STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF REGISTERED NURSING
PO Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 F (916) 574-8637 | www.rn.ca.gov
Louise R. Bailey, MEd, RN, Executive Officer

LEGISLATIVE COMMITTEE MEETING

DoubleTree by Hilton San Francisco Airport
835 Airport Boulevard
Burlingame, CA 94010
(650) 344-5500
Sierra Ballroom

August 6, 2015

Thursday, August 6, 2015: 3:00 p.m. to 4:00 p.m.

8.0 Call to Order, Roll Call and Establishment of Quorum

8.1 Review and Vote on Whether to Approve the Minutes of:
- May 7, 2015

8.2 Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills, and any other Bills of Interest to the Board Introduced During the 2015-2016 Legislative Session

Assembly Bills	Senate Bills
AB 12	SB 319
AB 26	SB 323
AB 85	SB 390
AB 172	SB 408
AB 611	SB 464
AB 637	SB 466
AB 840	SB 467
AB 1060	SB 482
AB 1306	SB 531
AB 1351	SB 800
AB 1352	
AB 1386	

8.3 Update on Regulatory Proposal to Increase Fees in California Code of Regulations, Article 1, Section 1417, Fees

8.4 Public Comment for Items Not on the Agenda

8.5 Adjournment

NOTICE:
All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at http://www.rn.ca.gov. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov, or send a written request to the Board of Registered Nursing at 1747 N. Market Blvd., Ste. 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation. Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.

Louise R. Bailey, M.Ed, RN, Executive Officer

BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: May 7, 2015

TIME: 3:00 p.m.- 4:00 p.m.

LOCATION: The Dana on Mission
Sunset Room
1710 W Mission Bay Drive
San Diego, CA 92109

MEMBERS PRESENT: Cynthia Klein, RN
Jeanette Dong
Trande Phillips, RN

STAFF PRESENT: Louise Bailey, Executive Officer
Ronnie Whitaker, Legislative and Regulatory Analyst

Cynthia Klein called the meeting to order at 3:03 p.m.

8.1 Review and Approve Minutes
The minutes of March 5, 2015 were approved.

Motion: Cynthia Klein		**Second:** Trande Phillips	**Approve with amendments**
CK: Yes	**ICB: ----------**	**JD: Abstain**	**TP: Yes**

8.2 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.

AB 12 Cooley: Administrative regulations: review

Motion: Cynthia Klein		**Second:** Trande Phillips	**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**

AB 85 Wilk: Open meetings

Motion: Janette Dong		**Second:** Cynthia Klein	**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**

DRAFT

AB 611 Dahle: Controlled substances: prescriptions: reporting

Motion: Cynthia Klein		**Second:** Janette Dong		**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

AB 1060 Bonilla: Professions and vocations: licensure

Motion: Trande Phillips		**Second:** Cynthia Klein		**Support if amended**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

Two public comments.

SB 323 Hernandez: Nurse practitioners: scope of practice

Motion: Cynthia Klein		**Second:** Trande Phillips		**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

Five public comments.

SB 466 Hill: Nursing: Board of Registered Nursing

Motion: Cynthia Klein		**Second:** Janette Dong		**Watch**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

One public comment.

SB 800 Committee on Business, Professions and Economic Development: Healing Arts

Motion: Janette Dong		**Second:** Cynthia Klein		**Support**
CK: Yes	**ICB: ----------**	**JD: Yes**	**TP: Yes**	

8.3 Public Comment for Items Not on the Agenda

There were seven public comments.
Katherine Hughes, SEIU National Nurse Alliance
Linda Walsh, President, CNMA
Melanie Martin
Tricia Hunter, MN, RN, ANA/C
Donna Emanuele, President, CANP
Linda Calderon, CNM, UNAC
Deann McEwen, RN, CNA

The meeting adjourned at 3:52 p.m.

Submitted by: _____
Ronnie Whitaker, Legislative and Regulatory Analyst

Approved by: _____
Cynthia Klein, RN

DRAFT

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BOARD OF REGISTERED NURSING

LEGISLATIVE COMMITTEE
MEETING MINUTES

DATE: March 5, 2015

TIME: 3:00 p.m.- 4:00 p.m.

LOCATION: Hilton Garden Inn San Francisco/Oakland Bay Bridge
1800 Powell Street
Emeryville, California 94608
Top of the Bay Room

MEMBERS PRESENT: Imelda Ceja-Butkiewicz, Chairperson
Cynthia Klein, RN
Jeanette Dong
Trande Phillips, RN

STAFF PRESENT: Louise Bailey, Executive Officer
Ronnie Whitaker, Legislative and Regulatory Analyst

Imelda Ceja-Butkiewicz called the meeting to order at 3:14 p.m.

8.1 Review and Approve Minutes
The minutes of August 7, 2014, October 9, 2014 and January 8, 2015 were approved.

Motion: Imelda Ceja-Butkiewicz		**Second:** Trande Phillips		**August 7, 2014 Approve**
CK: Yes	**ICB: Abstain**	**JD: Abstain**	**TP: Yes**	

Motion: Imelda Ceja-Butkiewicz		**Second:** Trande Phillips		**October 9, 2014 Approve**
CK: Yes	**ICB: Abstain**	**JD: Yes**	**TP: Yes**	

Motion: Imelda Ceja-Butkiewicz		**Second:** Trande Phillips		**January 8, 2015 Approve**
CK: Yes	**ICB: Abstain**	**JD: Yes**	**TP: Yes**	

8.2 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.
There was no action taken on any Bills as there were no new Bills of Interest to the Board.

8.3 Public Comment for Items Not on the Agenda
There were no public comments.

The meeting adjourned at 3:16 p.m.

Submitted by: Ronnie Whitaker
Ronnie Whitaker, Legislative and Regulatory Analyst

Approved by: Cynthia Klein RN
Imelda Ceja-Butkiewicz, RN CYNTHIA KLEIN
acting chair Leg Committee

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.2
DATE: August 6, 2015

ACTION REQUESTED: Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills, and any other Bills of Interest to the Board introduced during the 2015-2016 Legislative Session.

REQUESTED BY: Ronnie Whitaker
Legislative and Regulatory Analyst

BACKGROUND:

Assembly Bills			Senate Bills		
	Comm.	**Board**		**Comm.**	**Board**
AB 12	Watch	Watch	SB 319		Watch
AB 26		No Action	SB 323	Watch	Support
AB 85	Watch	Oppose	SB 390		Watch
AB 172		Support	SB 408		Oppose
AB 611	Watch	Support	SB 464		
AB 637		Watch	SB 466	Watch	Oppose
AB 840		Support	SB 467		
AB 1060	Support if amended	Support if amended	SB 482		Support
AB 1306		Support	SB 531		Watch
AB 1351			SB 800	Support	Support
AB 1352					
AB 1386		Support			

NEXT STEP: Place on Board agenda

FINANCIAL IMPLICATIONS, IF ANY: None

PERSON TO CONTACT: Ronnie Whitaker
Legislative and Regulatory Analyst
Phone: (916) 574-7600

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2015-2016
August 6, 2015

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
AB 12	Cooley	State government: administrative regulations: review	Watch (5/7/15)	Watch (6/4/15)	Senate Appropriations
AB 26	Jones-Sawyer	Medical Cannibus		No Action (1/8/15)	Assembly Business & Professions
AB 85	Wilk	Open meetings	Watch (5/7/15)	Oppose (6/4/15)	Senate Appropriations
AB 172	Rodriguez	Emergency departments: assaults and batteries		Support (6/4/15)	Senate Appropriations
AB 611	Dahle	Controlled substances: prescriptions: reporting	Watch (5/7/15)	Support (6/4/15)	Assembly Business & Professions
AB 637	Campos	Physician Orders for Life Sustaining Treatment forms		Watch (4/2/15)	Enrolled
AB 840	Ridley-Thomas	Nurses and certified nurse assistants: overtime		Support (4/2/15)	Senate Public Employment and Retirement
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)**	**Senate Professions and Economic Development**
AB 1351	**Eggman**	**Deferred entry of judgment: pretrial diversion.**			**Senate Appropriations**
AB 1352	**Eggman**	**Deferred entry of judgment: withdrawal of plea.**			**Senate Appropriations**
AB 1386	Low	Emergency medical care: epinephrine auto-injectors.		Support (6/4/15)	Assembly Business & Professions

Bold denotes a bill that is a new bill for Board consideration or has been amended since last Board consideration.

BOARD OF REGISTERED NURSING
SENATE BILLS 2015-2016
August 6, 2015

BILL #	AUTHOR	SUBJECT	COMM POSITION (date)	BOARD POSITION (date)	BILL STATUS
SB 319	**Beall**	**Child welfare services: public health nursing**		**Watch (4/2/15)**	**Assembly Appropriations**
SB 323	**Hernandez**	**Nurse practitioners: scope of practice**	**Watch (5/7/15)**	**Support (6/4/15)**	**Assembly Business & Professions**
SB 390	Bates	Home health agencies: skilled nursing services		Watch (4/2/15)	Senate Health
SB 408	Morrell	Midwife assistants		Oppose (6/4/15)	Assembly Consent
SB 464	**Hernandez**	**Healing arts: self-reporting tools**			**Assembly Third Reading**
SB 466	**Hill**	**Nursing: Board of Registered Nursing**	**Watch (5/7/15)**	**Oppose (6/4/15)**	**Assembly Business & Professions**
SB 467	**Hill**	**Professions and vocations**			**Assembly Appropriations**
SB 482	Lara	Controlled substances: CURES database.		Support (6/4/15)	Assembly Pending Referral
SB 531	Bates	Board of Behavioral Sciences		Watch (4/2/15)	No Longer Applicable to the Board
SB 800	Committee on Business, Professions and Economic Development	Healing arts	Support (5/7/15)	Support (6/4/15)	Assembly Appropriations

Bold denotes a bill that is a new bill for Board consideration or has been amended since last Board consideration.

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Burke	**BILL NUMBER:**	AB 1306
SPONSOR:	The California Nurse Midwives Association	**BILL STATUS:**	Senate Professions and Economic Development
SUBJECT:	Healing arts: certified nurse-midwives: scope of practice	**DATE LAST AMENDED:**	7/1/2015

SUMMARY:
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.

Amended Analysis as of 7/1:
The board shall create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital settings, alternative birth center settings, and home settings, a nurse-midwife educator who has demonstrated familiarity with educational standards in the delivery of maternal-child health care, a consumer of midwifery care, and at least two qualified physicians appointed by the Medical Board of California, including an obstetrician that has experience working with nurse-midwives. The council membership shall consist of a majority of certified nurse-midwives and shall make recommendations to the board on all matters related to nurse-midwifery practice, education, and other matters as specified by the board. The council shall 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.

The amendment makes changes that would authorize a certified nurse-midwife to manage a full range of gynecological and obstetric care services, instead of primary health care services, for women from adolescence beyond menopause consistent with the Core Competencies for Basic Midwifery practice promulgated by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board.

The amendment deletes 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.

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. 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.

