



MEETING NOTICE

MAY 7, 2012

PHYSICIAN ASSISTANT COMMITTEE
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
9:00 A.M. – 3:00 P.M.

AGENDA

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

1. Call to Order by Chairman (Sachs)
2. Roll Call (Forsyth)
3. Approval of February 6, 2012 Meeting Minutes (Sachs)
4. Public Comment on Items not on the Agenda (Sachs)
5. Reports
 - a. Chair's Report (Sachs)
 - b. Executive Officer's Report (Portman)
 - c. Licensing Program Activity Report (Mitchell)
 - d. Diversion Program Activity Report (Mitchell)
 - e. Enforcement Program Activity Report (Tincher)
6. Department of Consumer Affairs Director's Update (Reichel Everhart)
7. Regulations
 - a. Consideration of Regulatory Proposal Title 16 CCR §1399.545 - Personal Presence (Low)
 - b. Consideration of Regulatory Proposal Title 16 CCR §1399.536 - Preceptors in Physician Assistant Training Programs (Mitchell)
 - c. Consideration of Regulatory Proposal to Implement Assembly Bill 2699 Health Care Events – Requirements for Exemption, as required by Business and Professions Code Section 901 (Staff/Freedman/Heppler)
 - d. Consideration of Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines Update (Staff/Freedman/Heppler)



Meeting Minutes

February 6, 2012

PHYSICIAN ASSISTANT COMMITTEE
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
9:00 A.M. – 5:00 P.M.

1. **Call to Order by Chairman**

Chairman Sachs called the meeting to order at 9:00 a.m.

2. **Roll Call**

Staff called the roll. A quorum was present.

Committee Members Present: Robert Sachs, PA-C
Cristina Gomez-Vidal Diaz
Steve Klompus, PA
Shaquawn D. Schasa
Steven Stumpf, Ed.D.

Committee Members Absent: Reginald Low, M.D.

Staff Present: Elberta Portman, Executive Officer
Kurt Heppler, Senior Staff Counsel, Dept. of
Consumer Affairs (DCA)
Dianne Tincher, Enforcement Analyst
Lynn Forsyth, Staff Services Analyst
Julie Caldwell, Licensing Analyst

3. **Approval of November 10, 2011 Meeting Minutes**

The November 10, 2011 minutes were approved as drafted.
(m/Klompus, s/Schasa, motion passes)

4. **Public Comment on Items not on the Agenda**

There was no public comment at this time.

5. **Reports**

a. **Chair's Report**

Chairman Sachs stated that members Roslynn Byous and Shelia Young were not re-appointed as Committee members. Chairman Sachs reported that plaques to commemorate their service to the Committee would be sent to both Roslynn Byous and Shelia Young. At this time the Committee currently has six members, which may result in a lack of a quorum in the future.

Chairman Sachs presented Steve Klompus with his engraved gravel for serving as Committee Chair for the past two years.

Finally, Chairman Sachs stated that there is a national movement within the PA community to change the name "physician assistant" to "physician associate", and that this issue should be monitored.

b. **Executive Officer's Report**

Ms. Portman reported that the vacant licensing position was recently filled. Julie Caldwell joined the Committee as the new licensing technician. Ms. Portman reported that the licensing desk is current with 10 to 15 licenses being issued each week. Ms. Portman also stated that once Ms. Caldwell is fully trained, she will assume all duties of the licensing desk, some of which were temporarily assigned to other staff because the position remained vacant for 11 months due to the hiring freeze.

Ms. Portman stated that the Committee's Legislative Sunset hearing is scheduled for Monday, March 19, 2012. Chairman Bob Sachs and the Executive Officer will represent the Committee at this hearing.

Ms. Portman reported that the Legislature requested that the Committee provide them with an update on the status of implementing the SB 1441 uniform standards. The report submitted to the Legislature noted that the Committee is working on implementation; however, because of a legal opinion issued from the Legislative Counsel Bureau in October 2011, the Department of Consumer Affairs' Legal Office asked the Office of the Attorney General for their opinion as how to legally implement the provisions of SB 1441.

Ms. Portman stated that AB 356 was signed into law on October 11, 2009. This law impacts the PAC because physician assistants will be able to obtain a fluoroscopy permit. The Department of Health is finalizing proposed regulations to implement this law.

Ms. Portman stated that an Enforcement Performance Measures report is included in the agenda packet and the report indicates the Committee is meeting all targeted goals in areas of complaints, intake, investigation, discipline, probation intake, and probation violation areas.

