemed to have standing under Section 123.5*
27 *and shall seek representation of the Attorney General, or other*
28 *appropriate counsel in the event of a conflict in pursuing that*
29 *action.*

30 (c) *The director may, upon his or her own initiative, and shall,*
31 *upon request by ~~a consumer or licensee,~~ the board making the*
32 *decision or the Legislature, review any nonministerial*
33 *market-sensitive board action or decision ~~or other action to~~*

1 ~~determine whether it unreasonably restrains trade. Such a review~~
2 ~~shall proceed as follows: by the board to determine whether it~~
3 ~~further state law. Market-sensitive actions or decisions are those~~
4 ~~that create barriers to market participation and restrict competition~~
5 ~~including, but not limited to, examination passage scores,~~
6 ~~advertising restrictions, price regulation, enlarging or restricting~~
7 ~~scope of practice qualifications for licensure, and a pattern or~~
8 ~~program of disciplinary actions affecting multiple individuals that~~
9 ~~creates barriers to market participation. If the board action or~~
10 ~~decision is determined to be a market-sensitive action or decision,~~
11 ~~the director shall review the board action or decision to determine~~
12 ~~whether that action or decision furthers a clearly articulated and~~
13 ~~affirmatively expressed state policy. Review under this subdivision~~
14 ~~shall serve to cease implementation of the market-sensitive action~~
15 ~~or decision until the review is finalized and the action or decision~~
16 ~~is found to further state law.~~

17 ~~(1) The director shall assess whether the action or decision~~
18 ~~reflects a clearly articulated and affirmatively expressed state law.~~
19 ~~If the director determines that the action or decision does not reflect~~
20 ~~a clearly articulated and affirmatively expressed state law, the~~
21 ~~director shall disapprove the board action or decision and it shall~~
22 ~~not go into effect.~~

23 ~~(2) If the action or decision is a reflection of clearly articulated~~
24 ~~and affirmatively expressed state law, the director shall assess~~
25 ~~whether the action or decision was the result of the board's exercise~~
26 ~~of ministerial or discretionary judgment. If the director finds no~~
27 ~~exercise of discretionary judgment, but merely the direct~~
28 ~~application of statutory or constitutional provisions, the director~~
29 ~~shall close the investigation and review of the board action or~~
30 ~~decision.~~

31 ~~(3) If the director concludes under paragraph (2) that the board~~
32 ~~exercised discretionary judgment, the director shall review the~~
33 ~~board action or decision as follows:~~

34 ~~(A) The~~

35 ~~(1) Any review by the director under this subdivision shall~~
36 ~~conduct include a full substantive review of the board action or~~
37 ~~decision using based upon all the relevant facts, data, market~~
38 ~~conditions, facts in the record provided by the board and any~~
39 ~~additional information provided by the director, which may include~~
40 ~~data, public comment, studies, or other documentary evidence~~

1 pertaining to the market impacted by the board's action or decision
2 and determine whether the anticompetitive effects of the action or
3 decision are clearly outweighed by the benefit to the public. The
4 director may seek, designate, employ, or contract for the services
5 of independent antitrust or economic experts pursuant to Section
6 307. These experts shall not be active participants in the market
7 affected by the board action or decision. *decision.*

8 (B) If the board action or decision was not previously subject
9 to a public comment period, the director shall release the subject
10 matter of his or her investigation for a 30-day public comment
11 period and shall consider all comments received.

12 (C) If the director determines that the action or decision furthers
13 the public protection mission of the board and the impact on
14 competition is justified, the director may approve the action or
15 decision.

16 (D) If the director determines that the action furthers the public
17 protection mission of the board and the impact on competition is
18 justified, the director may approve the action or decision. If the
19 director finds the action or decision does not further the public
20 protection mission of the board or finds that the action or decision
21 is not justified, the director shall either refuse to approve it or shall
22 modify the action or decision to ensure that any restraints of trade
23 are related to, and advance, clearly articulated state law or public
24 policy.

25 (2) *The director shall take one of the following actions:*

26 (A) *Approve the action or decision upon determination that it*
27 *further state law.*

28 (B) *Disapprove the action or decision if it does not further state*
29 *law. If the director disapproves the board action or decision, the*
30 *director may recommend modifications to the board action or*
31 *decision, which, if adopted, shall not become effective until final*
32 *approval by the director pursuant to this subdivision.*

33 (C) *Modify the action or decision to ensure that it furthers state*
34 *law.*

35 (D) *Request further information from the board if the record*
36 *provided is insufficient to make a determination that the action or*
37 *decision furthers state law. Upon submission of further information*
38 *from the board and any information provided by the director, the*
39 *director shall make a final determination to approve, disapprove,*
40 *or modify the board's action or decision.*

1 ~~(4)~~
 2 (d) The director shall issue, and post on the department’s Internet
 3 Web site, his or her final written decision ~~approving, modifying,~~
 4 ~~or disapproving~~ on the board action or decision with an explanation
 5 of the reasons *that action or decision does or does not further state*
 6 *law and the rationale behind the director’s decision within 90 days*
 7 ~~from receipt of the request from a consumer or licensee. board’s~~
 8 ~~or Legislature’s request for review or the director’s decision to~~
 9 ~~review the board action or decision.~~ Notwithstanding any other
 10 law, the decision of the director shall be final, except if the state
 11 or federal constitution requires an appeal of the director’s decision.

12 ~~(d)~~
 13 (e) The review set forth in ~~paragraph (3) of subdivision (c)~~ shall
 14 not apply ~~when an individual seeks to the review of any~~
 15 ~~disciplinary action or other action pertaining solely to that~~
 16 ~~individual. any other sanction or citation imposed by a board upon~~
 17 ~~a licensee.~~

18 ~~(e)~~
 19 (f) The director shall report to the Chairs of the Senate Business,
 20 Professions, and Economic Development Committee and the
 21 Assembly Business and Professions Committee annually,
 22 commencing March 1, 2017, regarding his or her disapprovals,
 23 modifications, or findings from any audit, review, or monitoring
 24 and evaluation conducted pursuant to this section. That report shall
 25 be submitted in compliance with Section 9795 of the Government
 26 Code.

27 ~~(f) If the director has already reviewed a board action or decision~~
 28 ~~pursuant to this section or Section 313.1, the director shall not~~
 29 ~~review that action or decision again.~~

30 (g) This section shall not be construed to affect, impede, or
 31 delay any disciplinary actions of any board.

32 SEC. 2. Section 109.5 is added to the Business and Professions
 33 Code, to read:

34 109.5. The executive officer of any board, committee, or
 35 commission within the department shall not be an active licensee
 36 of any profession that board, committee, or commission regulates.

37 ~~SEC. 2.~~

38 SEC. 3. Section 116 of the Business and Professions Code is
 39 amended to read:

1 116. (a) The director may audit and review, upon his or her
2 own initiative, or upon the request of a consumer or licensee,
3 inquiries and complaints regarding licensees, dismissals of
4 disciplinary cases, the opening, conduct, or closure of
5 investigations, informal conferences, and discipline short of formal
6 accusation by any board or bureau within the department.

7 (b) The director shall report to the Chairs of the Senate Business,
8 Professions, and Economic Development Committee and the
9 Assembly Business and Professions Committee annually,
10 commencing March 1, 2017, regarding his or her findings from
11 any audit, review, or monitoring and evaluation conducted pursuant
12 to this section. This report shall be submitted in compliance with
13 Section 9795 of the Government Code.

14 ~~SEC. 3.~~

15 *SEC. 4.* Section 153 of the Business and Professions Code is
16 amended to read:

17 153. The director may investigate the work of the several
18 boards in his *or her* department and may obtain a copy of all
19 records and full and complete data in all official matters in
20 possession of the boards, their members, officers, or employees.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 307 of the Business and Professions Code is
23 amended to read:

24 307. The director may contract for the services of experts and
25 consultants where necessary to carry out this chapter and may
26 provide compensation and reimbursement of expenses for those
27 experts and consultants in accordance with state law.

28 ~~SEC. 5.~~

29 *SEC. 6.* Section 313.1 of the Business and Professions Code
30 is amended to read:

31 313.1. (a) Notwithstanding any other law to the contrary, no
32 rule or regulation and no fee change proposed or promulgated by
33 any of the boards, commissions, or committees within the
34 department, shall take effect pending compliance with this section.