The following entities may employ a certified nurse-midwife and charge for professional services rendered by a certified nurse-midwife; however, the entity shall not interfere with, control, or otherwise direct the professional judgment of a certified nurse-midwife:

(1) A clinic

(2) A hospital owned and operated by a health care district

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

(4) A licensed alternative birth center

The bill adds the following settings that a certified nurse-midwife may practice in:

(1) A licensed clinic

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

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

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

(5) A licensed alternative birth center

(6) A nursing corporation

(7) A home setting.

The bill also adds that a certified nurse-midwife shall assist during pregnancy and childbirth in the **home setting** only when all of the following conditions apply:

Part 1

- There is the absence of all any preexisting maternal disease or condition likely to complicate the pregnancy. There is an absence of disease arising from the pregnancy likely to cause significant maternal and/or fetal compromise. There is an absence of a prior caesarean delivery.

Part 2

- There is a singleton fetus.
- There is cephalic presentation at the onset of labor.
- The gestational age of the fetus is greater than 370/7 weeks and less than 420/7 completed weeks of pregnancy at the onset of labor.
- Labor is spontaneous or induced in an outpatient setting.

If a potential certified nurse-midwife client meets the conditions specified in part 2, but fails to meet the conditions specified in clause part 1, and the woman still desires to be a client of the certified nurse-midwife, the certified nurse-midwife shall consult with a physician and surgeon trained in obstetrics and gynecology. A certified nurse-midwife may assist the woman in pregnancy and childbirth only if a physician and surgeon trained in obstetrics and gynecology is consulted and the physician and surgeon who performed the consultation determines that the risk factors presented by her disease or condition are not likely to significantly affect the course of pregnancy and childbirth.

A certified nurse-midwife practicing under a full range of primary gynecological and obstetric care services shall be subject to all credentialing and quality standards held by the facility in which he or she practices. The peer review body shall include nurse-midwives as part of the peer review body that reviews nurse-midwives. The peer review body of that facility shall impose standards that assure quality and patient safety in their facility. The standards shall be approved by the relevant governing body unless found by a court to be arbitrary and capricious.

The practice of nurse-midwifery does not include the assisting of childbirth by any forcible, or mechanical means, nor the performance of any version of those means.

Amended Analysis as of 5/28:
The amendment 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 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.

ANALYSIS:
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) 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 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) 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 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 it self 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.

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.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
California Nurse Midwives Association (sponsor)
AARP
Access Women's Health Justice
American Association of Birth Centers
American Nurses Association California
Association of California Healthcare Districts
Beachside Birth Center
Beach Cities Midwifery & Women's Health Care
California Association of Nurse Anesthetists
California Association for Nurse Practitioners
Maternal and Child Health Access
Women's Community Clinic
Yes2Kollege Education Resources Inc.
Over 50 individuals

OPPOSE
The California Medical Association
1 individual

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 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. 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. This bill would ~~also~~ 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 ~~primary health~~ *gynecological and obstetric* care services for women from adolescence beyond menopause, ~~including, but not limited to, gynecologic and family planning services.~~ *as provided.* The bill would authorize a certified nurse-midwife to practice in ~~all~~ *specified* settings, including, but not limited to, a home *setting*. 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) 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 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 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~~ *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 ~~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. *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) 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 650.01 of the Business and Professions
2 Code is amended to read:
3 650.01. (a) Notwithstanding Section 650, or any other law, it
4 is unlawful for a licensee to refer a person for laboratory, diagnostic
5 nuclear medicine, radiation oncology, physical therapy, physical
6 rehabilitation, psychometric testing, home infusion therapy, or
7 diagnostic imaging goods or services if the licensee or his or her
8 immediate family has a financial interest with the person or in the
9 entity that receives the referral.

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

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

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient. A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing,

and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

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

(5) "Licensee's office" means either of the following:

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

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

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

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

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

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

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

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

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

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

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

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

(g) A violation of subdivision (a) shall be a misdemeanor. In the case of a licensee who is a physician, the Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate

disciplinary action if the licensee has committed unprofessional conduct. In the case of a licensee who is a certified nurse-midwife, the Board of Registered Nursing shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California, the Board of Registered Nursing, or other appropriate governmental agency.

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

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

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

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

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

(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another

licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

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

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

(3) Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars ($75,000,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not

receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

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

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

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

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

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

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of 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).

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

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

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

~~SEC. 2.~~

SEC. 3. Section 2725.1 of the Business and Professions Code is amended to read:

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

(b) No clinic shall employ a registered nurse to perform dispensing duties exclusively. No registered nurse shall dispense drugs in a pharmacy, keep a pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a certified nurse-midwife who functions pursuant to Section

2746.51 or a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

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

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

~~SEC. 3.~~

SEC. 4. Section 2746.2 of the Business and Professions Code is amended to read:

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

(b) The board shall create and appoint a Nurse-Midwifery Advisory Council consisting of certified nurse-midwives in good standing with experience in hospital~~ and nonhospital practice settings,~~ *settings, alternative birth center settings, and home settings*, a nurse-midwife educator who has demonstrated familiarity with~~ consumer needs, collegial practice and accompanied liability, and related~~ educational standards in the delivery of maternal-child health care,~~ and~~ a consumer of midwifery~~ care.~~ *care, and at least two qualified physicians appointed by the Medical Board of California, including an obstetrician that has experience working with nurse-midwives.* The council *membership shall consist of a majority of certified nurse-midwives and* shall make recommendations to the board on all matters related to nurse-midwifery practice, education, and

other matters as specified by the board. The council shall meet regularly, but at least twice a year.

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

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

(1) A clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code.

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

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

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

~~SEC. 4.~~

SEC. 5. Section 2746.5 of the Business and Professions Code is amended to read:

2746.5. (a) The certificate to practice nurse-midwifery authorizes the holder to manage a full range of primary ~~health~~ *gynecological and obstetric* care services for women from adolescence to beyond ~~menopause.~~ *menopause, consistent with*

the Core Competencies for Basic Midwifery practice promulgated by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board. These services include, but are not limited to, primary health care, gynecologic and family planning services, preconception care, care during pregnancy, childbirth, and the postpartum period, immediate care of the newborn, and treatment of male partners for sexually transmitted ~~infections. A certified nurse-midwife is authorized to practice in all settings, including, but not limited to, private practice, clinics, hospitals, birth centers, and homes.~~ *infections, utilizing consultation, collaboration, or referral to appropriate levels of health care services, as indicated.*

(b) A certified nurse-midwife may practice in the following settings:

~~(b)~~

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

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

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

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

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

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

(7) A home setting.

(A) Except as provided in subparagraph (B) of this paragraph, a certified nurse-midwife shall assist during pregnancy and childbirth in the home setting only when all of the following conditions apply:

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

(I) Any preexisting maternal disease or condition likely to complicate the pregnancy.

(II) Disease arising from the pregnancy likely to cause significant maternal and/or fetal compromise.

(III) Prior caesarean delivery.

(ii) There is a singleton fetus.

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

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

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

(B) If a potential certified nurse-midwife client meets the conditions specified in clauses (ii) to (v), inclusive, of subparagraph (A), but fails to meet the conditions specified in clause (i) of subparagraph (A), and the woman still desires to be a client of the certified nurse-midwife, the certified nurse-midwife shall consult with a physician and surgeon trained in obstetrics and gynecology. A certified nurse-midwife may assist the woman in pregnancy and childbirth only if a physician and surgeon trained in obstetrics and gynecology is consulted and the physician and surgeon who performed the consultation determines that the risk factors presented by her disease or condition are not likely to significantly affect the course of pregnancy and childbirth.

(c) As used in this chapter, the practice of nurse-midwifery within a health care system provides for consultation, collaboration, or referral as indicated by the health status of the patient and the resources and medical personnel available in the setting of care. ~~When providing peripartum care in out-of-hospital settings, the certified nurse-midwife shall only provide care to low-risk women with uncomplicated singleton-term pregnancies who are expected to have an uncomplicated birth.~~ The practice of nurse-midwifery care emphasizes informed consent, preventive care, and early detection and referral of complications to physicians and surgeons. While practicing in a hospital setting, the certified nurse-midwife shall collaboratively care for women with more complex health needs.

(d) A certified nurse-midwife practicing under subdivision (a) shall be subject to all credentialing and quality standards held by the facility in which he or she practices. The peer review body shall include nurse-midwives as part of the peer review body that reviews nurse-midwives. The peer review body of that facility shall impose standards that assure quality and patient safety in their

facility. The standards shall be approved by the relevant governing body unless found by a court to be arbitrary and capricious.

~~(c)~~

(e) The practice of nurse-midwifery does not include the assisting of childbirth by any forcible, or mechanical means, nor the performance of any version of those means.

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

~~(d)~~

(g) Any regulations promulgated by a state department that affect the scope of practice of a certified nurse-midwife shall be developed in consultation with the board *and the Nurse-Midwifery Advisory Council*.

~~SEC. 5.~~

SEC. 6. Section 2746.51 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(f) A certified nurse-midwife is authorized 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 consistent with nurse-midwifery education preparation.

~~SEC. 6.~~

SEC. 7. Section 2746.52 of the Business and Professions Code is amended to read:

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

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

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

(2) Ensure immediate care of patients who are in need of care beyond the scope of practice of the certified nurse-midwife, or

provide emergency care for times when a physician and surgeon is not available.

~~SEC. 7.~~

SEC. 8. Section 2746.6 is added to the Business and Professions Code, to read:

2746.6. A consultative relationship between a certified nurse-midwife and a physician and surgeon shall not, by ~~it self,~~ *itself,* provide the basis for finding a physician and surgeon liable for any act or omission of the certified nurse-midwife.

~~SEC. 8.~~

SEC. 9. Section 4061 of the Business and Professions Code is amended to read:

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

(b) Each written request shall contain the names and addresses of the supplier and the requester, the name and quantity of the specific dangerous drug desired, the name of the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor, if applicable, receiving the samples pursuant to this section, the date of receipt, and the name and quantity of the dangerous drugs or dangerous devices provided. These records

shall be preserved by the supplier with the records required by Section 4059.

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

~~SEC. 9.~~

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

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

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

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

(3) The name of the patient or patients.

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

(5) The date of issue.

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

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

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

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

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

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

(i) Prescriptions dispensed by a veterinarian.

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

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

(B) This paragraph applies to outpatient pharmacies only.

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

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

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

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who

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

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

~~SEC. 10.~~

SEC. 11. Section 4170 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

(c) "Prescriber," as used in this section, means a person, who holds a physician's and surgeon's certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, or a certificate to practice podiatry, and who is duly registered by the Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, or the Board of Osteopathic Examiners of this state.