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT

AS OF 3/31/2012

RUN DATE 4/11/2012

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PHYSICIAN ASSISTANT COMMITTEE

PHYSICIAN ASSISTANT COMMITTEE

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
PERSONAL SERVICES							
SALARIES AND WAGES							
003 00 CIVIL SERVICE-PERM	217,974	15,141	133,483	0	133,483	84,491	
033 04 TEMP HELP (907)	0	4,368	20,084	0	20,084	(20,084)	
063 00 STATUTORY-EXEMPT	81,732	6,811	60,040	0	60,040	21,692	
063 03 COMM MEMBER (911)	1,530	500	2,100	0	2,100	(570)	
TOTAL SALARIES AND WAGES	301,236	26,820	215,707	0	215,707	85,529	28.39%
STAFF BENEFITS							
103 00 OASDI	17,724	1,433	11,937	0	11,937	5,787	
104 00 DENTAL INSURANCE	1,758	131	907	0	907	851	
105 00 HEALTH/WELFARE INS	40,267	1,366	12,006	0	12,006	28,261	
106 01 RETIREMENT	52,464	4,272	35,723	0	35,723	16,741	
125 00 WORKERS' COMPENSAT	5,235	0	0	0	0	5,235	
125 15 SCIF ALLOCATION CO	0	95	854	0	854	(854)	
134 00 OTHER-STAFF BENEFI	0	1,184	9,513	0	9,513	(9,513)	
134 01 TRANSIT DISCOUNT	0	0	56	0	56	(56)	
135 00 LIFE INSURANCE	0	8	75	0	75	(75)	
136 00 VISION CARE	445	35	251	0	251	194	
137 00 MEDICARE TAXATION	195	383	3,069	0	3,069	(2,874)	
TOTAL STAFF BENEFITS	118,088	8,907	74,392	0	74,392	43,696	37.00%
SALARY SAVINGS							
141 00 SALARY SAVINGS	(5,515)	0	0	0	0	(5,515)	
TOTAL SALARY SAVINGS	(5,515)	0	0	0	0	(5,515)	100.00%
TOTAL PERSONAL SERVICES	413,809	35,726	290,100	0	290,100	123,709	29.90%
OPERATING EXPENSES & EQUIPMENT							
FINGERPRINTS							
213 04 FINGERPRINT REPORT	24,890	816	6,222	0	6,222	18,668	
TOTAL FINGERPRINTS	24,890	816	6,222	0	6,222	18,668	75.00%
GENERAL EXPENSE							
201 00 GENERAL EXPENSE	4,766	0	0	0	0	4,766	
206 00 MISC OFFICE SUPPLI	0	0	601	0	601	(601)	
207 00 FREIGHT & DRAYAGE	0	101	365	0	365	(365)	
213 02 ADMIN OVERHEAD-OTH	0	0	1,006	0	1,006	(1,006)	

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT

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PHYSICIAN ASSISTANT COMMITTEE

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	217 00 MTG/CONF/EXHIBIT/S	0	0	304	0	304	(304)	
	TOTAL GENERAL EXPENSE	4,766	101	2,275	0	2,275	2,491	52.26%
	PRINTING							
	241 00 PRINTING	673	0	0	0	0	673	
	242 00 PAMPHLT/LEAFLT/BRO	0	820	1,174	0	1,174	(1,174)	
	242 02 REPRODUCTION SVS	0	14	32	0	32	(32)	
	244 00 OFFICE COPIER EXP	0	616	2,117	7,136	9,253	(9,253)	
	TOTAL PRINTING	673	1,451	3,322	7,136	10,459	(9,786)	-1454.05%
	COMMUNICATIONS							
	251 00 COMMUNICATIONS	8,339	0	0	0	0	8,339	
	252 00 CELL PHONES,PDA,PA	0	53	777	0	777	(777)	
	254 00 FAX	0	0	1	0	1	(1)	
	257 01 TELEPHONE EXCHANGE	0	157	3,447	0	3,447	(3,447)	
	TOTAL COMMUNICATIONS	8,339	210	4,225	0	4,225	4,114	49.34%
	POSTAGE							
	261 00 POSTAGE	19,230	0	0	0	0	19,230	
	262 00 STAMPS, STAMP ENVE	0	1,168	1,192	0	1,192	(1,192)	
	263 00 POSTAGE METER	0	0	195	0	195	(195)	
	263 05 ALLOCATED POSTAGE-	0	303	1,971	0	1,971	(1,971)	
	263 06 ALLOCATED POSTAGE-	0	402	1,504	0	1,504	(1,504)	
	TOTAL POSTAGE	19,230	1,873	4,862	0	4,862	14,368	74.72%
	TRAVEL: IN-STATE							
	291 00 TRAVEL: IN-STATE	28,299	0	0	0	0	28,299	
	292 00 PER DIEM-I/S	0	582	2,183	0	2,183	(2,183)	
	294 00 COMMERCIAL AIR-I/S	0	273	3,439	0	3,439	(3,439)	
	296 00 PRIVATE CAR-I/S	0	181	668	0	668	(668)	
	297 00 RENTAL CAR-I/S	0	25	1,218	0	1,218	(1,218)	
	301 00 TAXI & SHUTTLE SER	0	0	260	0	260	(260)	
	TOTAL TRAVEL: IN-STATE	28,299	1,061	7,767	0	7,767	20,532	72.55%
	TRAINING							
	331 00 TRAINING	1,096	0	0	0	0	1,096	
	332 02 TRAINING-DATA TRAI	0	0	50	0	50	(50)	
	TOTAL TRAINING	1,096	0	50	0	50	1,046	95.44%
	FACILITIES OPERATIONS							
	341 00 FACILITIES OPERATI	55,958	0	0	0	0	55,958	