35 (b) The director shall be formally notified of and shall review,
36 in accordance with the requirements of Article 5 (commencing
37 with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title
38 2 of the Government Code, the requirements in subdivision (c) of
39 Section 109, and this section, all of the following:

1 (1) All notices of proposed action, any modifications and
2 supplements thereto, and the text of proposed regulations.

3 (2) Any notices of sufficiently related changes to regulations
4 previously noticed to the public, and the text of proposed
5 regulations showing modifications to the text.

6 (3) Final rulemaking records.

7 (4) All relevant ~~facts~~, *facts in the rulemaking record, which may*
8 *include* data, public comments, ~~market conditions, studies,~~ or other
9 documentary evidence pertaining to the ~~market impacted by the~~
10 ~~proposed regulation. This information shall be included in the~~
11 ~~written decision of the director required under paragraph (4) of~~
12 ~~subdivision (c) of Section 109. proposed regulation to determine~~
13 *whether it furthers state law. If the regulation does not further*
14 *state law, it shall not be approved.*

15 (c) The submission of all notices and final rulemaking records
16 to the director and the director's approval, as authorized by this
17 section, shall be a precondition to the filing of any rule or
18 regulation with the Office of Administrative Law. The Office of
19 Administrative Law shall have no jurisdiction to review a rule or
20 regulation subject to this section until after the director's review
21 and approval. The filing of any document with the Office of
22 Administrative Law shall be accompanied by a certification that
23 the board, commission, or committee has complied with the
24 requirements of this section.

25 (d) Following the receipt of any final rulemaking record subject
26 to subdivision (a), the director shall have the authority for a period
27 of 30 days to ~~approve~~ *approve, disapprove, or require modification*
28 *of* a proposed rule or regulation ~~or disapprove a proposed rule or~~
29 ~~regulation~~ on the ground that it is injurious to the public health,
30 safety, or ~~welfare~~, *welfare* or ~~has an impermissible anticompetitive~~
31 ~~effect. The director may modify a rule or regulation as a condition~~
32 ~~of approval. Any modifications to regulations by the director shall~~
33 ~~be subject to a 30-day public comment period before the director~~
34 ~~issues a final decision regarding the modified regulation. If the~~
35 ~~director does not approve the rule or regulation within the 30-day~~
36 ~~period, the rule or regulation shall not be submitted to the Office~~
37 ~~of Administrative Law and the rule or regulation shall have no~~
38 ~~effect.~~ *does not further state law. If the director does not approve*
39 *the rule or regulation within the 30-day period, the rule or*

1 *regulation shall not be submitted to the Office of Administrative*
2 *Law and the rule or regulation shall have no effect.*

3 (e) Final rulemaking records shall be filed with the director
4 within the one-year notice period specified in Section 11346.4 of
5 the Government Code. If necessary for compliance with this
6 section, the one-year notice period may be extended, as specified
7 by this subdivision.

8 (1) In the event that the one-year notice period lapses during
9 the director's 30-day review period, or within 60 days following
10 the notice of the director's disapproval, it may be extended for a
11 maximum of 90 days.

12 (2) If the director approves the final rulemaking record, the
13 board, commission, or committee shall have five days from the
14 receipt of the record from the director within which to file it with
15 the Office of Administrative Law.

16 (3) If the director disapproves a rule or regulation, it shall have
17 no force or effect unless, within 60 days of the notice of
18 disapproval, (A) the disapproval is overridden by a unanimous
19 vote of the members of the board, commission, or committee, and
20 (B) the board, commission, or committee files the final rulemaking
21 record with the Office of Administrative Law in compliance with
22 this section and the procedures required by Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code. This paragraph shall not apply to any
25 decision disapproved by the director under subdivision (e) of
26 Section 109: *effect.*

27 (f) This section shall not be construed to prohibit the director
28 from affirmatively approving a proposed rule, regulation, or fee
29 change at any time within the 30-day period after it has been
30 submitted to him or her, in which event it shall become effective
31 upon compliance with this section and the procedures required by
32 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
33 3 of Title 2 of the Government Code.

34 ~~SEC. 6.~~

35 *SEC. 7.* Section 2708 of the Business and Professions Code is
36 amended to read:

37 2708. (a) The board shall appoint an executive officer who
38 shall perform the duties delegated by the board and who shall be
39 responsible to it for the accomplishment of those duties.

1 (b) The executive officer shall not be a licensee under this
2 chapter and shall possess other qualifications as determined by the
3 board.

4 (c) The executive officer shall not be a member of the board.

5 (d) This section shall remain in effect only until January 1, 2018,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2018, deletes or extends that date.

8 ~~SEC. 7:~~

9 *SEC. 8.* Section 4800 of the Business and Professions Code is
10 amended to read:

11 4800. (a) There is in the Department of Consumer Affairs a
12 Veterinary Medical Board in which the administration of this
13 chapter is vested. The board consists of the following members:

- 14 (1) Four licensed veterinarians.
- 15 (2) One registered veterinary technician.
- 16 (3) Three public members.

17 (b) This section shall remain in effect only until January 1, 2021,
18 and as of that date is repealed.

19 (c) Notwithstanding any other law, the repeal of this section
20 renders the board subject to review by the appropriate policy
21 committees of the Legislature. However, the review of the board
22 shall be limited to those issues identified by the appropriate policy
23 committees of the Legislature and shall not involve the preparation
24 or submission of a sunset review document or evaluative
25 questionnaire.

26 ~~SEC. 8:~~

27 *SEC. 9.* Section 4804.5 of the Business and Professions Code
28 is amended to read:

29 4804.5. (a) The board may appoint a person exempt from civil
30 service who shall be designated as an executive officer and who
31 shall exercise the powers and perform the duties delegated by the
32 board and vested in him or her by this chapter.

33 (b) This section shall remain in effect only until January 1, 2021,
34 and as of that date is repealed.

35 ~~SEC. 9. Section 4825.1 of the Business and Professions Code~~
36 ~~is amended to read:~~

37 ~~4825.1. These definitions shall govern the construction of this~~
38 ~~chapter as it applies to veterinary medicine.~~

1 (a) “Diagnosis” means the act or process of identifying or
2 determining the health status of an animal through examination
3 and the opinion derived from that examination.

4 (b) “Animal” means any member of the animal kingdom other
5 than humans, and includes fowl, fish, and reptiles, wild or
6 domestic, whether living or dead.

7 (c) “Food animal” means any animal that is raised for the
8 production of an edible product intended for consumption by
9 humans. The edible product includes, but is not limited to, milk,
10 meat, and eggs. Food animal includes, but is not limited to, cattle
11 (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

12 (d) “Livestock” includes all animals, poultry, aquatic and
13 amphibian species that are raised, kept, or used for profit. It does
14 not include those species that are usually kept as pets such as dogs,
15 cats, and pet birds, or companion animals, including equines.

16 (e) “Compounding,” for the purposes of veterinary medicine,
17 shall have the same meaning given in Section 1735 of Title 16 of
18 the California Code of Regulations, except that every reference
19 therein to “pharmacy” and “pharmacist” shall be replaced with
20 “veterinary premises” and “veterinarian,” and except that only a
21 licensed veterinarian or a licensed registered veterinarian technician
22 under direct supervision of a veterinarian may perform
23 compounding and shall not delegate to or supervise any part of
24 the performance of compounding by any other person.

25 SEC. 10. Section 4826.3 is added to the Business and
26 Professions Code, to read:

27 4826.3. (a) Notwithstanding Section 4051, a veterinarian or
28 registered veterinarian technician under the direct supervision of
29 a veterinarian with a current and active license may compound a
30 drug for anesthesia, the prevention, cure, or relief of a wound,
31 fracture, bodily injury, or disease of an animal in a premises
32 currently and actively registered with the board and only under
33 the following conditions:

34 (1) Where there is no FDA-approved animal or human drug that
35 can be used as labeled or in an appropriate extralabel manner to
36 properly treat the disease, symptom, or condition for which the
37 drug is being prescribed.