~~SEC. 11.~~

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

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

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Eggman	**BILL NUMBER:**	AB 1351
SPONSOR:	Drug Policy Alliance	**BILL STATUS:**	Senate Appropriations
SUBJECT:	Deferred entry of judgment: pretrial diversion	**DATE LAST AMENDED:**	6/1/2015

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

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

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

Under the pretrial diversion program created by this bill, a qualifying defendant would enter a not guilty plea, and would suspend the proceedings in order to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. If the defendant does

not perform satisfactorily in the program or is convicted of specified crimes, the court would terminate the program and the criminal proceedings would be reinstated. If the defendant completes the program, the criminal charges would be dismissed.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
Drug Policy Alliance (Sponsor)
Immigrant Legal Resource Center (Sponsor) American Civil Liberties Union of California (Co-Sponsor) Coalition for Humane Immigrant Rights of Los Angeles (Co-Sponsor)
Mexican American Legal Defense and Education Fund (MALDEF) (Co-Sponsor) National Council of La Raza (Co-Sponsor)
African Advocacy Network Asian Americans Advancing Justice – Asian Law Caucus
Asian Americans Advancing Justice – L.A. Asian Law Alliance California Immigrant Policy Center California Partnership California Public Defenders Association California Rural Legal Assistance Foundation
Californians for Safety and Justice Californians United for a Responsible Budget
Central American Resource Center – Los Angeles
Chinese for Affirmative Action
Community United Against Violence
Congregations Building Community ConXión to Community
Del Sol Group
Dolores Street Community Services Faith in Action Kern County Harvey Milk LGBT Democratic Club Human Rights Watch Immigration Action Group Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Services for Prisoners with Children
Los Angeles Regional Reentry Partnership
Justice Not Jails MAAC Mujeres Unidas y Activas National Association of Social Workers – California Chapter National Day Laborer Organizing Network Pangea Legal Services
PICO California Placer People of Faith Presente.org Progressive Christians Uniting Red Mexicana de Lideres y Organizaciones Migrantes Santa Clara County Public Defender's Office Silicon Valley De-Bug Solutions for Immigrants William C. Velasquez Institute Vital Immigrant Defense Advocacy and Services (VIDAS)
Two private individuals

OPPOSE:
California District Attorneys Association
California State Sheriff's Association

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1351

Introduced by Assembly Member Eggman
(Coauthor: Senator Hall)

February 27, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1351, as amended, Eggman. Deferred entry of judgment: pretrial diversion.

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

Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18

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

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

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

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

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

1 SECTION 1. Section 1000 of the Penal Code is amended to
2 read:
3 1000. (a) This chapter shall apply whenever a case is before
4 any court upon an accusatory pleading for a violation of Section
5 11350, 11357, 11364, or 11365, paragraph (2) of subdivision (b)
6 of Section 11375, Section 11377, or Section 11550 of the Health
7 and Safety Code, or subdivision (b) of Section 23222 of the Vehicle

Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4060 of the Business and Professions Code, and it appears to the prosecuting attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no prior conviction for any offense involving controlled substances other than the offenses listed in this subdivision.

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

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

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

(b) The prosecuting attorney shall review his or her file to determine whether or not paragraphs (1) to (4), inclusive, of subdivision (a) apply to the defendant. If the defendant is found eligible, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to set the hearing for pretrial diversion of judgment at the arraignment. If the defendant is found ineligible for pretrial diversion, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. The sole remedy of a defendant who is found ineligible for pretrial diversion is a postconviction appeal.

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

(d) Pretrial diversion for an alleged violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.4.

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

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

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

(1) A full description of the procedures for pretrial diversion.

(2) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the program, and the court in the process.

(3) A clear statement that the court may grant pretrial diversion with respect to any crime specified in subdivision (a) of Section 1000 that is charged, provided that the defendant *pleads not guilty to the charge or charges,* waives the right to a speedy preliminary hearing, if applicable, and that upon the defendant's successful completion of a program, as specified in subdivision (c) of Section 1000, the positive recommendation of the program authority and the motion of the defendant, prosecuting attorney, the court, or the probation department, but no sooner than six months and no later than one year from the date of the defendant's referral to the

program, the court shall dismiss the charge or charges against the defendant.

(4) A clear statement that upon any failure of treatment or condition under the program, or any circumstance specified in Section 1000.3, the prosecuting attorney or the probation department or the court on its own may make a motion to the court to terminate pretrial diversion and schedule further proceedings as otherwise provided in this code.

(5) An explanation of criminal record retention and disposition resulting from participation in the pretrial diversion program and the defendant's rights relative to answering questions about his or her arrest and pretrial diversion following successful completion of the program.

(b) If the defendant consents and waives his or her right to a speedy trial and a speedy preliminary hearing, if applicable, the court may refer the case to the probation department or the court may summarily grant pretrial diversion. When directed by the court, the probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, treatment history, if any, demonstrable motivation, and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which programs the defendant would benefit from and which programs would accept the defendant. The probation department shall report its findings and recommendations to the court. The court shall make the final determination regarding education, treatment, or rehabilitation for the defendant. If the court determines that it is appropriate, the court shall grant pretrial diversion if the defendant *pleads not guilty to the charge or charges and* waives the right to a speedy trial and to a speedy preliminary hearing, if applicable.

(c) (1) No statement, or any information procured therefrom, made by the defendant to any probation officer or drug treatment worker, that is made during the course of any investigation conducted by the probation department or treatment program pursuant to subdivision (b), and prior to the reporting of the probation department's findings and recommendations to the court,

shall be admissible in any action or proceeding brought subsequent to the investigation.

(2) No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, that is made to any probation officer or drug program worker subsequent to the granting of pretrial diversion shall be admissible in any action or proceeding.

(d) A defendant's participation in pretrial diversion pursuant to this chapter shall not constitute a conviction or an admission of guilt for any purpose.

SEC. 3. Section 1000.2 of the Penal Code is amended to read:

1000.2. (a) The court shall hold a hearing and, after consideration of any information relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and if the defendant should be granted pretrial diversion. If the defendant does not consent to participate in pretrial diversion the proceedings shall continue as in any other case.

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

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

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

1000.3. (a) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, or that the defendant is convicted of an offense that reflects the defendant's propensity for violence, or the defendant is convicted of a felony, the prosecuting attorney, the court on its own, or the probation department may make a motion for termination from pretrial diversion.

(b) After notice to the defendant, the court shall hold a hearing to determine whether pretrial diversion shall be terminated.

(c) If the court finds that the defendant is not performing satisfactorily in the assigned program, or the court finds that the defendant has been convicted of a crime as indicated in subdivision

(a) the court shall ~~reinstate the criminal charge or charges and~~ schedule the matter for further proceedings as otherwise provided in this code.

(d) If the defendant has completed pretrial diversion, at the end of that period, the criminal charge or charges shall be dismissed.

(e) Prior to dismissing the charge or charges or terminating pretrial diversion, the court shall consider the defendant's ability to pay and whether the defendant has paid a diversion restitution fee pursuant to Section 1001.90, if ordered, and has met his or her financial obligation to the program, if any. As provided in Section 1203.1b, the defendant shall reimburse the probation department for the reasonable cost of any program investigation or progress report filed with the court as directed pursuant to Sections 1000.1 and 1000.2.

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

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

(b) The defendant shall be advised that, regardless of his or her successful completion of the pretrial diversion program, the arrest upon which pretrial diversion was based may be disclosed by the Department of Justice in response to any peace officer application request and that, notwithstanding subdivision (a), this section does not relieve him or her of the obligation to disclose the arrest in response to any direct question contained in any questionnaire or application for a position as a peace officer, as defined in Section 830.

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

1000.5. (a) The presiding judge of the superior court, or a judge designated by the presiding judge, together with the district

attorney and the public defender, may agree in writing to establish and conduct a preguilty plea drug court program pursuant to the provisions of this chapter, wherein criminal proceedings are suspended without a plea of guilty for designated defendants. The drug court program shall include a regimen of graduated sanctions and rewards, individual and group therapy, ~~urine analysis~~ *urinalysis* testing commensurate with treatment needs, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as agreed to by the presiding judge or his or her designee, the district attorney, and the public defender. If there is no agreement in writing for a preguilty plea program by the presiding judge or his or her designee, the district attorney, and the public defender, the program shall be operated as a pretrial diversion program as provided in this chapter.

(b) The provisions of Section 1000.3 and Section 1000.4 regarding satisfactory and unsatisfactory performance in a program shall apply to preguilty plea programs. If the court finds that (1) the defendant is not performing satisfactorily in the assigned program, (2) the defendant is not benefiting from education, treatment, or rehabilitation, (3) the defendant has been convicted of a crime specified in Section 1000.3, or (4) the defendant has engaged in criminal conduct rendering him or her unsuitable for the preguilty plea program, the court shall reinstate the criminal charge or charges. If the defendant has performed satisfactorily during the period of the preguilty plea program, at the end of that period, the criminal charge or charges shall be dismissed and the provisions of Section 1000.4 shall apply.

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

1000.6. (a) Where a person is participating in a pretrial diversion program or a preguilty plea program pursuant to this chapter, the person shall be allowed, under the direction of a licensed health care practitioner, to use medications including, but not limited to, methadone, buprenorphine, or levoalphacetylmethadol (LAAM) to treat substance use disorders if the participant allows release of his or her medical records to the court presiding over the participant's preguilty plea or pretrial diversion program for the limited purpose of determining whether or not the participant is using such medications under the direction of a licensed health care practitioner and is in compliance with the pretrial diversion or preguilty plea program rules.

(b) If the conditions specified in subdivision (a) are met, using medications to treat substance use disorders shall not be the sole reason for exclusion from a pretrial diversion or preguilty plea program. A patient who uses medications to treat substance use disorders and participates in a preguilty plea or pretrial diversion program shall comply with all court program rules.

(c) A person who is participating in a pretrial diversion program or preguilty plea program pursuant to this chapter who uses medications to treat substance use disorders shall present to the court a declaration from their health care practitioner, or their health care practitioner's authorized representative, that the person is currently under their care.

(d) Urinalysis results that only establish that a person described in this section has ingested medication duly prescribed to that person by his or her physician or psychiatrist, or medications used to treat substance use disorders, shall not be considered a violation of the terms of the pretrial diversion or preguilty plea program under this chapter.

(e) Except as provided in subdivisions (a) to (d), inclusive, this section shall not be interpreted to amend any provisions governing diversion programs.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Eggman	**BILL NUMBER:**	AB 1352
SPONSOR:	Drug Policy Alliance	**BILL STATUS:**	Senate Appropriations
SUBJECT:	Deferred entry of judgment: withdrawal of plea.	**DATE LAST AMENDED:**	5/19/2015

SUMMARY:
Existing law allows judgment to be deferred with respect to a defendant who is charged with certain crimes involving possession of controlled substances and who meets certain criteria, including that he or she has no prior convictions for any offense involving controlled substances and has had no felony convictions within the 5 years prior, as specified. Existing law prohibits the record pertaining to an arrest resulting in successful completion of a deferred entry of judgment program from being used in any way that could result in the denial of employment, benefit, license, or certificate.