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PHYSICIAN ASSISTANT COMMITTEE

PHYSICIAN ASSISTANT COMMITTEE

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343 00 RENT-BLDG/GRND(NON	0	3,584	32,024	0	32,024	(32,024)	
347 00 FACILITY PLNG-DGS	0	67	532	0	532	(532)	
TOTAL FACILITIES OPERATIONS	55,958	3,651	32,556	0	32,556	23,402	41.82%
C/P SVS - INTERDEPARTMENTAL							
382 00 CONSULT/PROF-INTER	1,899	0	0	0	0	1,899	
393 00 HLTH & MED-INTERDE	0	8,135	8,135	0	8,135	(8,135)	
TOTAL C/P SVS - INTERDEPARTMENTAL	1,899	8,135	8,135	0	8,135	(6,236)	-328.36%
C/P SVS - EXTERNAL							
402 00 CONSULT/PROF SERV-	28,561	0	0	0	0	28,561	
418 02 CONS/PROF SVS-EXTR	0	10,889	40,582	35,597	76,180	(76,180)	
TOTAL C/P SVS - EXTERNAL	28,561	10,889	40,582	35,597	76,180	(47,619)	-166.73%
DEPARTMENTAL SERVICES							
424 03 OIS PRO RATA	51,068	4,311	38,798	0	38,798	12,270	
427 00 INDIRECT DISTRB CO	40,880	3,352	30,165	0	30,165	10,715	
427 01 INTERAGENCY SERVS	7,717	0	0	0	0	7,717	
427 02 SHARED SVS-MBC ONL	79,802	19,950	59,852	19,950	79,802	0	
427 30 DOI - PRO RATA	1,654	138	1,241	0	1,241	413	
427 34 PUBLIC AFFAIRS PRO	2,809	234	2,107	0	2,107	702	
427 35 CCED PRO RATA	2,900	242	2,176	0	2,176	724	
TOTAL DEPARTMENTAL SERVICES	186,830	28,227	134,339	19,950	154,289	32,541	17.42%
CONSOLIDATED DATA CENTERS							
428 00 CONSOLIDATED DATA	5,128	136	1,865	0	1,865	3,263	
TOTAL CONSOLIDATED DATA CENTERS	5,128	136	1,865	0	1,865	3,263	63.62%
DATA PROCESSING							
431 00 INFORMATION TECHNO	3,086	0	0	0	0	3,086	
436 00 SUPPLIES-IT (PAPER	0	37	50	0	50	(50)	
448 00 INTERNET SERV PROV	0	0	10	0	10	(10)	
TOTAL DATA PROCESSING	3,086	37	60	0	60	3,027	98.07%
CENTRAL ADMINISTRATIVE SERVICES							
438 00 PRO RATA	56,134	0	42,101	0	42,101	14,034	
TOTAL CENTRAL ADMINISTRATIVE SERVICES	56,134	0	42,101	0	42,101	14,034	25.00%
ENFORCEMENT							
396 00 ATTORNEY GENL-INTE	271,418	0	125,444	0	125,444	145,974	
397 00 OFC ADMIN HEARNG-I	75,251	230	33,564	0	33,564	41,687	

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PHYSICIAN ASSISTANT COMMITTEE