38 (2) Where the compounded drug is not available from a
39 compounding pharmacy, outsourcing facility, or other
40 compounding supplier in a dosage form and concentration to

1 appropriately treat the disease, symptom, or condition for which
2 the drug is being prescribed.

3 ~~(3) Where the need and prescription for the compounded
4 medication has arisen within an established
5 veterinarian-client-patient relationship as a means to treat a specific
6 occurrence of a disease, symptom, or condition observed and
7 diagnosed by the veterinarian in a specific animal that threatens
8 the health of the animal or will cause suffering or death if left
9 untreated.~~

10 ~~(4) Where the quantity compounded does not exceed a quantity
11 demonstrably needed to treat a patient with which the veterinarian
12 has a current veterinarian-client-patient relationship.~~

13 ~~(5) Except as specified in subdivision (c), where the compound
14 is prepared only with commercially available FDA-approved
15 animal or human drugs as active ingredients.~~

16 ~~(b) A compounded veterinary drug may be prepared from an
17 FDA-approved animal or human drug for extralabel use only when
18 there is no approved animal or human drug that, when used as
19 labeled or in an appropriate extralabel manner will, in the available
20 dosage form and concentration, treat the disease, symptom, or
21 condition. Compounding from an approved human drug for use
22 in food-producing animals is not permitted if an approved animal
23 drug can be used for compounding.~~

24 ~~(c) A compounded veterinary drug may be prepared from bulk
25 drug substances only when:~~

26 ~~(1) The drug is compounded and dispensed by the veterinarian
27 to treat an individually identified animal patient under his or her
28 care.~~

29 ~~(2) The drug is not intended for use in food-producing animals.~~

30 ~~(3) If the drug contains a bulk drug substance that is a
31 component of any marketed FDA-approved animal or human drug,
32 there is a change between the compounded drug and the
33 comparable marketed drug made for an individually identified
34 animal patient that produces a clinical difference for that
35 individually identified animal patient, as determined by the
36 veterinarian prescribing the compounded drug for his or her patient.~~

37 ~~(4) There are no FDA-approved animal or human drugs that
38 can be used as labeled or in an appropriate extralabel manner to
39 properly treat the disease, symptom, or condition for which the
40 drug is being prescribed.~~

1 ~~(5) All bulk drug substances used in compounding are~~
2 ~~manufactured by an establishment registered under Section 360~~
3 ~~of Title 21 of the United States Code and are accompanied by a~~
4 ~~valid certificate of analysis.~~

5 ~~(6) The drug is not sold or transferred by the veterinarian~~
6 ~~compounding the drug, except that the veterinarian shall be~~
7 ~~permitted to administer the drug to a patient under his or her care~~
8 ~~or dispense it to the owner or caretaker of an animal under his or~~
9 ~~her care.~~

10 ~~(7) Within 15 days of becoming aware of any product defect or~~
11 ~~serious adverse event associated with any drug compounded by~~
12 ~~the veterinarian from bulk drug substances, the veterinarian shall~~
13 ~~report it to the federal Food and Drug Administration on Form~~
14 ~~FDA 1932a.~~

15 ~~(8) In addition to any other requirements, the label of any~~
16 ~~veterinary drug compounded from bulk drug substances shall~~
17 ~~indicate the species of the intended animal patient, the name of~~
18 ~~the animal patient, and the name of the owner or caretaker of the~~
19 ~~patient.~~

20 ~~(d) Each compounded veterinary drug preparation shall meet~~
21 ~~the labeling requirements of Section 4076 and Sections 1707.5~~
22 ~~and 1735.4 of Title 16 of the California Code of Regulations,~~
23 ~~except that every reference therein to “pharmacy” and “pharmacist”~~
24 ~~shall be replaced by “veterinary premises” and “veterinarian,” and~~
25 ~~any reference to “patient” shall be understood to refer to the animal~~
26 ~~patient. In addition, each label on a compounded veterinary drug~~
27 ~~preparation shall include withdrawal and holding times, if needed,~~
28 ~~and the disease, symptom, or condition for which the drug is being~~
29 ~~prescribed. Any compounded veterinary drug preparation that is~~
30 ~~intended to be sterile, including for injection, administration into~~
31 ~~the eye, or inhalation, shall in addition meet the labeling~~
32 ~~requirements of Section 1751.2 of Title 16 of the California Code~~
33 ~~of Regulations, except that every reference therein to “pharmacy”~~
34 ~~and “pharmacist” shall be replaced by “veterinary premises” and~~
35 ~~“veterinarian,” and any reference to “patient” shall be understood~~
36 ~~to refer to the animal patient.~~

37 ~~(e) Any veterinarian, registered veterinarian technician who is~~
38 ~~under the direct supervision of a veterinarian, and veterinary~~
39 ~~premises engaged in compounding shall meet the compounding~~
40 ~~requirements for pharmacies and pharmacists stated by the~~

1 provisions of Article 4.5 (commencing with Section 1735) of Title
2 16 of the California Code of Regulations, except that every
3 reference therein to “pharmacy” and “pharmacist” shall be replaced
4 by “veterinary premises” and “veterinarian,” and any reference to
5 “patient” shall be understood to refer to the animal patient:

6 (1) Section 1735.1 of Title 16 of the California Code of
7 Regulations.

8 (2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of
9 Section 1735.2 of Title 16 of the California Code of Regulations.

10 (3) Section 1735.3 of Title 16 of the California Code of
11 Regulations, except that only a licensed veterinarian or registered
12 veterinarian technician may perform compounding and shall not
13 delegate to or supervise any part of the performance of
14 compounding by any other person.

15 (4) Section 1735.4 of Title 16 of the California Code of
16 Regulations.

17 (5) Section 1735.5 of Title 16 of the California Code of
18 Regulations.

19 (6) Section 1735.6 of Title 16 of the California Code of
20 Regulations.

21 (7) Section 1735.7 of Title 16 of the California Code of
22 Regulations.

23 (8) Section 1735.8 of Title 16 of the California Code of
24 Regulations.

25 (f) Any veterinarian, registered veterinarian technician under
26 the direct supervision of a veterinarian, and veterinary premises
27 engaged in sterile compounding shall meet the sterile compounding
28 requirements for pharmacies and pharmacists under Article 7
29 (commencing with Section 1751) of Title 16 of the California Code
30 of Regulations, except that every reference therein to “pharmacy”
31 and “pharmacist” shall be replaced by “veterinary premises” and
32 “veterinarian,” and any reference to “patient” shall be understood
33 to refer to the animal patient.

34 (g) The California State Board of Pharmacy shall have authority
35 with the board to ensure compliance with this section and shall
36 have the right to inspect any veterinary premises engaged in
37 compounding, along with or separate from the board, to ensure
38 compliance with this section. The board is specifically charged
39 with enforcing this section with regard to its licensees.

1 ~~SEC. 11. Section 4826.5 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~4826.5. Failure by a licensed veterinarian, registered~~
4 ~~veterinarian technician, or veterinary premises to comply with the~~
5 ~~provisions of this article shall be deemed unprofessional conduct~~
6 ~~and constitute grounds for discipline.~~

7 ~~SEC. 12. Section 4826.7 is added to the Business and~~
8 ~~Professions Code, to read:~~

9 ~~4826.7. The board may adopt regulations to implement the~~
10 ~~provisions of this article.~~

11 *SEC. 10. Section 4826.5 is added to the Business and*
12 *Professions Code, to read:*

13 *4826.5. Notwithstanding any other law, a licensed veterinarian*
14 *or a registered veterinary technician under the supervision of a*
15 *licensed veterinarian may compound drugs for animal use pursuant*
16 *to Section 530 of Title 21 of the Code of Federal Regulations and*
17 *in accordance with regulations promulgated by the board. The*
18 *regulations promulgated by the board shall, at a minimum, address*
19 *the storage of drugs, the level and type of supervision required for*
20 *compounding drugs by a registered veterinary technician, and the*
21 *equipment necessary for the safe compounding of drugs. Any*
22 *violation of the regulations adopted by the board pursuant to this*
23 *section shall constitute grounds for an enforcement or disciplinary*
24 *action.*

25 ~~SEC. 13.~~

26 *SEC. 11. Section 4830 of the Business and Professions Code*
27 *is amended to read:*

28 4830. (a) This chapter does not apply to:

29 (1) Veterinarians while serving in any armed branch of the
30 military service of the United States or the United States
31 Department of Agriculture while actually engaged and employed
32 in their official capacity.