ANALYSIS:
This bill would require a court to allow a defendant who was granted deferred entry of judgment on or after January 1, 1997, after pleading guilty or nolo contendere to the charged offense, to withdraw his or her plea and enter a plea of not guilty, and would require the court to dismiss the complaint or information against the defendant, if the defendant performed satisfactorily during the deferred entry of judgment period and the defendant attests that the plea may result in the denial or loss to the defendant of any employment, benefit, license, or certificate, including, but not limited to, causing a noncitizen defendant to potentially be found inadmissable, deportable, or subject to any other kind of adverse immigration consequence. The bill would require the Judicial Council to develop a form to allow the defendant to make this attestation. Pursuant to the bill, the completion, signing, and submission of the form with specified documentation would be presumed to satisfy the requirement for the withdrawal of the plea and dismissal of the complaint.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
Drug Policy Alliance (Sponsor)
Immigrant Legal Resource Center (Sponsor)
American Civil Liberties Union of California (Co-Sponsor)
Coalition for Humane Immigrant Rights of Los Angeles (Co-Sponsor)
Mexican American Legal Defense and Education Fund (MALDEF) (Co-Sponsor)

National Council of La Raza (Co-Sponsor)
African Advocacy Network
Asian Americans Advancing Justice – Asian Law Caucus
Asian Americans Advancing Justice – L.A.
Asian Law Alliance California Attorneys for Criminal Justice
California Immigrant Policy Center
California Partnership California Public Defenders Association
California Rural Legal Assistance Foundation
Californians for Safety and Justice
Californians United for a Responsible Budget
Central American Resource Center – Los Angeles
Chinese for Affirmative Action
Community United Against Violence
Congregations Building Community
Del Sol Group
Dolores Street Community Services
Faith in Action Kern County
Harvey Milk LGBT Democratic Club
Human Rights Watch
Immigration Action Group
Institute for Justice
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Services for Prisoners with Children
Los Angeles Regional Reentry Partnership
Justice Not Jails
MAAC
Mujeres Unidas y Activas
National Association of Social Workers – California Chapter
National Day Laborer Organizing Network National Immigration Law Center
Pangea Legal Services
PICO California
Placer People of Faith
Presente.org
Progressive Christians Uniting
Red Mexicana de Lideres y Organizaciones Migrantes
Santa Clara County Public Defender's Office
Silicon Valley De-Bug
Solutions for Immigrants
William C. Velasquez Institute
Vital Immigrant Defense Advocacy and Services (VIDAS)
One private individual

OPPOSE:
California District Attorneys Association
California State Sheriff's Association

AMENDED IN SENATE MAY 19, 2015

AMENDED IN ASSEMBLY APRIL 27, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 1352

Introduced by Assembly Member Eggman

February 27, 2015

An act to add Section 1203.43 to the Penal Code, relating to deferred entry of judgment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1352, as amended, Eggman. Deferred entry of judgment: withdrawal of plea.

Existing law allows judgment to be deferred with respect to a defendant who is charged with certain crimes involving possession of controlled substances and who meets certain criteria, including that he or she has no prior convictions for any offense involving controlled substances and has had no felony convictions within the 5 years prior, as specified. Existing law prohibits the record pertaining to an arrest resulting in successful completion of a deferred entry of judgment program from being used in any way that could result in the denial of employment, benefit, license, or certificate.

This bill would require a court to allow a defendant who was granted deferred entry of judgment on or after January 1, 1997, after pleading guilty or nolo contendere to the charged offense, to withdraw his or her plea and enter a plea of not guilty, and would require the court to dismiss the complaint or information against the defendant, if the defendant performed satisfactorily during the deferred entry of judgment period and the defendant ~~shows~~ *attests* that the plea may result in the denial

or loss to the defendant of any employment, benefit, license, or certificate, including, but not limited to, causing a noncitizen defendant to potentially be found inadmissable, deportable, or subject to any other kind of adverse immigration consequence. *The bill would require the Judicial Council to develop a form to allow the defendant to make this attestation. Pursuant to the bill, the completion, signing, and submission of the form with specified documentation would be presumed to satisfy the requirement for the withdrawal of the plea and dismissal of the complaint.*

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

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

SECTION 1. Section 1203.43 is added to the Penal Code, to read:

1203.43. (a) (1) The Legislature finds and declares that the statement in Section 1000.4, that "successful completion of a deferred entry of judgment program shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate" constitutes misinformation about the actual consequences of making a plea in the case of some defendants, including all noncitizen defendants, because the disposition of the case may cause adverse consequences, including adverse immigration consequences.

(2) Accordingly, the Legislature finds and declares that based on this misinformation and the potential harm, the defendant's prior plea is invalid.

(b) In any case in which a defendant was granted deferred entry of judgment on or after January 1, 1997, after pleading guilty or nolo contendere to the charged offense, the defendant shall be permitted by the court to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty, and thereafter the court shall dismiss the complaint or information against the defendant, if the defendant ~~shows~~ *attests to* both of the following:

(1) The charges were dismissed after the defendant performed satisfactorily during the deferred entry of judgment period.

(2) The plea of guilty or nolo contendere may result in the denial or loss to the defendant of any employment, benefit, license, or

certificate, including, but not limited to, causing a noncitizen defendant to potentially be found inadmissable, deportable, or subject to any other kind of adverse immigration consequence.

(c) The Judicial Council shall, by June 1, 2016, develop a form that allows a defendant to attest to the information described in paragraphs (1) and (2) of subdivision (b).

(d) The defendant shall submit documentation of the dismissal of charges or satisfactory participation in, or completion of, diversion programming. The completion, signing, and submission by the defendant of the form described in subdivision (c) with the documentation specified in this subdivision shall be presumed to satisfy the requirements for withdrawal of the plea and dismissal of the complaint or information against the defendant.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Beall	**BILL NUMBER:**	SB 319
SPONSOR:	National Center for Youth Law	**BILL STATUS:**	Assembly Health
SUBJECT:	Child welfare services: public health nursing	**DATE LAST AMENDED:**	7/7/2015

SUMMARY:
Existing law requires the State Department of Social Services to establish a program of public health nursing in the child welfare services program, and requires counties to use the services of the foster care public health nurse under this program. Existing law requires the foster care public health nurse to perform specified duties, including participating in medical care planning and coordinating for a child in foster care. Existing law also requires a county to establish a community child health and disability prevention program to provide early and periodic assessments of the health status of children in the county.

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:
This bill would require a county to provide the services of a foster care public health nurse to children in foster care by contracting with the community child health and disability prevention program established in that county. The bill would require a foster care public health nurse to monitor and oversee each child in foster care who is administered one or more psychotropic medications, as specified. The bill would give the foster care public health nurse access to the child's medical, dental, and mental health care information in order to fulfill these duties. By imposing these additional duties on foster care public health nurses, this bill would impose a state-mandated local program.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Amended analysis as of 7/7:
Makes changes in monitoring, in collaboration with the child's county social worker and mental health worker, each child in foster care who is administered one or more psychotropic medications. The amendment states that reviewing, monitoring, engaging with the caregiver, and confirming through submitted medical reports received from the prescribing physician that periodic followup visits, laboratory work, and other measurements are scheduled and completed. The bill was also amended to state that reviewing and documenting the response of the child to the administration of

psychotropic medication through review and interpretation of the laboratory tests, screenings, and reports-containing information from the child and received from the caregiver or social worker, and, if necessary, interpreting, for the child's social worker, health information to be included in court reports.

Amended analysis as of 6/2:
The amendment deletes the provision that requires a county to establish a community child health and disability prevention program to provide early and periodic assessments of the health status of children in the county.

Amended analysis as of 4/1:
The amendment deletes the provision that gives the foster care public health nurse access to the child's medical, dental, and mental health care information.

Existing law restricts the disclosure of medical and mental health information by providers of health care and mental health care services, but authorizes disclosure of this information to county social workers, probation officers, or any other person who is legally authorized to have custody and care of a minor who is in temporary custody or subject to the jurisdiction of the juvenile court, for the purpose of coordinating medical treatment and health care, mental health, and developmental disability services for the minor.

This bill would authorize the disclosure of this health care and mental health care information to a foster care public health nurse, as specified.

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.

BOARD POSITION: Watch (4/2/15)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
National Center for Youth Law (sponsor)
Kamala Harris, California Attorney General
Abode Services
Accessing Health Services for California's Children in Foster Care Task Force
Advokids
Alameda County Board of Supervisors
California Academy of Child and Adolescent Psychiatry
California Alliance of Child and Family Services
California Department of Justice
California Youth Connection
Children's Defense Fund California
Children Now
Children's Partnership
Children's Law Center of California
Consumer Watchdog
County Welfare Directors Association of California

Disability Rights California
First Place for Youth
Humboldt County Transition Age Youth Collaboration
John Burton Foundation for Children without Homes
Laborer's International Union of North America Local 777 and 792
Mockingbird Society
National Center for Youth Law
Santa Clara County Board of Supervisors
Eight individuals

OPPOSE
None received.

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MARCH 26, 2015

SENATE BILL No. 319

Introduced by Senator Beall
(Principal coauthor: Senator Mitchell)
(Principal coauthor: Assembly Member Chiu)
(Coauthor: Senator Monning)
(Coauthors: Assembly Members Gatto and Gipson)

February 23, 2015

An act to amend Section 56.103 of the Civil Code, and to amend Sections 5328.04 and 16501.3 of the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

SB 319, as amended, Beall. Child welfare services: public health nursing.

Existing law requires the State Department of Social Services to establish a program of public health nursing in the child welfare services program, and requires counties to use the services of the foster care public health nurse under this program. Existing law requires the foster care public health nurse to perform specified duties, including participating in medical care planning and coordinating for a child in foster care.

This bill would require a county to provide the services of a foster care public health nurse to children in foster care. The bill would require a foster care public health nurse to monitor each child in foster care who is administered one or more psychotropic medications, as specified.

By imposing these additional duties on foster care public health nurses, this bill would impose a state-mandated local program.

Existing law restricts the disclosure of medical and mental health information by providers of health care and mental health care services, but authorizes disclosure of this information to county social workers, probation officers, or any other person who is legally authorized to have custody and care of a minor who is in temporary custody or subject to the jurisdiction of the juvenile court, for the purpose of coordinating medical treatment and health care, mental health, and developmental disability services for the minor.

This bill would authorize the disclosure of this health care and mental health care information to a foster care public health nurse, as specified.

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 56.103 of the Civil Code is amended to
2 read:
3 56.103. (a) A provider of health care may disclose medical
4 information to a county social worker, a probation officer, a foster
5 care public health nurse acting pursuant to Section 16501.3 of the
6 Welfare and Institutions Code, or any other person who is legally
7 authorized to have custody or care of a minor for the purpose of
8 coordinating health care services and medical treatment provided
9 to the minor, including, but not limited to, the sharing of
10 information related to screenings, assessments, and laboratory tests
11 necessary to monitor the administration of psychotropic
12 medications.
13 (b) For purposes of this section, health care services and medical
14 treatment includes one or more providers of health care providing,
15 coordinating, or managing health care and related services,
16 including, but not limited to, a provider of health care coordinating
17 health care with a third party, consultation between providers of
18 health care and medical treatment relating to a minor, or a provider

of health care referring a minor for health care services to another provider of health care.

(c) For purposes of this section, a county social worker, a probation officer, foster care public health nurse, or any other person who is legally authorized to have custody or care of a minor shall be considered a third party who may receive any of the following:

(1) Medical information described in Sections 56.05 and 56.10.

(2) Protected health information described in Section 160.103 of Title 45 of the Code of Federal Regulations.

(d) Medical information disclosed to a county social worker, probation officer, foster care public health nurse, or any other person who is legally authorized to have custody or care of a minor shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Medical information disclosed pursuant to this section may not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(e) (1) Notwithstanding Section 56.104, if a provider of health care determines that the disclosure of medical information concerning the diagnosis and treatment of a mental health condition of a minor is reasonably necessary for the purpose of assisting in coordinating the treatment and care of the minor, that information may be disclosed to a county social worker, probation officer, foster care public health nurse, or any other person who is legally authorized to have custody or care of the minor. The information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating mental health services and treatment of the minor and the disclosure is authorized by law.