PHYSICIAN ASSISTANT COMMITTEE

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
414 31 EVIDENCE/WITNESS F	492	1,373	9,939	0	9,939	(9,447)	
418 97 COURT REPORTER SER	0	160	960	0	960	(960)	
427 32 INVEST SVS-MBC ONL	218,870	0	55,512	0	55,512	163,358	
TOTAL ENFORCEMENT	566,031	1,763	225,419	0	225,419	340,612	60.18%
MINOR EQUIPMENT							
226 00 MINOR EQUIPMENT	4,000	0	0	0	0	4,000	
TOTAL MINOR EQUIPMENT	4,000	0	0	0	0	4,000	100.00%
TOTAL OPERATING EXPENSES & EQUIPMEN	994,920	58,350	513,780	62,684	576,464	418,456	42.06%
<hr/>							
PHYSICIAN ASSISTANT COMMITTEE	1,408,729	94,076	803,880	62,684	866,563	542,166	38.49%
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	1,408,729	94,076	803,880	62,684	866,563	542,166	38.49%
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PHYSICIAN ASSISTANT COMMITTEE
LICENSING PROGRAM ACTIVITY REPORT

INITIAL LICENSES ISSUED

	1 January 2012 – 1 April 2012	1 January 2011- 1 April 2011
Initial Licenses	173	135

SUMMARY OF RENEWED/CURRENT LICENSES

	As of 1 April 2012	As of 1 April 2011
Physician Assistant	8,520	8,062

**PHYSICIAN ASSISTANT COMMITTEE
DIVERSION PROGRAM**

ACTIVITY REPORT

California licensed physician assistants participating in the Physician Assistant Committee drug and alcohol diversion program:

	As of 1 April 2012	As of 1 April 2011	As of 1 April 2010
Voluntary referrals	06	05	06
Committee referrals	20	20	17
Total number of participants	26	25	23

HISTORICAL STATISTICS

(Since program inception: 1990)

Total intakes into program as of 1 April 2012.....	102
Closed Cases as of 1 April 2012	
• Participant expired.....	1
• Successful completion.....	20
• Dismissed for failure to receive benefit.....	4
• Dismissed for non-compliance.....	23
• Voluntary withdrawal.....	18
• Not eligible.....	7
Total closed cases.....	73

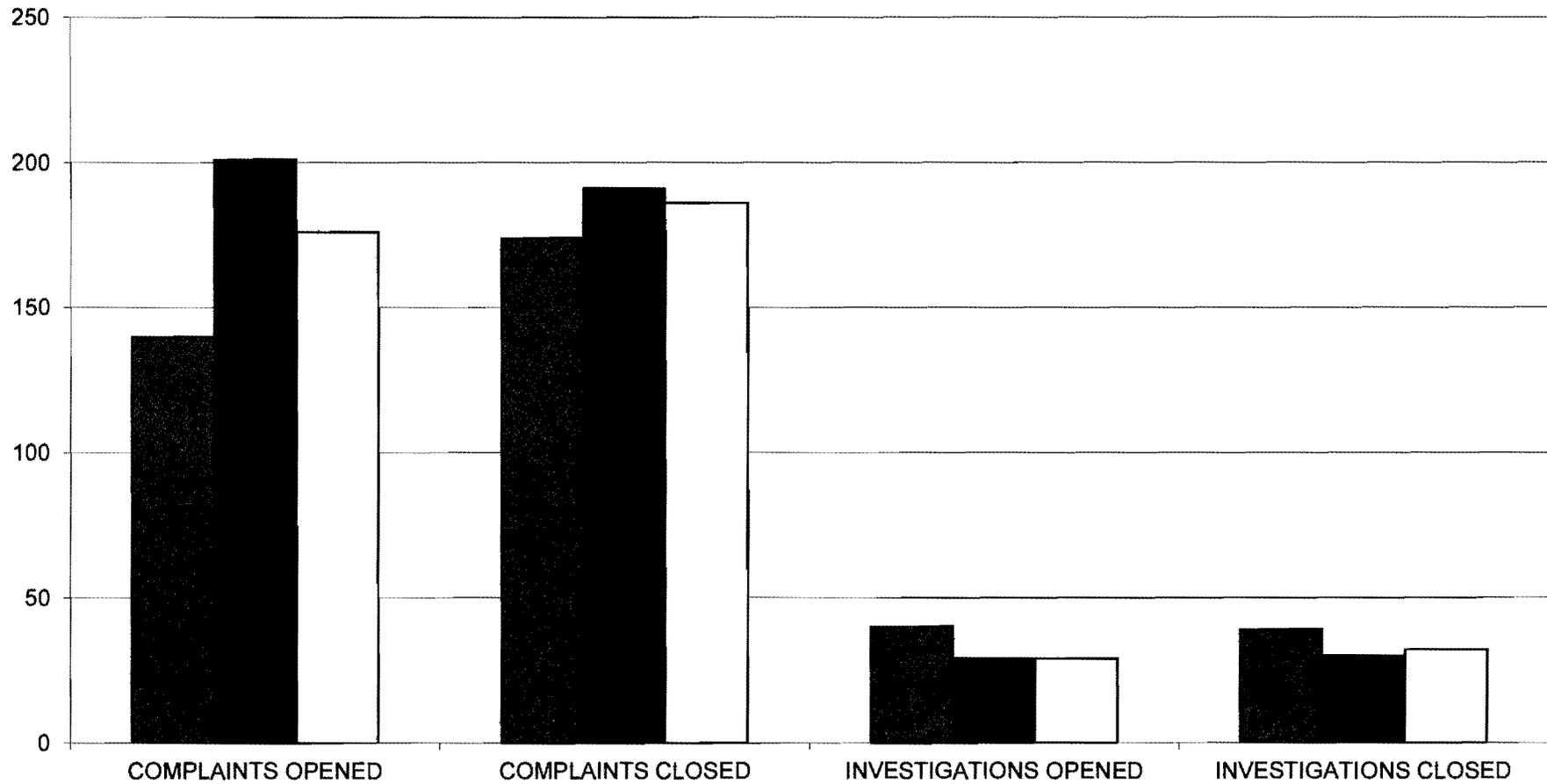
OTHER DCA BOARD DIVERSION PROGRAM PARTICIPANTS