33 (2) Regularly licensed veterinarians in actual consultation from
34 other states.

35 (3) Regularly licensed veterinarians actually called from other
36 states to attend cases in this state, but who do not open an office
37 or appoint a place to do business within this state.

38 (4) Students in the School of Veterinary Medicine of the
39 University of California or the College of Veterinary Medicine of
40 the Western University of Health Sciences who participate in

1 diagnosis and treatment as part of their educational experience,
2 including those in off-campus educational programs under the
3 direct supervision of a licensed veterinarian in good standing, as
4 defined in paragraph (1) of subdivision (b) of Section 4848,
5 appointed by the University of California, Davis, or the Western
6 University of Health Sciences.

7 (5) A veterinarian who is employed by the Meat and Poultry
8 Inspection Branch of the California Department of Food and
9 Agriculture while actually engaged and employed in his or her
10 official capacity. A person exempt under this paragraph shall not
11 otherwise engage in the practice of veterinary medicine unless he
12 or she is issued a license by the board.

13 (6) Unlicensed personnel employed by the Department of Food
14 and Agriculture or the United States Department of Agriculture
15 when in the course of their duties they are directed by a veterinarian
16 supervisor to conduct an examination, obtain biological specimens,
17 apply biological tests, or administer medications or biological
18 products as part of government disease or condition monitoring,
19 investigation, control, or eradication activities.

20 (b) (1) For purposes of paragraph (3) of subdivision (a), a
21 regularly licensed veterinarian in good standing who is called from
22 another state by a law enforcement agency or animal control
23 agency, as defined in Section 31606 of the Food and Agricultural
24 Code, to attend to cases that are a part of an investigation of an
25 alleged violation of federal or state animal fighting or animal
26 cruelty laws within a single geographic location shall be exempt
27 from the licensing requirements of this chapter if the law
28 enforcement agency or animal control agency determines that it
29 is necessary to call the veterinarian in order for the agency or
30 officer to conduct the investigation in a timely, efficient, and
31 effective manner. In determining whether it is necessary to call a
32 veterinarian from another state, consideration shall be given to the
33 availability of veterinarians in this state to attend to these cases.
34 An agency, department, or officer that calls a veterinarian pursuant
35 to this subdivision shall notify the board of the investigation.

36 (2) Notwithstanding any other provision of this chapter, a
37 regularly licensed veterinarian in good standing who is called from
38 another state to attend to cases that are a part of an investigation
39 described in paragraph (1) may provide veterinary medical care
40 for animals that are affected by the investigation with a temporary

1 shelter facility, and the temporary shelter facility shall be exempt
2 from the registration requirement of Section 4853 if all of the
3 following conditions are met:

4 (A) The temporary shelter facility is established only for the
5 purpose of the investigation.

6 (B) The temporary shelter facility provides veterinary medical
7 care, shelter, food, and water only to animals that are affected by
8 the investigation.

9 (C) The temporary shelter facility complies with Section 4854.

10 (D) The temporary shelter facility exists for not more than 60
11 days, unless the law enforcement agency or animal control agency
12 determines that a longer period of time is necessary to complete
13 the investigation.

14 (E) Within 30 calendar days upon completion of the provision
15 of veterinary health care services at a temporary shelter facility
16 established pursuant to this section, the veterinarian called from
17 another state by a law enforcement agency or animal control agency
18 to attend to a case shall file a report with the board. The report
19 shall contain the date, place, type, and general description of the
20 care provided, along with a listing of the veterinary health care
21 practitioners who participated in providing that care.

22 (c) For purposes of paragraph (3) of subdivision (a), the board
23 may inspect temporary facilities established pursuant to this
24 section.

25 ~~SEC. 14.~~

26 *SEC. 12.* Section 4846.5 of the Business and Professions Code
27 is amended to read:

28 4846.5. (a) Except as provided in this section, the board shall
29 issue renewal licenses only to those applicants that have completed
30 a minimum of 36 hours of continuing education in the preceding
31 two years.

32 (b) (1) Notwithstanding any other law, continuing education
33 hours shall be earned by attending courses relevant to veterinary
34 medicine and sponsored or cosponsored by any of the following:

35 (A) American Veterinary Medical Association (AVMA)
36 accredited veterinary medical colleges.

37 (B) Accredited colleges or universities offering programs
38 relevant to veterinary medicine.

39 (C) The American Veterinary Medical Association.

1 (D) American Veterinary Medical Association recognized
2 specialty or affiliated allied groups.

3 (E) American Veterinary Medical Association's affiliated state
4 veterinary medical associations.

5 (F) Nonprofit annual conferences established in conjunction
6 with state veterinary medical associations.

7 (G) Educational organizations affiliated with the American
8 Veterinary Medical Association or its state affiliated veterinary
9 medical associations.

10 (H) Local veterinary medical associations affiliated with the
11 California Veterinary Medical Association.

12 (I) Federal, state, or local government agencies.

13 (J) Providers accredited by the Accreditation Council for
14 Continuing Medical Education (ACCME) or approved by the
15 American Medical Association (AMA), providers recognized by
16 the American Dental Association Continuing Education
17 Recognition Program (ADA CERP), and AMA or ADA affiliated
18 state, local, and specialty organizations.

19 (2) Continuing education credits shall be granted to those
20 veterinarians taking self-study courses, which may include, but
21 are not limited to, reading journals, viewing video recordings, or
22 listening to audio recordings. The taking of these courses shall be
23 limited to no more than six hours biennially.

24 (3) The board may approve other continuing veterinary medical
25 education providers not specified in paragraph (1).

26 (A) The board has the authority to recognize national continuing
27 education approval bodies for the purpose of approving continuing
28 education providers not specified in paragraph (1).

29 (B) Applicants seeking continuing education provider approval
30 shall have the option of applying to the board or to a
31 board-recognized national approval body.

32 (4) For good cause, the board may adopt an order specifying,
33 on a prospective basis, that a provider of continuing veterinary
34 medical education authorized pursuant to paragraph (1) or (3) is
35 no longer an acceptable provider.

36 (5) Continuing education hours earned by attending courses
37 sponsored or cosponsored by those entities listed in paragraph (1)
38 between January 1, 2000, and January 1, 2001, shall be credited
39 toward a veterinarian's continuing education requirement under
40 this section.

1 (c) Every person renewing his or her license issued pursuant to
2 Section 4846.4, or any person applying for relicensure or for
3 reinstatement of his or her license to active status, shall submit
4 proof of compliance with this section to the board certifying that
5 he or she is in compliance with this section. Any false statement
6 submitted pursuant to this section shall be a violation subject to
7 Section 4831.

8 (d) This section shall not apply to a veterinarian's first license
9 renewal. This section shall apply only to second and subsequent
10 license renewals granted on or after January 1, 2002.

11 (e) The board shall have the right to audit the records of all
12 applicants to verify the completion of the continuing education
13 requirement. Applicants shall maintain records of completion of
14 required continuing education coursework for a period of four
15 years and shall make these records available to the board for
16 auditing purposes upon request. If the board, during this audit,
17 questions whether any course reported by the veterinarian satisfies
18 the continuing education requirement, the veterinarian shall provide
19 information to the board concerning the content of the course; the
20 name of its sponsor and cosponsor, if any; and specify the specific
21 curricula that was of benefit to the veterinarian.

22 (f) A veterinarian desiring an inactive license or to restore an
23 inactive license under Section 701 shall submit an application on
24 a form provided by the board. In order to restore an inactive license
25 to active status, the veterinarian shall have completed a minimum
26 of 36 hours of continuing education within the last two years
27 preceding application. The inactive license status of a veterinarian
28 shall not deprive the board of its authority to institute or continue
29 a disciplinary action against a licensee.

30 (g) Knowing misrepresentation of compliance with this article
31 by a veterinarian constitutes unprofessional conduct and grounds
32 for disciplinary action or for the issuance of a citation and the
33 imposition of a civil penalty pursuant to Section 4883.

34 (h) The board, in its discretion, may exempt from the continuing
35 education requirement any veterinarian who for reasons of health,
36 military service, or undue hardship cannot meet those requirements.
37 Applications for waivers shall be submitted on a form provided
38 by the board.