(2) As used in this subdivision, “medical information” does not include psychotherapy notes as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(f) The disclosure of information pursuant to this section is not intended to limit the disclosure of information when that disclosure is otherwise required by law.

(g) For purposes of this section, "minor" means a minor taken into temporary custody or as to whom a petition has been filed with the court, or who has been adjudged to be a dependent child or ward of the juvenile court pursuant to Section 300 or 601 of the Welfare and Institutions Code.

(h) (1) Except as described in paragraph (1) of subdivision (e), nothing in this section shall be construed to limit or otherwise affect existing privacy protections provided for in state or federal law.

(2) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, foster care public health nurse, or custodial caregiver beyond the authority provided under existing law to a parent or a patient representative regarding access to medical information.

SEC. 2. Section 5328.04 of the Welfare and Institutions Code is amended to read:

5328.04. (a) Notwithstanding Section 5328, information and records made confidential under that section may be disclosed to a county social worker, a probation officer, a foster care public health nurse acting pursuant to Section 16501.3, or any other person who is legally authorized to have custody or care of a minor, for the purpose of coordinating health care services and medical treatment, as defined in subdivision (b) of Section 56.103 of the Civil Code, mental health services, or services for developmental disabilities, for the minor.

(b) Information disclosed under subdivision (a) shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment, or mental health or developmental disability services, for the minor and only to a person who would otherwise be able to obtain the information under subdivision (a) or any other law.

(c) Information disclosed pursuant to this section shall not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(d) Nothing in this section shall be construed to compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family

therapist, licensed professional clinical counselor, nurse, attorney, or other professional person to reveal information, including notes, that has been given to him or her in confidence by the minor or members of the minor's family.

(e) The disclosure of information pursuant to this section is not intended to limit disclosure of information when that disclosure is otherwise required by law.

(f) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, foster care public health nurse, or custodial caregiver beyond the authority provided under existing law to a parent or a patient representative regarding access to confidential information.

(g) As used in this section, "minor" means a minor taken into temporary custody or for whom a petition has been filed with the court, or who has been adjudged a dependent child or ward of juvenile court pursuant to Section 300 or 601.

(h) Information and records that may be disclosed pursuant to this section do not include psychotherapy notes, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

SEC. 3. Section 16501.3 of the Welfare and Institutions Code is amended to read:

16501.3. (a) The State Department of Social Services shall establish and maintain a program of public health nursing in the child welfare services program that meets the federal requirements for the provision of health care to minor and nonminor dependents in foster care consistent with Section 30026.5 of the Government Code. The purpose of the public health nursing program shall be to promote and enhance the physical, mental, dental, and developmental well-being of children in the child welfare system.

(b) Under this program, counties shall provide the services of a foster care public health nurse. The foster care public health nurse and the child's social worker shall consult, collaborate, and share information in a timely manner to ensure that the child's physical, mental, dental, and developmental needs are met. The foster care public health nurse shall serve as a liaison with health care professionals and other providers of health-related services. In order to fulfill these duties, the foster care public health nurse shall have access to the child's medical, dental, and mental health care information.

(c) The duties of a foster care public health nurse shall include, but need not be limited to, the following:

(1) Documenting that each child in foster care receives initial and followup health screenings that meet reasonable standards of medical practice.

(2) Collecting health information and other relevant data on each foster child as available, receiving all collected information to determine appropriate referral and services, and expediting referrals to providers in the community for early intervention services, specialty services, dental care, mental health services, and other health-related services necessary for the child.

(3) Participating in medical care planning and coordinating for the child. This may include, but is not limited to, assisting case workers in arranging for comprehensive health and mental health assessments, interpreting the results of health assessments or evaluations for the purpose of case planning and coordination, facilitating the acquisition of any necessary court authorizations for procedures or medications, advocating for the health care needs of the child and ensuring the creation of linkage among various providers of care.

(4) Providing followup contact to assess the child's progress in meeting treatment goals.

(5) At the request of and under the direction of a nonminor dependent, as described in subdivision (v) of Section 11400, assisting the nonminor dependent in accessing physical health and mental health care, coordinating the delivery of health and mental health care services, advocating for the health and mental health care that meets the needs of the nonminor dependent, assisting the nonminor dependent to make informed decisions about his or her health care by, at a minimum, providing educational materials, and assisting the nonminor dependent to assume responsibility for his or her ongoing physical and mental health care management.

(6) Monitoring, in collaboration with the child's county social worker and mental health worker, each child in foster care who is administered one or more psychotropic medications. This monitoring shall include, but is not limited to, all of the following:

(A) Reviewing each request for psychotropic medication filed pursuant to Section 369.5 to verify that all required information is provided in the application to the court.

(B) Reviewing, monitoring, engaging, and documenting in the child's health and education passport, as described in Section 16010, that laboratory tests, other screenings and measurements, evaluations, and assessments required to meet reasonable standards of medical practice have been completed.

(C) Reviewing, monitoring, and confirming that the juvenile court has authorized the psychotropic medication to be administered to the child.

(D) Reviewing, monitoring, engaging with the caregiver, and confirming *through submitted medical reports received from the prescribing physician* that periodic followup ~~visits with the prescribing physician,~~ *visits,* laboratory work, and other measurements are scheduled and completed.

(E) Documenting in the child's health and education passport accurate documentation concerning the psychotropic medications authorized for and administered to the child.

(F) Reviewing and documenting the response of the child to the administration of psychotropic medication through review and interpretation of the laboratory tests, *screenings, and* reports ~~by the child and caregiver, and other screenings,~~ *containing information from the child and received from the caregiver or social worker,* and, if necessary, ~~providing information to the child's social worker~~ *interpreting, for the child's social worker, health information* to be included in court reports.

(d) The services provided by foster care public health nurses under this section shall be limited to those for which reimbursement may be claimed under Title XIX of the federal Social Security Act at an enhanced rate for services delivered by skilled professional medical personnel. Notwithstanding any other law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation, as provided under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), is available.

(e) (1) The State Department of Health Care Services shall seek any necessary federal approvals for child welfare agencies to appropriately claim enhanced federal Title XIX funds for services provided pursuant to this section.

(2) Commencing in the fiscal year immediately following the fiscal year in which the necessary federal approval pursuant to paragraph (1) is secured, county child welfare agencies shall

provide health care oversight and coordination services pursuant to this section, and may accomplish this through agreements with local public health agencies.

(f) (1) Notwithstanding Section 10101, prior to the 2011–12 fiscal year, there shall be no required county match of the nonfederal cost of this program.

(2) Commencing in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 4. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state nor otherwise be subject to Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Hernandez	**BILL NUMBER:**	SB 323
SPONSOR:	Hernandez	**BILL STATUS:**	Assembly – Business & Professions
SUBJECT:	Nurse practitioners: scope of practice	**DATE LAST AMENDED:**	7/9/2015

SUMMARY:
The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing.

ANALYSIS:
This bill would make legislative findings and declarations with respect to the importance of care provided by nurse practitioners.

Amended analysis as of 7/9:
The amendment makes a change to add the statement that in the interest of providing patients with comprehensive care and consistent with the spirit of the federal Patient Protection and Affordable Care Act, this measure is supportive of the national health care movement towards integrated and team-based health care models.

Amended analysis as of 7/7:
The amendment would prohibit entities from interfering with, controlling, or otherwise directing the professional judgement a nurse practitioner that is practicing without supervision.

Amended analysis as of 6/23:
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.

This bill would include a nurse practitioner, as specified, 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 also require the Board of Registered Nursing to review the facts and circumstances

of any conviction of a nurse practitioner, as specified, for violating that prohibition, and would require the board to take appropriate disciplinary action if the nurse practitioner has committed unprofessional conduct.

Existing law provides for the professional review of specified healing arts licentiates through a peer review process. Existing law defines the term “licentiate” for those purposes to include, among others, a physician and surgeon.

This bill would include a nurse practitioner, as specified, under the definition of licentiate, and would require the Board of Registered Nursing to disclose reports, as specified.

Amended Analysis as of 4/22:
The amendment makes non-substantive technical changes.

Amended Analysis as of 3/26:
The bill would authorize the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment or plan of care after consultation with a physician and surgeon. A violation of those provisions is a crime.

This bill would authorize a nurse practitioner who holds a national certification from a national certifying body recognized by the board to practice without the supervision of a physician and surgeon, if the nurse practitioner meets existing requirements for nurse practitioners and practices in one of certain specified settings. The bill would authorize a nurse practitioner, in addition to any other practice authorized in statute or regulation, to perform specified acts, including the acts described above, without reference to standardized procedures or the specific need for the supervision of a physician and surgeon. The bill, instead, would require a nurse practitioner to refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of the patient is beyond the scope of the nurse practitioner’s education and training. The bill would require a nurse practitioner practicing under these provisions to maintain professional liability insurance appropriate for the practice setting. By imposing new requirements on nurse practitioners, the violation of which would be a 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.

BOARD POSITION: Watch (6/4/15)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (5/7/15)

SUPPORT:

AARP
Alliance of Catholic Health Care
AltaMed Health Services Corporation
Alzheimer's Association
American Nurses Association\California
Anthem Blue Cross
Association of California Healthcare Districts
Association of California Nurse Leaders
Bay Area Council
Blue Shield of California
California Association for Health Services at Home
California Association for Nurse Practitioners
California Association of Nurse Anesthetists, Inc.
California Association of Physician Groups
California Association of Public Hospitals and Health Systems
California Commission on Aging
California Council of Community Mental Health Agencies
California El Camino Real Association of Occupational Health Nurses
California Family Health Council
California Health & Wellness (CH&W)
California Hospital Association
California Naturopathic Doctors Association
California Pharmacists Association
California Primary Care Association
California Senior Legislature
California Society of Health-System Pharmacists
California State Association of Occupational Health Nurses
Congress of California Seniors
Johns Hopkins University Division of Occupational and Environment Medicine
Maxim Healthcare Services, Inc.
MemorialCare Health System
Pacific Clinics
Private Essential Access Community Hospitals
Providence Health & Services
Sharp HealthCare
Small Business Majority
Stanford Health Care
St. Joseph Health
United Nurses Associations of California/Union of Health Care Professionals
University of California
Western University of Health Sciences

OPPOSE
American Medical Association
American Osteopathic Association
California Academy of Family Physicians (unless amended)
California Chapter of the American College of Cardiology
California Chapter of the American College of Emergency Physicians

California Medical Association
California Orthopaedic Association
California Psychiatric Association
California Society of Anesthesiologists
California Society of Plastic Surgeons
Medical Board of California
Union of American Physicians and Dentists
Over 600 physicians and individuals

AMENDED IN ASSEMBLY JULY 9, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE MARCH 26, 2015

SENATE BILL No. 323

Introduced by Senator Hernandez
(Principal coauthor: Assembly Member Eggman)
(Coauthor: Assembly Member Mark Stone)

February 23, 2015

An act to amend Sections 650.01 and 805 of, to amend and renumber Section 2837 of, and to add Section 2837 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 323, as amended, Hernandez. Nurse practitioners: scope of practice.