(As of 30 December 2011)

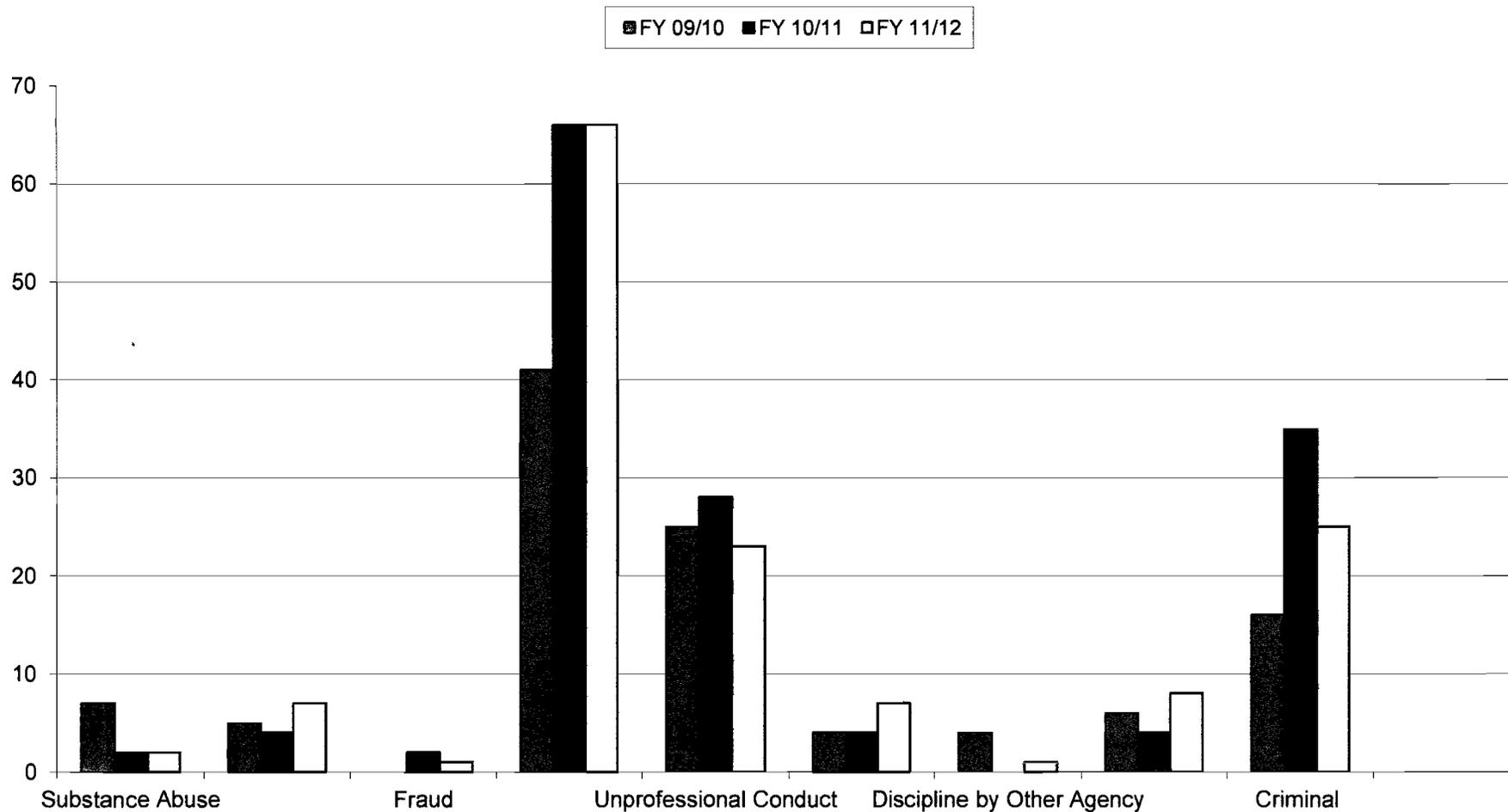
Dental Board of California.....	37
Osteopathic Medical Board of California.....	11
Board of Pharmacy.....	77
Physical Therapy Board of California.....	15
Board of Registered Nursing.....	462
Veterinary Board of California.....	2