39 (i) The administration of this section may be funded through
40 professional license and continuing education provider fees. The

1 fees related to the administration of this section shall not exceed
2 the costs of administering the corresponding provisions of this
3 section.

4 (j) For those continuing education providers not listed in
5 paragraph (1) of subdivision (b), the board or its recognized
6 national approval agent shall establish criteria by which a provider
7 of continuing education shall be approved. The board shall initially
8 review and approve these criteria and may review the criteria as
9 needed. The board or its recognized agent shall monitor, maintain,
10 and manage related records and data. The board may impose an
11 application fee, not to exceed two hundred dollars (\$200)
12 biennially, for continuing education providers not listed in
13 paragraph (1) of subdivision (b).

14 (k) (1) Beginning January 1, 2018, a licensed veterinarian who
15 renews his or her license shall complete a minimum of one credit
16 hour of continuing education on the judicious use of medically
17 important antimicrobial drugs every four years as part of his or
18 her continuing education requirements.

19 (2) For purposes of this subdivision, “medically important
20 antimicrobial drug” means an antimicrobial drug listed in Appendix
21 A of the federal Food and Drug Administration’s Guidance for
22 Industry #152, including critically important, highly important,
23 and important antimicrobial drugs, as that appendix may be
24 amended.

25 ~~SEC. 15.~~

26 *SEC. 13.* Section 4848.1 is added to the Business and
27 Professions Code, to read:

28 4848.1. (a) A veterinarian engaged in the practice of veterinary
29 medicine, as defined in Section 4826, employed by the University
30 of California ~~while and~~ engaged in the performance of duties in
31 connection with the School of Veterinary Medicine or employed
32 by the Western University of Health Sciences ~~while and~~ engaged
33 in the performance of duties in connection with the College of
34 Veterinary Medicine shall be ~~licensed in California or shall hold~~
35 *issued* a university license ~~issued by the board. pursuant to this~~
36 *section or hold a license to practice veterinary medicine in this*
37 *state.*

38 (b) ~~An applicant is eligible to hold~~ *individual may apply for and*
39 *be issued* a university license if all of the following are satisfied:

1 (1) ~~The applicant~~ *He or she* is currently employed by the
2 University of California or Western University of Health Sciences
3 *Sciences*, as defined in subdivision (a).

4 (2) ~~Passes~~ *He or she passes* an examination concerning the
5 statutes and regulations of the Veterinary Medicine Practice Act,
6 administered by the board, pursuant to subparagraph (C) of
7 paragraph (2) of subdivision (a) of Section 4848.

8 (3) ~~Successfully~~ *He or she successfully* completes the approved
9 educational curriculum described in paragraph (5) of subdivision
10 (b) of Section 4848 on regionally specific and important diseases
11 and conditions.

12 (4) *He or she completes and submits the application specified*
13 *by the board and pays the application fee, pursuant to subdivision*
14 *(g) of Section 4905, and the initial license fee, pursuant to*
15 *subdivision (h) of Section 4905.*

16 (c) A university license:

17 (1) Shall be numbered as described in Section 4847.

18 (2) Shall *automatically* cease to be valid upon termination *or*
19 *cessation* of employment by the University of California or by the
20 Western University of Health Sciences.

21 (3) Shall be subject to the license renewal provisions in Section
22 ~~4846.4.~~ *4846.4 and the payment of the renewal fee pursuant to*
23 *subdivision (i) of Section 4905.*

24 (4) Shall be subject to denial, revocation, or suspension pursuant
25 to Sections ~~4875 and 4883.~~ *480, 4875, and 4883.*

26 (5) *Authorizes the holder to practice veterinary medicine only*
27 *at the educational institution described in subdivision (a) and any*
28 *locations formally affiliated with those institutions.*

29 (d) An individual who holds a university license is exempt from
30 satisfying the license renewal requirements of Section 4846.5.

31 ~~SEC. 16.~~

32 *SEC. 14.* Section 4853.7 is added to the Business and
33 Professions Code, to read:

34 4853.7. A premise registration that is not renewed within five
35 years after its expiration may not be renewed and shall not be
36 restored, reissued, or reinstated thereafter. However, an application
37 for a new premise registration may be submitted and obtained if
38 both of the following conditions are met:

39 (a) No fact, circumstance, or condition exists that, if the premise
40 registration was issued, would justify its revocation or suspension.

1 (b) All of the fees that would be required for the initial premise
2 registration are paid at the time of application.

3 *SEC. 15. Section 4904 of the Business and Professions Code*
4 *is amended to read:*

5 4904. All fees collected on behalf of the board and all receipts
6 of every kind and nature shall be reported each month for the month
7 preceding to the State Controller and at the same time the entire
8 amount shall be paid into the State Treasury and shall be credited
9 to the Veterinary Medical Board Contingent Fund. This contingent
10 fund shall be *available, upon appropriation by the Legislature,*
11 *for the use of the Veterinary Medical Board and out of it and not*
12 ~~otherwise shall be paid all expenses of the board.~~ *Board.*

13 *SEC. 16. Section 4905 of the Business and Professions Code*
14 *is amended to read:*

15 4905. The following fees shall be collected by the board and
16 shall be credited to the Veterinary Medical Board Contingent Fund:

17 (a) The fee for filing an application for examination shall be set
18 by the board in an amount it determines is reasonably necessary
19 to provide sufficient funds to carry out the purpose of this chapter,
20 not to exceed three hundred fifty dollars (\$350).

21 (b) The fee for the California state board examination shall be
22 set by the board in an amount it determines is reasonably necessary
23 to provide sufficient funds to carry out the purpose of this chapter,
24 not to exceed three hundred fifty dollars (\$350).

25 (c) The fee for the Veterinary Medicine Practice Act
26 examination shall be set by the board in an amount it determines
27 reasonably necessary to provide sufficient funds to carry out the
28 purpose of this chapter, not to exceed one hundred dollars (\$100).

29 (d) The initial license fee shall be set by the board not to exceed
30 five hundred dollars (\$500) except that, if the license is issued less
31 than one year before the date on which it will expire, then the fee
32 shall be set by the board at not to exceed two hundred fifty dollars
33 (\$250). The board may, by appropriate regulation, provide for the
34 waiver or refund of the initial license fee where the license is issued
35 less than 45 days before the date on which it will expire.

36 (e) The renewal fee shall be set by the board for each biennial
37 renewal period in an amount it determines is reasonably necessary
38 to provide sufficient funds to carry out the purpose of this chapter,
39 not to exceed five hundred dollars (\$500).

1 (f) The temporary license fee shall be set by the board in an
2 amount it determines is reasonably necessary to provide sufficient
3 funds to carry out the purpose of this chapter, not to exceed two
4 hundred fifty dollars (\$250).

5 (g) *The fee for filing an application for a university license shall*
6 *be one hundred twenty-five dollars (\$125), which may be revised*
7 *by the board in regulation but shall not exceed three hundred fifty*
8 *dollars (\$350).*

9 (h) *The initial license fee for a university license shall be two*
10 *hundred ninety dollars (\$290), which may be revised by the board*
11 *in regulation but shall not exceed five hundred dollars (\$500).*

12 (i) *The biennial renewal fee for a university license shall be two*
13 *hundred ninety dollars (\$290), which may be revised by the board*
14 *in regulation but shall not exceed five hundred dollars (\$500).*

15 ~~(g)~~

16 (j) The delinquency fee shall be set by the board, not to exceed
17 fifty dollars (\$50).

18 ~~(h)~~

19 (k) The fee for issuance of a duplicate license is twenty-five
20 dollars (\$25).

21 ~~(i)~~

22 (l) Any charge made for duplication or other services shall be
23 set at the cost of rendering the service, except as specified in
24 subdivision~~(h)~~: (k).

25 ~~(j)~~

26 (m) The fee for failure to report a change in the mailing address
27 is twenty-five dollars (\$25).

28 ~~(k)~~

29 (n) The initial and annual renewal fees for registration of
30 veterinary premises shall be set by the board in an amount not to
31 exceed four hundred dollars (\$400) annually.