The Nursing Practice Act provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. The act authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including ordering durable medical equipment in accordance with standardized procedures, certifying disability for purposes of unemployment insurance after physical examination and collaboration with a physician and surgeon, and, for an individual receiving home health services or personal care services, approving, signing, modifying, or adding to a plan of treatment

or plan of care after consultation with a physician and surgeon. A violation of those provisions is a crime.

This bill would authorize a nurse practitioner who holds a national certification from a national certifying body recognized by the board to practice without the supervision of a physician and surgeon, if the nurse practitioner meets existing requirements for nurse practitioners and practices in one of certain specified settings. The bill would prohibit entities described in those specified settings from interfering with, controlling, or otherwise directing the professional judgment of such a nurse practitioner, as specified, and would authorize such a nurse practitioner, in addition to any other practice authorized in statute or regulation, to perform specified acts, including the acts described above, without reference to standardized procedures or the specific need for the supervision of a physician and surgeon. The bill, instead, would require a nurse practitioner to refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of the patient is beyond the scope of the nurse practitioner's education and training. The bill would require a nurse practitioner practicing under these provisions to maintain professional liability insurance appropriate for the practice setting. By imposing new requirements on nurse practitioners, the violation of which would be a crime, this bill would impose a state-mandated local program.

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.

This bill would include a nurse practitioner, as specified, 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 also require the Board of Registered Nursing to review the facts and circumstances of any conviction of a nurse practitioner, as specified, for violating that prohibition, and would require the board to take appropriate disciplinary action if the nurse practitioner has committed unprofessional conduct.

Existing law provides for the professional review of specified healing arts licentiates through a peer review process. Existing law defines the term "licentiate" for those purposes to include, among others, a physician and surgeon.

This bill would include a nurse practitioner, as specified, under the definition of licentiate, and would require the Board of Registered Nursing to disclose reports, as specified.

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

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

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

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

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

(a) Nurse practitioners are a longstanding, vital, safe, effective, and important part of the state's health care delivery system. They are especially important given California's shortage of physicians, with just 16 of 58 counties having the federally recommended ratio of physicians to residents.

(b) Nurse practitioners will play an especially important part in the implementation of the federal Patient Protection and Affordable Care Act (Public Law 111-148), which will bring an estimated five million more Californians into the health care delivery system, because they will provide for greater access to primary care services in all areas of the state. This is particularly true for patients in medically underserved urban and rural communities.

(c) In the interest of providing patients with comprehensive care and consistent with the spirit of the federal Patient Protection and Affordable Care Act, this measure is supportive of the national health care movement towards integrated and team-based health care models.

~~(c)~~

(d) Due to the excellent safety and efficacy record that nurse practitioners have earned, the Institute of Medicine of the National Academies has recommended full practice authority for nurse

practitioners. Currently, 20 states allow nurse practitioners to practice to the full extent of their training and education.

~~(d)~~

(e) Furthermore, nurse practitioners will assist in addressing the primary care provider shortage by removing delays in the provision of care that are created when dated regulations require a physician's signature or protocol before a patient can initiate treatment or obtain diagnostic tests that are ordered by a nurse practitioner.

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

650.01. (a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer 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 in the entity that receives the referral.

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

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

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training

program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient. A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing, and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means a physician as defined in Section 3209.3 of the Labor Code, and a nurse practitioner practicing pursuant to Section 2837.

(5) "Licensee's office" means either of the following:

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

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed

pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

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

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

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

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

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

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

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

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the

same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

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

(g) A violation of subdivision (a) shall be a misdemeanor. In the case of a licensee who is a physician, the Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. In the case of a licensee who is a nurse practitioner functioning pursuant to Section 2837, the Board of Registered Nursing shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California, the Board of Registered Nursing, or other appropriate governmental agency.

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

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

SEC. 3. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) (A) “Peer review” means both of the following:

(i) A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

(I) Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

(II) Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

(B) "Peer review body" includes:

(i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, physician assistant, or nurse practitioner practicing pursuant to Section 2837. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason or after receiving notice that his or her application for membership or staff privileges is

denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

(1) Resigns or takes a leave of absence from membership, staff privileges, or employment.

(2) Withdraws or abandons his or her application for staff privileges or membership.

(3) Withdraws or abandons his or her request for renewal of staff privileges or membership.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a

copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California, the Board of Registered Nursing, or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available

at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(*l*) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars ($50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

SEC. 4. Section 2837 of the Business and Professions Code is amended and renumbered to read:

2837.5. Nothing in this article shall be construed to limit the current scope of practice of a registered nurse authorized pursuant to this chapter.

SEC. 5. Section 2837 is added to the Business and Professions Code, to read:

2837. (a) Notwithstanding any other law, a nurse practitioner who holds a national certification from a national certifying body recognized by the board may practice under this section without supervision of a physician and surgeon, if the nurse practitioner meets all the requirements of this article and practices in one of the following:

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

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

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

(4) An accountable care organization, as defined in Section 3022 of the federal Patient Protection and Affordable Care Act (Public Law 111-148).

(5) A group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians that delivers, furnishes, or otherwise arranges for or provides health care services.

(6) A medical group, independent practice association, or any similar association.

(b) An entity described in subdivision (a) shall not interfere with, control, or otherwise direct the professional judgment of a nurse practitioner functioning pursuant to this section in a manner prohibited by Section 2400 or any other law.

(c) Notwithstanding any other law, in addition to any other practice authorized in statute or regulation, a nurse practitioner who meets the qualifications of subdivision (a) may do any of the following without physician and surgeon supervision:

(1) Order durable medical equipment. Notwithstanding that authority, this paragraph shall not operate to limit the ability of a third-party payer to require prior approval.

(2) After performance of a physical examination by the nurse practitioner and collaboration, if necessary, with a physician and surgeon, certify disability pursuant to Section 2708 of the Unemployment Insurance Code.

(3) For individuals receiving home health services or personal care services, after consultation, if necessary, with the treating physician and surgeon, approve, sign, modify, or add to a plan of treatment or plan of care.

(4) Assess patients, synthesize and analyze data, and apply principles of health care.

(5) Manage the physical and psychosocial health status of patients.

(6) Analyze multiple sources of data, identify a differential diagnosis, and select, implement, and evaluate appropriate treatment.

(7) Establish a diagnosis by client history, physical examination, and other criteria, consistent with this section, for a plan of care.

(8) Order, furnish, prescribe, or procure drugs or devices.

(9) Delegate tasks to a medical assistant pursuant to Sections 1206.5, 2069, 2070, and 2071, and Article 2 of Chapter 3 of Division 13 of Title 16 of the California Code of Regulations.

(10) Order hospice care, as appropriate.

(11) Order diagnostic procedures and utilize the findings or results in treating the patient.

(12) Perform additional acts that require education and training and that are recognized by the nursing profession as appropriate to be performed by a nurse practitioner.

(d) A nurse practitioner shall refer a patient to a physician and surgeon or other licensed health care provider if a situation or condition of the patient is beyond the scope of the education and training of the nurse practitioner.

(e) A nurse practitioner practicing under this section shall maintain professional liability insurance appropriate for the practice setting.

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

the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Hernandez	**BILL NUMBER:**	SB 464
SPONSOR:	Planned Parenthood Affiliates of California	**BILL STATUS:**	Assembly Appropriations
SUBJECT:	Healing arts: self-reporting tools.	**DATE LAST AMENDED:**	5/22/2015

SUMMARY:
The Nursing Practice Act provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing within the Department of Consumer Affairs. The Nursing Practice Act authorizes a registered nurse to dispense self-administered hormonal contraceptives, as specified, in accordance with standardized procedures, including demonstration of competency in providing the appropriate prior examination comprised of checking blood pressure, weight, and patient and family health history, including medications taken by the patient. The Nursing Practice Act also authorizes certified nurse-midwives and nurse practitioners to furnish or order drugs or devices, as specified.

ANALYSIS:
This bill, notwithstanding any other law, would authorize a physician and surgeon, a registered nurse acting in accordance with the authority of the Nursing Practice Act, a certified nurse-midwife acting within the scope of specified existing law relating to nurse-midwives, a nurse practitioner acting within the scope of specified existing law relating to nurse practitioners, a physician assistant acting within the scope of specified existing law relating to physician assistants, or a pharmacist acting within the scope of a specified existing law relating to pharmacists to use a self screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. The bill would authorize blood pressure, weight, height, and patient health history to be self-reported using the self-screening tool.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
Planned Parenthood Affiliates of California (sponsor)
California Primary Care Association
California Women's Law Center
Icebreaker Health
Planned Parenthood Los Angeles

Planned Parenthood Mar Monte
Planned Parenthood Northern California
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood Pasadena and San Gabriel Valley
Planned Parenthood Santa Barbara, Ventura, & San Luis Obispo Counties
Five MDs

OPPOSE
Union of American Physicians and Dentists

AMENDED IN ASSEMBLY MAY 22, 2015

AMENDED IN SENATE APRIL 27, 2015

SENATE BILL No. 464

Introduced by Senator Hernandez

February 25, 2015

An act to ~~amend~~ *add* Section ~~2242.1 of~~ *2242.2 to* the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 464, as amended, Hernandez. Healing arts: self-reporting tools.

The Medical Practice Act provides for licensure and regulation of physicians and surgeons by the Medical Board of California, and authorizes a physician and surgeon to, among other things, use drugs or devices in or upon human beings. *The Medical Practice Act makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication.* The act prohibits, with specified exceptions, a person or entity from prescribing, dispensing, or furnishing, or causing to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices on the Internet for delivery to a person in California without an appropriate prior examination and medical indication.

The Nursing Practice Act provides for the licensure and regulation of registered nurses, including nurse practitioners and certified nurse-midwives, by the Board of Registered Nursing within the Department of Consumer Affairs. The Nursing Practice Act authorizes a registered nurse to dispense self-administered hormonal contraceptives, as specified, in accordance with standardized procedures, including demonstration of competency in providing the

appropriate prior examination comprised of checking blood pressure, weight, and patient and family health history, including medications taken by the patient. The Nursing Practice Act also authorizes certified nurse-midwives and nurse practitioners to furnish or order drugs or devices, as specified.

The Physician Assistant Practice Act provides for the licensure and regulation of physician assistants by the Physician Assistant Board within the jurisdiction of the Medical Board of California, and authorizes a physician assistant to administer or provide medication to a patient or to transmit a drug order, as specified.

The Pharmacy Law provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy within the Department of Consumer Affairs, and authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures and protocols. The Pharmacy Law requires the standardized procedures and protocols to require a patient to use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives, as specified.

This bill, *notwithstanding any other law,* would authorize ~~the board to consider the use of self-reporting tools by licensees, as that use may be allowed by law.~~ *a physician and surgeon, a registered nurse acting in accordance with the authority of the Nursing Practice Act, a certified nurse-midwife acting within the scope of specified existing law relating to nurse-midwives, a nurse practitioner acting within the scope of specified existing law relating to nurse practitioners, a physician assistant acting within the scope of specified existing law relating to physician assistants, or a pharmacist acting within the scope of a specified existing law relating to pharmacists to use a self screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. The bill would authorize blood pressure, weight, height, and patient health history to be self-reported using the self-screening tool.*

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

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

SECTION 1. Section 2242.2 is added to the Business and Professions Code, to read:

2242.2. Notwithstanding any other law, a physician and surgeon, a registered nurse acting in accordance with Section 2725.2, a certified nurse-midwife acting within the scope of Section 2746.51, a nurse practitioner acting within the scope of Section 2836.1, a physician assistant acting within the scope of Section 3502.1, and a pharmacist acting within the scope of Section 4052.3 may use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. Blood pressure, weight, height, and patient health history may be self-reported using the self-screening tool that identifies patient risk factors.