**PHYSICIAN ASSISTANT COMMITTEE
COMPLAINTS AND INVESTIGATION
JULY 1 THROUGH MARCH 31**

■ FY 09/10 ■ FY 10/11 □ FY 11/12

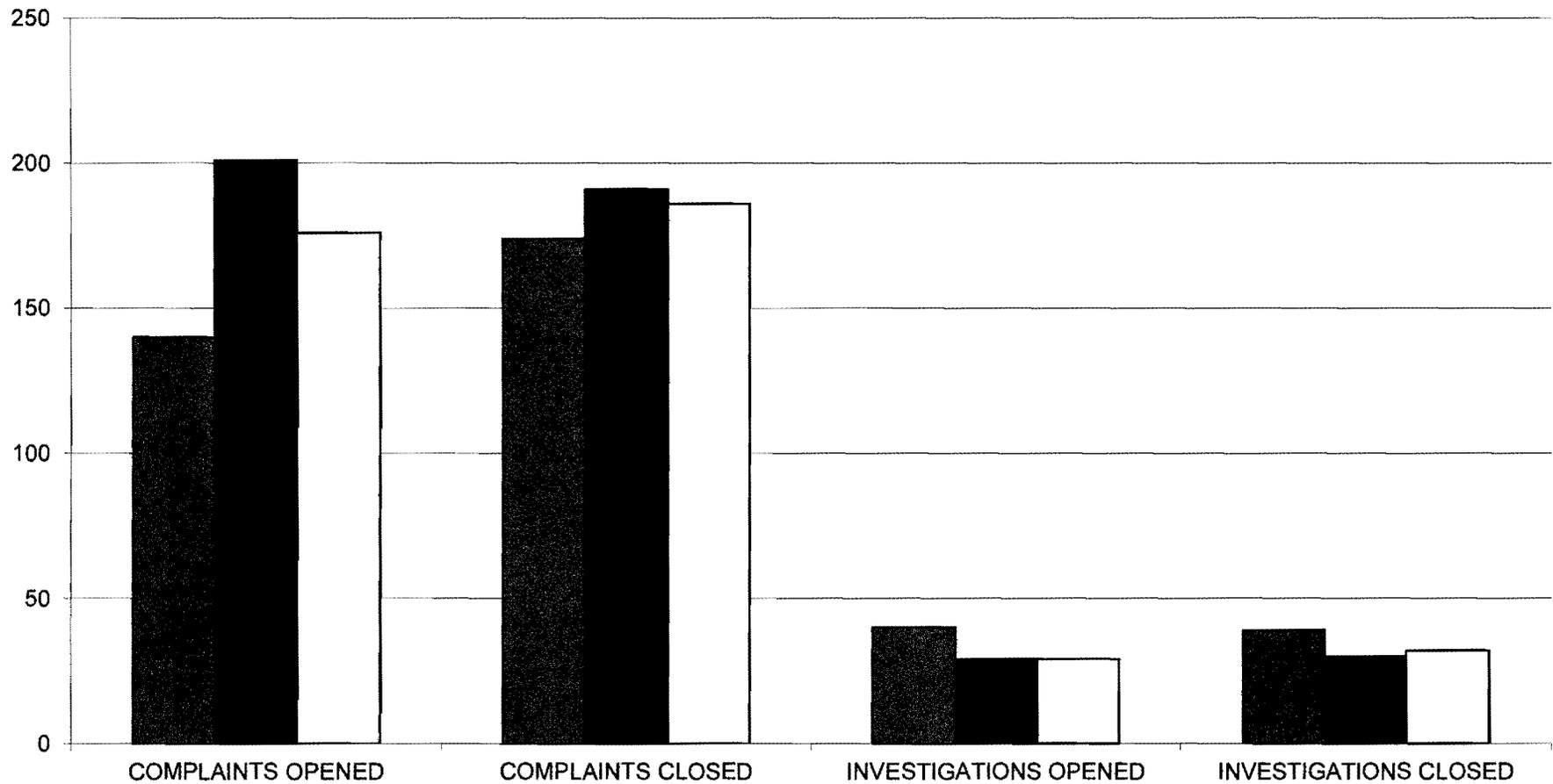


**PHYSICIAN ASSISTANT COMMITTEE
CATEGORY OF COMPLAINTS RECEIVED
JULY 1 THROUGH MARCH 31**



**PHYSICIAN ASSISTANT COMMITTEE
COMPLAINTS AND INVESTIGATION
JULY 1 THROUGH MARCH 31**

■ FY 09/10 ■ FY 10/11 □ FY 11/12



**Physician Assistant Committee
Cases Over 8 Months Old
As of March 31, 2012**

Formal Investigations

Total Number of Formal Investigations pending: 25

Number of Investigations over 8 months old: 5

Status of Cases over 8 months old:

<u># of cases</u>	<u>Status</u>
3	Scheduling/subpoena for interview/records
2	Working with other law enforcement agencies

Disciplinary Actions

Total Number of Disciplinary Cases pending: 24

Number of Disciplinary Cases over 8 months old: 8

Status of Cases over 8 months old:

<u># of cases</u>	<u>Status</u>
1	Remanded back to OAH
2	Waiting for hearing
1	Additional investigation
1	Waiting for criminal case – PC 23 in place
1	Non adopt
1	Out for vote
1	Waiting for effective date of decision

**PHYSICIAN ASSISTANT COMMITTEE**

2005 Evergreen Street, Suite 1100, Sacramento, CA 95815

Telephone: 916 561-8780 Fax: 916 263-2671 Website: www.pac.ca.gov



TO: Chairperson and Members
Medical Board of California

FROM: Elberta Portman, Executive Officer
Physician Assistant Committee

DATE: May 3, 2012

SUBJECT: Regulatory Proposal - Title 16, California Code of Regulations section
1399.541 – Physician Assistant Medical Services Performable

Please see the attached proposed language and background information to amend Title 16 of the California Code of Regulations section 1399.541- Medical Services Performable

The purpose of this proposed regulatory change is to update and clarify physician assistant supervision requirements.

The Physician Assistant Committee (Committee) lacks authority to adopt, amend or repeal regulations affecting the scope of practice of physician assistants and supervising physicians. The authority has been statutorily granted to the Medical Board of California.

Therefore, the Committee respectfully submits and presents this language to you for your consideration and possible approval. If approved, the Committee is also requesting that a regulatory hearing be scheduled. On behalf of the Committee, I wish to thank you for taking this time to consider this important matter.

Attachment(s): Background
Proposed language

REGULATORY PROPOSAL FOR TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 1399.541