32 ~~(l)~~

33 (o) If the money transferred from the Veterinary Medical Board
34 Contingent Fund to the General Fund pursuant to the Budget Act
35 of 1991 is redeposited into the Veterinary Medical Board
36 Contingent Fund, the fees assessed by the board shall be reduced
37 correspondingly. However, the reduction shall not be so great as
38 to cause the Veterinary Medical Board Contingent Fund to have
39 a reserve of less than three months of annual authorized board
40 expenditures. The fees set by the board shall not result in a

1 Veterinary Medical Board Contingent Fund reserve of more than
2 10 months of annual authorized board expenditures.

3 SEC. 17. Section 825 of the Government Code is amended to
4 read:

5 825. (a) Except as otherwise provided in this section, if an
6 employee or former employee of a public entity requests the public
7 entity to defend him or her against any claim or action against him
8 or her for an injury arising out of an act or omission occurring
9 within the scope of his or her employment as an employee of the
10 public entity and the request is made in writing not less than 10
11 days before the day of trial, and the employee or former employee
12 reasonably cooperates in good faith in the defense of the claim or
13 action, the public entity shall pay any judgment based thereon or
14 any compromise or settlement of the claim or action to which the
15 public entity has agreed.

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

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

33 (b) Notwithstanding subdivision (a) or any other provision of
34 law, a public entity is authorized to pay that part of a judgment
35 that is for punitive or exemplary damages if the governing body
36 of that public entity, acting in its sole discretion except in cases
37 involving an entity of the state government, finds all of the
38 following:

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

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

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

9 As used in this subdivision with respect to an entity of state
10 government, “a decision of the governing body” means the
11 approval of the Legislature for payment of that part of a judgment
12 that is for punitive damages or exemplary damages, upon
13 recommendation of the appointing power of the employee or
14 former employee, based upon the finding by the Legislature and
15 the appointing authority of the existence of the three conditions
16 for payment of a punitive or exemplary damages claim. The
17 provisions of subdivision (a) of Section 965.6 shall apply to the
18 payment of any claim pursuant to this subdivision.

19 The discovery of the assets of a public entity and the introduction
20 of evidence of the assets of a public entity shall not be permitted
21 in an action in which it is alleged that a public employee is liable
22 for punitive or exemplary damages.

23 The possibility that a public entity may pay that part of a
24 judgment that is for punitive damages shall not be disclosed in any
25 trial in which it is alleged that a public employee is liable for
26 punitive or exemplary damages, and that disclosure shall be
27 grounds for a mistrial.

28 (c) Except as provided in subdivision (d), if the provisions of
29 this section are in conflict with the provisions of a memorandum
30 of understanding reached pursuant to Chapter 10 (commencing
31 with Section 3500) of Division 4 of Title 1, the memorandum of
32 understanding shall be controlling without further legislative action,
33 except that if those provisions of a memorandum of understanding
34 require the expenditure of funds, the provisions shall not become
35 effective unless approved by the Legislature in the annual Budget
36 Act.

37 (d) The subject of payment of punitive damages pursuant to this
38 section or any other provision of law shall not be a subject of meet
39 and confer under the provisions of Chapter 10 (commencing with

1 Section 3500) of Division 4 of Title 1, or pursuant to any other
2 law or authority.

3 (e) Nothing in this section shall affect the provisions of Section
4 818 prohibiting the award of punitive damages against a public
5 entity. This section shall not be construed as a waiver of a public
6 entity's immunity from liability for punitive damages under Section
7 1981, 1983, or 1985 of Title 42 of the United States Code.

8 (f) (1) Except as provided in paragraph (2), a public entity shall
9 not pay a judgment, compromise, or settlement arising from a
10 claim or action against an elected official, if the claim or action is
11 based on conduct by the elected official by way of tortiously
12 intervening or attempting to intervene in, or by way of tortiously
13 influencing or attempting to influence the outcome of, any judicial
14 action or proceeding for the benefit of a particular party by
15 contacting the trial judge or any commissioner, court-appointed
16 arbitrator, court-appointed mediator, or court-appointed special
17 referee assigned to the matter, or the court clerk, bailiff, or marshal
18 after an action has been filed, unless he or she was counsel of
19 record acting lawfully within the scope of his or her employment
20 on behalf of that party. Notwithstanding Section 825.6, if a public
21 entity conducted the defense of an elected official against such a
22 claim or action and the elected official is found liable by the trier
23 of fact, the court shall order the elected official to pay to the public
24 entity the cost of that defense.

25 (2) If an elected official is held liable for monetary damages in
26 the action, the plaintiff shall first seek recovery of the judgment
27 against the assets of the elected official. If the elected official's
28 assets are insufficient to satisfy the total judgment, as determined
29 by the court, the public entity may pay the deficiency if the public
30 entity is authorized by law to pay that judgment.

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

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

1 (g) Notwithstanding subdivision (a), a public entity shall pay
2 for a judgment or settlement for treble damage antitrust awards
3 against a member of a regulatory board for an act or omission
4 occurring within the scope of his or her employment as a member
5 of a regulatory board.

6 (h) *Treble damages awarded pursuant to the federal Clayton*
7 *Act (Sections 12 to 27 of Title 15 of, and Sections 52 to 53 of Title*
8 *29 of, the United States Code) for a violation of the federal*
9 *Sherman Act (Sections 1 to 6, 6a, and 7 of Title 15 of the United*
10 *States Code) are not punitive or exemplary damages under the*
11 *Government Claims Act (Division 3.6 (commencing with Section*
12 *810) of Title 1 of the Government Code) for purposes of this*
13 *section.*

14 SEC. 18. Section 11346.5 of the Government Code is amended
15 to read:

16 11346.5. (a) The notice of proposed adoption, amendment, or
17 repeal of a regulation shall include the following:

18 (1) A statement of the time, place, and nature of proceedings
19 for adoption, amendment, or repeal of the regulation.

20 (2) Reference to the authority under which the regulation is
21 proposed and a reference to the particular code sections or other
22 provisions of law that are being implemented, interpreted, or made
23 specific.

24 (3) An informative digest drafted in plain English in a format
25 similar to the Legislative Counsel's digest on legislative bills. The
26 informative digest shall include the following:

27 (A) A concise and clear summary of existing laws and
28 regulations, if any, related directly to the proposed action and of
29 the effect of the proposed action.

30 (B) If the proposed action differs substantially from an existing
31 comparable federal regulation or statute, a brief description of the
32 significant differences and the full citation of the federal regulations
33 or statutes.

34 (C) A policy statement overview explaining the broad objectives
35 of the regulation and the specific benefits anticipated by the
36 proposed adoption, amendment, or repeal of a regulation, including,
37 to the extent applicable, nonmonetary benefits such as the
38 protection of public health and safety, worker safety, or the
39 environment, the prevention of discrimination, the promotion of

1 fairness or social equity, and the increase in openness and
2 transparency in business and government, among other things.

3 (D) An evaluation of whether the proposed regulation is
4 inconsistent or incompatible with existing state regulations.

5 (4) Any other matters as are prescribed by statute applicable to
6 the specific state agency or to any specific regulation or class of
7 regulations.

8 (5) A determination as to whether the regulation imposes a
9 mandate on local agencies or school districts and, if so, whether
10 the mandate requires state reimbursement pursuant to Part 7
11 (commencing with Section 17500) of Division 4.

12 (6) An estimate, prepared in accordance with instructions
13 adopted by the Department of Finance, of the cost or savings to
14 any state agency, the cost to any local agency or school district
15 that is required to be reimbursed under Part 7 (commencing with
16 Section 17500) of Division 4, other nondiscretionary cost or
17 savings imposed on local agencies, and the cost or savings in
18 federal funding to the state.

19 For purposes of this paragraph, “cost or savings” means
20 additional costs or savings, both direct and indirect, that a public
21 agency necessarily incurs in reasonable compliance with
22 regulations.

23 (7) If a state agency, in proposing to adopt, amend, or repeal
24 any administrative regulation, makes an initial determination that
25 the action may have a significant, statewide adverse economic
26 impact directly affecting business, including the ability of
27 California businesses to compete with businesses in other states,
28 it shall include the following information in the notice of proposed
29 action:

30 (A) Identification of the types of businesses that would be
31 affected.