~~SECTION 1. Section 2242.1 of the Business and Professions Code is amended to read:~~

~~2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.~~

~~(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence.~~

~~(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).~~

~~(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under~~

~~Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.~~

~~(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.~~

~~(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242.~~

~~(g) The board may consider the use of self-screening tools by a licensee, as that use may be allowed by law.~~

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Hill	**BILL NUMBER:**	SB 466
SPONSOR:	Hill	**BILL STATUS:**	Assembly Business & Professions
SUBJECT:	Nursing: Board of Registered Nursing	**DATE LAST AMENDED:**	6/18/2015

SUMMARY:
The Nursing Practice Act provides for the licensure and regulation of registered nurses by the Board of Registered Nursing within the Department of Consumer Affairs, and requires the board to appoint an executive officer to perform duties delegated by the board. The act repeals the authority of the board and its executive officer on January 1, 2016.

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

Amended analysis as of 6/18:
The amendments adds the requirement that the enforcement monitor to submit an initial written report 6 months after he or she begins the review process and every 6 months after the initial report to the board, the Director of Consumer Affairs, and the Legislature, as specified, and would require a final written report to be submitted by December 31, 2018.

Amended analysis as of 4/30:
It deletes the requirement for the Board to prepare a report to the Legislature. The bill would require the board to deny or revoke approval of a school of nursing that does not give student applicants credit in the field of nursing for military education and experience by the use of challenge examinations or other methods used. It changes the review of a school's policies and practices regarding granting credit for education from at least once every 4 years to at least once every 5 years.

The act authorizes any person who has served on active duty in the medical corps of the Armed Forces of the United States and who successfully completed the course of instruction to qualify him or her for rating as a medical service technician—independent duty, or other equivalent rating, and whose service in the Armed Forces was under honorable conditions to submit the record of that training to the board for evaluation. The act requires the board to grant a license to that person if he or she meets specified qualifications and the board determines that his or her education would give reasonable assurance of competence to practice as a registered nurse in this state. The act requires

the board to maintain records of those applicants, including, but not limited to, applicants who are rejected from examination.

This bill would repeal these provisions.

Amended analysis as of 4/23:
Deletes existing provisions of law that requires the BRN to evaluate for RN licensure the training record submitted by any person who has served on active duty in the medical corps of any of the Armed Forces, and completed the course of instruction required to qualify him or her for rating as a medical service technician--independent duty, or other equivalent rating in his particular branch, and whose service in the armed forces has been under honorable conditions.

Requires the BRN to prepare a report to the Legislature by January 1, 2018 examining barriers to California licensure for practitioners who cannot meet California licensure requirements due to insufficient academic and/or clinical preparation, but who are licensed and practicing in other states.

The bill clarifies current law requiring the BRN to deny approval for an RN school if the school does not give student applicants credit for previous education and the opportunity to obtain credit for other clinical and theoretical knowledge acquired through prior experience.

The bill requires the BRN to promulgate regulations by January 1, 2017 requiring schools to have a process to evaluate and grant credit for previous education and clinical and theoretical knowledge acquired through prior experience, including that gained from military service.
It requires the BRN to review schools' policies and practice regarding granting credit for previous education and clinical and theoretical knowledge acquired through prior experience at least once every four years to ensure consistency in evaluation and application across schools.

It also requires the BRN to post on its Web site information related to the acceptance of military coursework and experience at each approved school.

Amended analysis as of 4/20:
The amendment deleted the repeal date of January, 1 2020.

The act authorizes any person who has served on active duty in the medical corps of the Armed Forces of the United States and who successfully completed the course of instruction to qualify him or her for rating as a medical service technician—independent duty, or other equivalent rating, and whose service in the Armed Forces was under honorable conditions to submit the record of that training to the board for evaluation. The act requires the board to grant a license to that person if he or she meets specified qualifications and the board determines that his or her education would give reasonable assurance of competence to practice as a registered nurse in this state. The act requires the board to maintain records of those applicants, including, but not limited to, applicants who are rejected from examination.

This bill would revise and recast this provision to authorize a person who has successfully completed the course of education, training, or experience to qualify him or her for rating as a medical service technician—independent duty, or other equivalent rating to submit that record for evaluation, and would require the board to provide that person with a list of coursework, if any, that

the applicant must complete to be eligible for licensure. This bill would require the board to issue a license to that person if he or she meets specified qualifications and the board determines that his or her education, training, or experience would give reasonable assurance of competence to practice as a registered nurse in the state. The bill would delete the requirement on the board to maintain records of certain applicants. The bill, on or before January 1, 2017, would also require the board to issue regulations in conjunction with the Military Department that identify the Armed Forces education, training, or experience that is equivalent or transferable to the curriculum required for licensure by the board.

The act requires the board to maintain a list of approved schools or programs of nursing in this state, as specified, and provides that an approved school or program of nursing is one that has been approved by the board and meets certain academic requirements. The act requires the board to deny an application for approval of, and to revoke the approval given to, any school of nursing that does not give student applicants credit for previous education and the opportunity to obtain credit for other acquired knowledge by the use of challenge examinations or other methods of evaluation.

This bill would instead require the board to deny or revoke approval of a school of nursing that does not give student applicants credit for previous education and the opportunity to obtain credit for other clinical and theoretical knowledge acquired through experience by the use of challenge examinations or other methods of evaluation. The bill would require the board, by January 1, 2017, to promulgate regulations detailing acceptable evaluation criteria for clinical and theoretical knowledge acquired through prior experience. The bill would also authorize the board to determine, upon review and recommendation, that an applicant for licensure as a registered nurse who acquires his or her education or a portion thereof at a school that is not approved or has been previously disapproved by the board is eligible for a registered nurse license if the applicant meets specified criteria, including, but not limited to, that he or she was previously licensed as a vocational nurse.

BOARD POSITION: Support (April 2, 2015)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (5/7/15)

SUPPORT: None on file as of April 21, 2015

OPPOSE: None on file as of April 21, 2015

AMENDED IN ASSEMBLY JUNE 18, 2015

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 23, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL No. 466

Introduced by Senator Hill
(Principal coauthor: Assembly Member Bonilla)

February 25, 2015

An act to amend Section 2786 of, to add Section 2786.1 to, to add and repeal Section 2711 of, and to repeal Section 2736.5 of, the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

SB 466, as amended, Hill. Nursing: Board of Registered Nursing.

The Nursing Practice Act provides for the licensure and regulation of registered nurses by the Board of Registered Nursing within the Department of Consumer Affairs, and requires the board to appoint an executive officer to perform duties delegated by the board. The act authorizes the board to take disciplinary action against a certified or licensed nurse or to deny an application for a certificate or license for certain reasons, including unprofessional conduct.

This bill would require the Director of the Department of Consumer Affairs to appoint a board enforcement program monitor no later than March 31, 2016, as specified. The bill would require the enforcement program monitor to monitor and evaluate the nursing disciplinary system and procedures and specifically concentrate *recommendations* on improving the ~~overall efficiency and consistency of the~~ enforcement program, including, but not limited to, ~~assuring~~ *ensuring* consistency

in the application of *board* sanctions or discipline imposed on licensees. *The bill would require the program enforcement monitor to submit an initial written report 6 months after he or she begins the review process and every 6 months after the initial report to the board, the Director of Consumer Affairs, and the Legislature, as specified, and would require a final written report to be submitted by December 31, 2018, as specified.* The bill would make these provisions inoperative on March 31, 2018, and would repeal these provisions on January 1, 2019.

The act authorizes any person who has served on active duty in the medical corps of the Armed Forces of the United States and who successfully completed the course of instruction to qualify him or her for rating as a medical service technician—independent duty, or other equivalent rating, and whose service in the Armed Forces was under honorable conditions to submit the record of that training to the board for evaluation. The act requires the board to grant a license to that person if he or she meets specified qualifications and the board determines that his or her education would give reasonable assurance of competence to practice as a registered nurse in this state. The act requires the board to maintain records of those applicants, including, but not limited to, applicants who are rejected from examination.

This bill would repeal these provisions.

The act requires the board to maintain a list of approved schools or programs of nursing in this state, as specified, and provides that an approved school or program of nursing is one that has been approved by the board and meets certain academic requirements. The act requires the board to deny an application for approval of, and to revoke the approval given to, any school of nursing that does not give student applicants credit for previous education and the opportunity to obtain credit for other acquired knowledge by the use of challenge examinations or other methods of evaluation.

This bill would require the board to deny or revoke approval of a school of nursing that does not give student applicants credit in the field of nursing for military education and experience by the use of challenge examinations or other methods of evaluation. The bill would require the board, by January 1, 2017, to promulgate regulations requiring schools seeking approval to have a process to evaluate and grant credit, as defined, for military education and experience. The bill would require the board to review a school's policies and practices regarding granting credit for military education and experience at least every 5 years to ensure consistency in evaluation and application across schools. The

bill would require the board to post on its Internet Web site information related to the acceptance of military coursework and experience at each approved school.

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

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

SECTION 1. Section 2711 is added to the Business and Professions Code, to read:

2711. (a) ~~(1)~~ The Director of Consumer Affairs shall appoint a board enforcement program monitor no later than March 31, 2016. The director may retain an independent contractor for this appointment by a personal services contract. The Legislature hereby finds that the services described in this section are a new state function, pursuant to Section 19130 of the Government Code.

~~(2) The director shall supervise the enforcement program monitor and may terminate or dismiss the enforcement program monitor from the appointment.~~

(b) The director shall advertise the availability of the enforcement program monitor position. The requirements of the position shall include, but not be limited to, performance audit experience and familiarity with state laws, regulations, and administrative procedures pertaining to the board. The enforcement program monitor shall not have a pecuniary interest, outside of the direct compensation referenced in this section, in reviewing the board or any recommendations made pursuant to this section.

~~(b)~~

(c) (1) The enforcement program monitor shall monitor and evaluate the nursing disciplinary system and procedures and specifically concentrate *recommendations* on improving ~~the overall efficiency and consistency of~~ the enforcement program. ~~The director shall specify further duties of the program monitor.~~ *The enforcement program monitor shall develop recommendations that acknowledge the board's right to exercise reasonable discretion in applying disciplinary standards to particular circumstances and in deciding individual cases.*

(2) The monitoring duty shall be on a continuing basis for a period of no more than two years from the date of the enforcement

program monitor's appointment and shall include, but not be limited to, the following areas:

(A) Improving the quality and consistency of complaint processing and investigation.

(B) ~~Assuring~~ *Ensuring* consistency in the application of *board* sanctions or discipline imposed on licensees.