BACKGROUND INFORMATION

In 2005 the Committee requested that legal counsel review and interpret Section 1399.541 of Title 16 of the California Code of Regulations. Specifically, the inquiry related to the term "personal presence", as it was used in subsection (i) of section 1399.541. Subsection (i) of Section 1399.541 relates to the opening and closing of surgical procedures upon a patient under general anesthesia.

The question raised was, "May a physician assistant perform these surgical procedures on a patient under general anesthesia without the personal presence of a supervising physician and surgeon".

The opinion stated that "No, a physician assistant may not perform opening and closing surgical procedures on a patient under general anesthesia without the personal presence of a supervising physician and surgeon".

In early 2011, this question was raised again by physician assistant licensees and subsequently discussed the Committee's board meeting. The Committee discussed the matter and determined that the best way to respond to this issue was to form the Physician Assistant Personal Presence Subcommittee. The Subcommittee was asked to review the regulation and current physician assistant practice to determine if amendments were appropriate.

The Subcommittee reviewed the current regulation and determined that amendments would be appropriate to update and conform with current medical standards with regard to this practice.

Legal counsel drafted amendments to Section 1399.541 and the Committee approved the final draft at the February 6, 2012 Physician Assistant Committee meeting. The proposed changes include allowing physician assistants to perform surgical procedures under local anesthesia and general anesthesia.

The Committee lacks authority to adopt, amend or repeal regulations affecting the scope of practice of physician assistants and supervising physicians. This authority has been statutorily granted to the Medical Board of California.

ACTION REQUESTED:

We respectfully request that members of the Medical Board review the attached draft amendments to Section 1399.541. Additionally, if approved, the Committee would then request that a regulatory hearing be scheduled to amend this regulation.

Final Draft of Proposed Amendments to Section 1399.541 of Title 16 of the California Code of Regulations

LEGEND: Single Underline is the final modified language adopted by the Physician Assistant Committee at the 6 February 2012 meeting.