32 (B) A description of the projected reporting, recordkeeping, and
33 other compliance requirements that would result from the proposed
34 action.

35 (C) The following statement: “The (name of agency) has made
36 an initial determination that the (adoption/amendment/repeal) of
37 this regulation may have a significant, statewide adverse economic
38 impact directly affecting business, including the ability of
39 California businesses to compete with businesses in other states.
40 The (name of agency) (has/has not) considered proposed

1 alternatives that would lessen any adverse economic impact on
2 business and invites you to submit proposals. Submissions may
3 include the following considerations:

4 (i) The establishment of differing compliance or reporting
5 requirements or timetables that take into account the resources
6 available to businesses.

7 (ii) Consolidation or simplification of compliance and reporting
8 requirements for businesses.

9 (iii) The use of performance standards rather than prescriptive
10 standards.

11 (iv) Exemption or partial exemption from the regulatory
12 requirements for businesses.”

13 (8) If a state agency, in adopting, amending, or repealing any
14 administrative regulation, makes an initial determination that the
15 action will not have a significant, statewide adverse economic
16 impact directly affecting business, including the ability of
17 California businesses to compete with businesses in other states,
18 it shall make a declaration to that effect in the notice of proposed
19 action. In making this declaration, the agency shall provide in the
20 record facts, evidence, documents, testimony, or other evidence
21 upon which the agency relies to support its initial determination.

22 An agency’s initial determination and declaration that a proposed
23 adoption, amendment, or repeal of a regulation may have or will
24 not have a significant, adverse impact on businesses, including the
25 ability of California businesses to compete with businesses in other
26 states, shall not be grounds for the office to refuse to publish the
27 notice of proposed action.

28 (9) A description of all cost impacts, known to the agency at
29 the time the notice of proposed action is submitted to the office,
30 that a representative private person or business would necessarily
31 incur in reasonable compliance with the proposed action.

32 If no cost impacts are known to the agency, it shall state the
33 following:

34 “The agency is not aware of any cost impacts that a
35 representative private person or business would necessarily incur
36 in reasonable compliance with the proposed action.”

37 (10) A statement of the results of the economic impact
38 assessment required by subdivision (b) of Section 11346.3 or the
39 standardized regulatory impact analysis if required by subdivision
40 (c) of Section 11346.3, a summary of any comments submitted to

1 the agency pursuant to subdivision (f) of Section 11346.3 and the
2 agency's response to those comments.

3 (11) The finding prescribed by subdivision (d) of Section
4 11346.3, if required.

5 (12) (A) A statement that the action would have a significant
6 effect on housing costs, if a state agency, in adopting, amending,
7 or repealing any administrative regulation, makes an initial
8 determination that the action would have that effect.

9 (B) The agency officer designated in paragraph (15) shall make
10 available to the public, upon request, the agency's evaluation, if
11 any, of the effect of the proposed regulatory action on housing
12 costs.

13 (C) The statement described in subparagraph (A) shall also
14 include the estimated costs of compliance and potential benefits
15 of a building standard, if any, that were included in the initial
16 statement of reasons.

17 (D) For purposes of model codes adopted pursuant to Section
18 18928 of the Health and Safety Code, the agency shall comply
19 with the requirements of this paragraph only if an interested party
20 has made a request to the agency to examine a specific section for
21 purposes of estimating the costs of compliance and potential
22 benefits for that section, as described in Section 11346.2.

23 (13) ~~If the regulatory action is submitted by a state board on
24 which a controlling number of decisionmakers are active market
25 participants in the market the board regulates, a statement that the
26 adopting agency has evaluated the impact of the proposed
27 regulation on competition, and that the proposed regulation furthers
28 a clearly articulated and affirmatively expressed state law to restrain
29 competition. board within the Department of Consumer Affairs,
30 a statement that the Director of Consumer Affairs has reviewed
31 the proposed regulation and determined that the proposed
32 regulation furthers state law.~~

33 (14) A statement that the adopting agency must determine that
34 no reasonable alternative considered by the agency or that has
35 otherwise been identified and brought to the attention of the agency
36 would be more effective in carrying out the purpose for which the
37 action is proposed, would be as effective and less burdensome to
38 affected private persons than the proposed action, or would be
39 more cost effective to affected private persons and equally effective
40 in implementing the statutory policy or other provision of law. For

1 a major regulation, as defined by Section 11342.548, proposed on
2 or after November 1, 2013, the statement shall be based, in part,
3 upon the standardized regulatory impact analysis of the proposed
4 regulation, as required by Section 11346.3, as well as upon the
5 benefits of the proposed regulation identified pursuant to
6 subparagraph (C) of paragraph (3).

7 (15) The name and telephone number of the agency
8 representative and designated backup contact person to whom
9 inquiries concerning the proposed administrative action may be
10 directed.

11 (16) The date by which comments submitted in writing must
12 be received to present statements, arguments, or contentions in
13 writing relating to the proposed action in order for them to be
14 considered by the state agency before it adopts, amends, or repeals
15 a regulation.

16 (17) Reference to the fact that the agency proposing the action
17 has prepared a statement of the reasons for the proposed action,
18 has available all the information upon which its proposal is based,
19 and has available the express terms of the proposed action, pursuant
20 to subdivision (b).

21 (18) A statement that if a public hearing is not scheduled, any
22 interested person or his or her duly authorized representative may
23 request, no later than 15 days prior to the close of the written
24 comment period, a public hearing pursuant to Section 11346.8.

25 (19) A statement indicating that the full text of a regulation
26 changed pursuant to Section 11346.8 will be available for at least
27 15 days prior to the date on which the agency adopts, amends, or
28 repeals the resulting regulation.

29 (20) A statement explaining how to obtain a copy of the final
30 statement of reasons once it has been prepared pursuant to
31 subdivision (a) of Section 11346.9.

32 (21) If the agency maintains an Internet Web site or other similar
33 forum for the electronic publication or distribution of written
34 material, a statement explaining how materials published or
35 distributed through that forum can be accessed.

36 (22) If the proposed regulation is subject to Section 11346.6, a
37 statement that the agency shall provide, upon request, a description
38 of the proposed changes included in the proposed action, in the
39 manner provided by Section 11346.6, to accommodate a person
40 with a visual or other disability for which effective communication

1 is required under state or federal law and that providing the
2 description of proposed changes may require extending the period
3 of public comment for the proposed action.

4 (b) The agency representative designated in paragraph (15) of
5 subdivision (a) shall make available to the public upon request the
6 express terms of the proposed action. The representative shall also
7 make available to the public upon request the location of public
8 records, including reports, documentation, and other materials,
9 related to the proposed action. If the representative receives an
10 inquiry regarding the proposed action that the representative cannot
11 answer, the representative shall refer the inquiry to another person
12 in the agency for a prompt response.

13 (c) This section shall not be construed in any manner that results
14 in the invalidation of a regulation because of the alleged inadequacy
15 of the notice content or the summary or cost estimates, or the
16 alleged inadequacy or inaccuracy of the housing cost estimates, if
17 there has been substantial compliance with those requirements.

18 ~~SEC. 19. Section 11349 of the Government Code is amended~~
19 ~~to read:~~

20 ~~11349. The following definitions govern the interpretation of~~
21 ~~this chapter:~~

22 (a) ~~“Necessity” means the record of the rulemaking proceeding~~
23 ~~demonstrates by substantial evidence the need for a regulation to~~
24 ~~effectuate the purpose of the statute, court decision, or other~~
25 ~~provision of law that the regulation implements, interprets, or~~
26 ~~makes specific, taking into account the totality of the record. For~~
27 ~~purposes of this standard, evidence includes, but is not limited to,~~
28 ~~facts, studies, and expert opinion.~~

29 (b) ~~“Authority” means the provision of law which permits or~~
30 ~~obligates the agency to adopt, amend, or repeal a regulation.~~

31 (c) ~~“Clarity” means written or displayed so that the meaning of~~
32 ~~regulations will be easily understood by those persons directly~~
33 ~~affected by them.~~

34 (d) ~~“Consistency” means being in harmony with, and not in~~
35 ~~conflict with or contradictory to, existing statutes, court decisions,~~
36 ~~or other provisions of law.~~

37 (e) ~~“Reference” means the statute, court decision, or other~~
38 ~~provision of law which the agency implements, interprets, or makes~~
39 ~~specific by adopting, amending, or repealing a regulation.~~

1 (f) “Nonduplication” means that a regulation does not serve the
 2 same purpose as a state or federal statute or another regulation.
 3 This standard requires that an agency proposing to amend or adopt
 4 a regulation must identify any state or federal statute or regulation
 5 which is overlapped or duplicated by the proposed regulation and
 6 justify any overlap or duplication. This standard is not intended
 7 to prohibit state agencies from printing relevant portions of
 8 enabling legislation in regulations when the duplication is necessary
 9 to satisfy the clarity standard in paragraph (3) of subdivision (a)
 10 of Section 11349.1. This standard is intended to prevent the
 11 indiscriminate incorporation of statutory language in a regulation.