(C) ~~The~~ *Ensuring the* accurate and consistent implementation of the laws and rules affecting discipline, including ~~adhering~~ *adherence* to the ~~Consumer Protection Enforcement Initiative complaint priority guidelines as described in the memorandum dated August 31, 2009, by Brian J. Stiger titled "Complaint Prioritization Guidelines for Health Care Agencies."~~ *Division of Investigation Case Acceptance Guidelines (Consumer Protection Enforcement Initiative Model), as revised July 1, 2014.*

(D) Reducing the timeframes for completing complaint processing and investigation.

~~(D) Staff~~

(E) Addressing staff concerns regarding disciplinary matters or procedures.

~~(E) Appropriate~~

(F) Reviewing the appropriate use of licensed professionals to investigate complaints.

~~(F) The~~

(G) Reviewing the board's cooperation with other governmental entities charged with enforcing related laws and regulations regarding nurses.

(H) Generally assessing the adequacy of staffing, operations, and fiscal resources of other governmental entities as they affect the board's enforcement functions and identifying any delays caused by these other entities.

(I) Assessing the adequacy of board staffing and fiscal resources to perform its enforcement functions.

(3) In fulfilling the monitoring duties described in subparagraphs (A) through (H), inclusive, of paragraph (2), the enforcement program monitor shall perform those duties consistent with paragraph (1).

~~(3)~~

(4) The enforcement program monitor shall exercise no authority over the board's discipline operations or staff. However, the board and its staff shall cooperate with the enforcement program monitor,

and the board shall provide data, information, and case files requested by the enforcement program monitor to perform all of his or her duties.

~~(4)~~

(5) The ~~director shall assist the~~ enforcement program monitor ~~in the performance of his or her duties, and the enforcement program monitor~~ shall have ~~the same investigative authority as the director.~~ *access to all records and full and complete data in all official matters that are in possession of the board and the board's members, officers, and employees.*

~~(c)~~

(d) The enforcement program monitor shall submit an initial written report of his or her findings and ~~conclusions to the board, the department, and the Legislature no later than September 1, 2016, and every six months thereafter, and be available to make oral reports to each, if requested to do so. The enforcement program monitor may also provide additional information to either the department or the Legislature at his or her discretion or at the request of either the department or the~~ *recommendations to the board within six months after the enforcement program monitor begins the review process, and shall submit a report every six months after the initial report with a final report to be submitted on or before December 31, 2018. The board shall be given 30 days to review and prepare a response to each written report beginning from the time the report is submitted to the board. After the 30 days expire, the program enforcement monitor shall submit each written report to the department and the* Legislature. The enforcement program monitor shall make his or her reports *and the board's response to the reports* available to the public ~~or the media.~~ *when the reports are submitted to the department and the Legislature.* The enforcement program monitor shall make every effort to provide the board with an opportunity *throughout the entire review process* to reply to any facts, findings, issues, or ~~conclusions~~ *recommendations* in his or her reports with which the board may disagree.

(e) The final report shall include final findings and recommendations on the topics addressed in the prior reports submitted by the program enforcement monitor pursuant to subdivision (c) and in compliance with the process described in subdivision (d).

~~(d)~~

(f) The board shall pay for all of the costs associated with the employment of an enforcement program monitor.

~~(e)~~

(g) This section shall become inoperative on March 31, 2018, and as of January 1, 2019, is repealed.

SEC. 2. Section 2736.5 of the Business and Professions Code is repealed.

SEC. 3. Section 2786 of the Business and Professions Code is amended to read:

2786. (a) An approved school of nursing, or an approved nursing program, is one that has been approved by the board, gives the course of instruction approved by the board, covering not less than two academic years, is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education. For purposes of this section, "institution of higher education" includes, but is not limited to, community colleges offering an associate of arts or associate of science degree and private postsecondary institutions offering an associate of arts, associate of science, or baccalaureate degree or an entry-level master's degree, and is an institution that is not subject to the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code).

(b) A school of nursing that is affiliated with an institution that is subject to the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code), may be approved by the board to grant an associate of arts or associate of science degree to individuals who graduate from the school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.

(c) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's regulations may be designed to require all schools to provide clinical instruction in the educational process.

(d) The board shall perform or cause to be performed an analysis of the practice of the registered nurse no less than every five years. Results of the analysis shall be utilized to assist in the determination of the required subjects of instruction, validation of the licensing examination, and assessment of the current practice of nursing.

SEC. 4. Section 2786.1 is added to the Business and Professions Code, to read:

2786.1. (a) The board shall deny the application for approval made by, and shall revoke the approval given to, any school of nursing that does not give student applicants credit in the field of nursing for military education and experience by the use of challenge examinations or other methods of evaluation.

(b) The board shall promulgate regulations by January 1, 2017, requiring schools to have a process to evaluate and grant credit for military education and experience. The word "credit," as used in the preceding sentence, is limited to credit for licensure only. The board is not authorized to prescribe the credit that an approved school of nursing shall give toward an academic certificate or degree.

(c) The board shall review a school's policies and practices regarding granting credit for military education and experience at least once every five years to ensure consistency in evaluation and application across schools. The board shall post on its Internet Web site information related to the acceptance of military coursework and experience at each approved school.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 6, 2015

BILL ANALYSIS

AUTHOR:	Hill	**BILL NUMBER:**	SB 467
SPONSOR:	Hill	**BILL STATUS:**	Assembly Appropriations
SUBJECT:	Professions and vocations	**DATE LAST AMENDED:**	7/1/2015

SUMMARY:
Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

ANALYSIS:
This bill would require the Legislature to approve the Department's pro rata distributions. This bill would also require the Attorney General to annually report data regarding Department accusation case referrals beginning January 1, 2018. In addition, this bill would require the Department and programs to implement complaint prioritization guidelines per the Consumer Protection Enforcement Initiative of 2010. Finally, this bill would extend the sunset for the Board of Accountancy to January 1, 2020.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:
California Society of Certified Public Accountants

OPPOSE
None on file.

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL No. 467

Introduced by Senator Hill

February 25, 2015

An act to amend Sections 201, 5000, ~~and 5015.6~~ *5015.6, 7000.5, 7011, and 7071.6* of, ~~and~~ to add Sections 312.2, 328, and 5100.5 to, *and to repeal Section 7067.5 of,* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

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

Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department

may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

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

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

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

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

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

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

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

Under existing law, the Contractors' State License Law, the Contractors' State License Board is responsible for the licensure and

regulation of contractors and is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2016.

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

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

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

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

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

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

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

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

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

the findings in its report pursuant to paragraph (2) of subdivision (a) that it is required to submit on or before July 1, 2015.

SEC. 2. Section 312.2 is added to the Business and Professions Code, to read:

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

(1) The number of accusation matters referred to the Attorney General.

(2) The number of accusation matters rejected for filing by the Attorney General.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

328. In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

SEC. 4. Section 5000 of the Business and Professions Code is amended to read:

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

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

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

(d) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate

policy committees of the Legislature. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

SEC. 5. Section 5015.6 of the Business and Professions Code is amended to read:

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

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

SEC. 6. Section 5100.5 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

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

SEC. 7. Section 7000.5 of the Business and Professions Code is amended to read:

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

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

(c) This section shall remain in effect only until January 1, ~~2016,~~ *2020,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2016,~~ *2020,* deletes or extends that date.

SEC. 8. Section 7011 of the Business and Professions Code is amended to read:

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

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

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

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

(e) This section shall remain in effect only until January 1, ~~2016,~~ *2020,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2016,~~ *2020,* deletes or extends that date.

SEC. 9. Section 7067.5 of the Business and Professions Code is repealed.

~~7067.5. Every applicant for an original license, or for the reactivation of an inactive license, or for the reissuance or reinstatement of a revoked license shall possess and every such applicant, other than one applying under Section 7029 unless required by the registrar, shall evidence financial solvency. The registrar shall deny the application of any applicant who fails to comply with this section. For purposes of this section financial solvency shall mean that the applicant's operating capital shall exceed two thousand five hundred dollars ($2500).~~

~~The applicant shall provide answers to questions contained in a standard form of questionnaire as required by the registrar relative to his financial ability and condition and signed by the applicant under penalty of perjury.~~

~~In any case in which further financial information would assist the registrar in an investigation, the registrar may obtain such information or may require any licensee or applicant under investigation pursuant to this chapter to provide such additional financial information as the registrar may deem necessary.~~

~~The financial information required by the registrar shall be confidential and not a public record, but, where relevant, shall be admissible as evidence in any administrative hearing or judicial action or proceeding.~~

~~The registrar may destroy any financial information which has been on file for a period of at least three years.~~

SEC. 10. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of ~~twelve~~ *fifteen* thousand ~~five hundred~~ dollars ~~($12,500).~~ *($15,000).*

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

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

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

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

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

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BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.3
DATE: June 4, 2015

ACTION REQUESTED: Update on Regulatory Proposal to Increase Fees in California Code of Regulations, Article 1, Section 1417, Fees

REQUESTED BY: Ronnie Whitaker
Legislative and Regulatory Analyst

BACKGROUND:
At its April 2015 meeting, the Board directed staff to move forward with both an emergency rulemaking process and a regular rulemaking process for the regulatory proposal to increase fees in CCR, Article 1, Section 1417.
The regular rulemaking file was published on June 12, 2015 and had a hearing on July 27, 2015.

NEXT STEP: Place on Board agenda

PERSON TO CONTACT: Ronnie Whitaker
Legislative and Regulatory Analyst
Phone: (916) 574-7600

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF REGISTERED NURSING
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Louise R. Bailey, MEd, RN, Executive Officer

LEGISLATIVE COMMITTEE MEETING

AGENDA

DoubleTree by Hilton San Francisco Airport
835 Airport Boulevard
Burlingame, CA 94010
(650) 344-5500

August 6, 2015

Thursday, August 6, 2015: 3:00 p.m. to 4:00 p.m.

8.0 Call to Order and Establishment of Quorum

8.1 Review and Vote on Whether to Approve the Minutes of:

- May 7, 2015

Motion: vote to approve the Committee Meeting Minutes of May 7, 2015			
Second:			
CK:	**ICB:**	**JD:**	**TP:**

8.2 Discuss Bills of Interest to the Board and Recommend that the Board Adopt or Modify Positions on the Bills, and any other Bills of Interest to the Board Introduced During the 2015-2016 Legislative Session

Assembly Bills	Senate Bills
AB 12	SB 319
AB 26	SB 323
AB 85	SB 390
AB 172	SB 408
AB 611	SB 466
AB 637	SB 482
AB 840	SB 531
AB 1060	SB 800
AB 1306	
AB 1351	
AB 1352	
AB 1386	

DRAFT

Motion: Support Oppose Watch			**AB 1351**
Second:			
CK:	**ICB:**	**JD:**	**TP:**

Motion: Support Oppose Watch			**AB 1352**
Second:			
CK:	**ICB:**	**JD:**	**TP:**

Motion: Support Oppose Watch			**SB 319**
Second:			
CK:	**ICB:**	**JD:**	**TP:**

8.3 Update on Regulatory Proposal to Increase Fees in California Code of Regulations, Article 1, Section 1417, Fees

8.4 Public Comment for Items Not on the Agenda

8.5 Adjournment

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at http://www.rn.ca.gov. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov , or send a written request to the Board of Registered Nursing at 1747 N. Market Blvd., Ste. 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation. Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.