12 (g) “Competitive impact” means that the record of the
 13 rulemaking proceeding or other documentation demonstrates that
 14 the regulation is authorized by a clearly articulated and
 15 affirmatively expressed state law, that the regulation furthers the
 16 public protection mission of the state agency, and that the impact
 17 on competition is justified in light of the applicable regulatory
 18 rationale for the regulation.

19 SEC. 20. Section 11349.1 of the Government Code is amended
 20 to read:

21 11349.1. (a) The office shall review all regulations adopted,
 22 amended, or repealed pursuant to the procedure specified in Article
 23 5 (commencing with Section 11346) and submitted to it for
 24 publication in the California Code of Regulations Supplement and
 25 for transmittal to the Secretary of State and make determinations
 26 using all of the following standards:

- 27 (1) Necessity.
- 28 (2) Authority.
- 29 (3) Clarity.
- 30 (4) Consistency.
- 31 (5) Reference.
- 32 (6) Nonduplication.
- 33 (7) For those regulations submitted by a state board on which
 34 a controlling number of decisionmakers are active market
 35 participants in the market the board regulates, the office shall
 36 review for competitive impact.

37 In reviewing regulations pursuant to this section, the office shall
 38 restrict its review to the regulation and the record of the rulemaking
 39 except as directed in subdivision (h). The office shall approve the

1 regulation or order of repeal if it complies with the standards set
2 forth in this section and with this chapter.

3 (b) In reviewing proposed regulations for the criteria in
4 subdivision (a), the office may consider the clarity of the proposed
5 regulation in the context of related regulations already in existence.

6 (c) The office shall adopt regulations governing the procedures
7 it uses in reviewing regulations submitted to it. The regulations
8 shall provide for an orderly review and shall specify the methods,
9 standards, presumptions, and principles the office uses, and the
10 limitations it observes, in reviewing regulations to establish
11 compliance with the standards specified in subdivision (a). The
12 regulations adopted by the office shall ensure that it does not
13 substitute its judgment for that of the rulemaking agency as
14 expressed in the substantive content of adopted regulations.

15 (d) The office shall return any regulation subject to this chapter
16 to the adopting agency if any of the following occur:

17 (1) The adopting agency has not prepared the estimate required
18 by paragraph (6) of subdivision (a) of Section 11346.5 and has not
19 included the data used and calculations made and the summary
20 report of the estimate in the file of the rulemaking.

21 (2) The agency has not complied with Section 11346.3.
22 “Noncompliance” means that the agency failed to complete the
23 economic impact assessment or standardized regulatory impact
24 analysis required by Section 11346.3 or failed to include the
25 assessment or analysis in the file of the rulemaking proceeding as
26 required by Section 11347.3.

27 (3) The adopting agency has prepared the estimate required by
28 paragraph (6) of subdivision (a) of Section 11346.5, the estimate
29 indicates that the regulation will result in a cost to local agencies
30 or school districts that is required to be reimbursed under Part 7
31 (commencing with Section 17500) of Division 4, and the adopting
32 agency fails to do any of the following:

33 (A) Cite an item in the Budget Act for the fiscal year in which
34 the regulation will go into effect as the source from which the
35 Controller may pay the claims of local agencies or school districts.

36 (B) Cite an accompanying bill appropriating funds as the source
37 from which the Controller may pay the claims of local agencies
38 or school districts.

39 (C) Attach a letter or other documentation from the Department
40 of Finance which states that the Department of Finance has

1 approved a request by the agency that funds be included in the
2 Budget Bill for the next following fiscal year to reimburse local
3 agencies or school districts for the costs mandated by the
4 regulation.

5 (D) Attach a letter or other documentation from the Department
6 of Finance which states that the Department of Finance has
7 authorized the augmentation of the amount available for
8 expenditure under the agency's appropriation in the Budget Act
9 which is for reimbursement pursuant to Part 7 (commencing with
10 Section 17500) of Division 4 to local agencies or school districts
11 from the unencumbered balances of other appropriations in the
12 Budget Act and that this augmentation is sufficient to reimburse
13 local agencies or school districts for their costs mandated by the
14 regulation.

15 (4) The proposed regulation conflicts with an existing state
16 regulation and the agency has not identified the manner in which
17 the conflict may be resolved.

18 (5) The agency did not make the alternatives determination as
19 required by paragraph (4) of subdivision (a) of Section 11346.9.

20 (6) The office decides that the record of the rulemaking
21 proceeding or other documentation for the proposed regulation
22 does not demonstrate that the regulation is authorized by a clearly
23 articulated and affirmatively expressed state law, that the regulation
24 does not further the public protection mission of the state agency,
25 or that the impact on competition is not justified in light of the
26 applicable regulatory rationale for the regulation.

27 (e) The office shall notify the Department of Finance of all
28 regulations returned pursuant to subdivision (d).

29 (f) The office shall return a rulemaking file to the submitting
30 agency if the file does not comply with subdivisions (a) and (b)
31 of Section 11347.3. Within three state working days of the receipt
32 of a rulemaking file, the office shall notify the submitting agency
33 of any deficiency identified. If no notice of deficiency is mailed
34 to the adopting agency within that time, a rulemaking file shall be
35 deemed submitted as of the date of its original receipt by the office.
36 A rulemaking file shall not be deemed submitted until each
37 deficiency identified under this subdivision has been corrected.

38 (g) Notwithstanding any other law, return of the regulation to
39 the adopting agency by the office pursuant to this section is the
40 exclusive remedy for a failure to comply with subdivision (c) of

1 ~~Section 11346.3 or paragraph (10) of subdivision (a) of Section~~
2 ~~11346.5.~~

3 ~~(h) The office may designate, employ, or contract for the~~
4 ~~services of independent antitrust or applicable economic experts~~
5 ~~when reviewing proposed regulations for competitive impact.~~
6 ~~When reviewing a regulation for competitive impact, the office~~
7 ~~shall do all of the following:~~

8 ~~(1) If the Director of Consumer Affairs issued a written decision~~
9 ~~pursuant to subdivision (e) of Section 109 of the Business and~~
10 ~~Professions Code, the office shall review and consider the decision~~
11 ~~and all supporting documentation in the rulemaking file.~~

12 ~~(2) Consider whether the anticompetitive effects of the proposed~~
13 ~~regulation are clearly outweighed by the public policy merits.~~

14 ~~(3) Provide a written opinion setting forth the office's findings~~
15 ~~and substantive conclusions under paragraph (2), including, but~~
16 ~~not limited to, whether rejection or modification of the proposed~~
17 ~~regulation is necessary to ensure that restraints of trade are related~~
18 ~~to and advance the public policy underlying the applicable~~
19 ~~regulatory rationale.~~

20 ~~SEC. 21:~~

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

Senate Bill No. 1348

CHAPTER 174

An act to amend Section 114.5 of the Business and Professions Code, relating to professions and vocations.

[Approved by Governor August 22, 2016. Filed with Secretary of State August 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1348, Cannella. Licensure applications: military experience.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires each board to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

This bill would require each board, with a governing law authorizing veterans to apply military experience and training towards licensure requirements, to post information on the board's Internet Web site about the ability of veteran applicants to apply their military experience and training towards licensure requirements.

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

SECTION 1. Section 114.5 of the Business and Professions Code is amended to read:

114.5. (a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

(b) If a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's Internet Web site about the ability of veteran applicants to apply military experience and training towards licensure requirements.