Section 1399.541 is amended to read:

Because physician assistant practice is directed by a supervising physician, and a physician assistant acts as an agent for that physician, the orders given and tasks performed by a physician assistant shall be considered the same as if they had been given and performed by the supervising physician. Unless otherwise specified in these regulations or in the delegation or protocols, these orders may be initiated without the prior patient specific order of the supervising physician. In any setting, including for example, any licensed health facility, out-patient settings, patients' residences, residential facilities, and hospices, as applicable, a physician assistant may, pursuant to a delegation of services of agreement executed pursuant to subdivision (b) of section 1399.540 and protocols where present:

- (a) Take a patient history; perform a physical examination and make an assessment and diagnosis therefrom; initiate, review and revise treatment and therapy plans including plans for those services described in Section 1399.541(b) through Section 1399.541(i) inclusive; and record and present pertinent data in a manner meaningful to the physician.
- (b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical therapy, occupational therapy, respiratory therapy, and nursing services.
- (c) Order, transmit an order for, perform, or assist in the performance of laboratory procedures, screening procedures and therapeutic procedures.
- (d) Recognize and evaluate situations which call for immediate attention of a physician and institute, when necessary, treatment procedures essential for the life of the patient.
- (e) Instruct and counsel patients regarding matters pertaining to their physical and mental health. Counseling may include topics such as medications, diets, social habits, family planning, normal growth and development, aging, and understanding of and long-term management of their diseases.
- (f) Initiate arrangements for admissions, complete forms and charts pertinent to the patient's medical record, and provide services to patients requiring continuing care, including patients at home.
- (g) Initiate and facilitate the referral of patients to the appropriate health facilities, agencies, and resources of the community.
- (h) Administer or provide medication to a patient, or issue or transmit drug orders orally or in

writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of Section 3502.1 of the Code.

(i) (1) Perform surgical procedures as follows:

(A) Local Anesthesia. A physician assistant may perform those procedures customarily performed under local anesthesia without the physical personal presence of the supervising physician. which are customarily performed under local anesthesia.

(B) General Anesthesia. A physician assistant may perform surgical procedures, including the closure of surgical wounds to all layers of the skin and fascia, upon a patient sedated to a level of general anesthesia without the physical presence of a supervising physician and surgeon in the operating room or suite provided that the supervising physician and surgeon is immediately available and the licensed health care practitioner administering the anesthetic(s) is physically present in the operating room. For the purposes of this section, "immediately available" means that the supervising physician and surgeon remains located on the same floor and within the same operating complex in the event assistance is requested.

Prior to delegating any such surgical procedures, the supervising physician shall review documentation which indicates that the physician assistant is trained and competent to perform the surgical procedures. ~~All other surgical procedures requiring other forms of anesthesia may be performed by a physician assistant only in the personal presence of an approved supervising physician.~~

(2) A physician assistant may also act as first or second assistant in surgery under the supervision of an approved supervising physician.

NOTE: Authority cited: Sections 2018, 3502 and 3510, Business and Professions Code.
Reference: Sections 2058 and 3502, Business and Professions Code.

AVAILABILITY OF MODIFIED TEXT

NOTICE IS HEREBY GIVEN that Physician Assistant Committee has proposed modifications to the text of section 1399.536 in Title 16 Cal.Code Reg. which were the subject of a regulatory hearing on 6 February 2012. A copy of the modified text is enclosed. Any person who wishes to comment on the proposed modifications may do so by submitting written comments on or before 26 April 2012 to the following:

Glenn Mitchell

Physician Assistant Committee
2005 Evergreen Street, Suite 1100
Sacramento, CA 95815
916.561.8783
Fax: 916.263.2671
Glenn.mitchell@mbc.ca.gov

DATED: 11 April 2012

PHYSICIAN ASSISTANT COMMITTEE

MODIFIED TEXT

Legend

<u>Underlined</u>	Indicates proposed amendments or Additions to the existing regulation
Strikeout	Indicates proposed deletions to the existing regulation.
Double strikeout	Indicates additional deletions to the Originally proposed language
<u>Double underline</u>	Indicates additional amendments to the originally proposed language.

Add 1399.536 to Division 13.8 of Title 16 of the California Code of Regulations, as follows:

§ 1399.536. Requirements for Preceptors.

(a) Preceptors participating in the preceptorship of an approved program shall:

(1) Be a licensed health care provider ~~physicians who~~ is ~~are~~ engaged in the practice of the profession for which he or she is validly licensed and whose ~~medicine which~~ practice is sufficient to adequately expose preceptees to a full range of experience. The practice need not be restricted to an office setting but may take place in licensed facilities, such as hospitals, clinics, etc.

(A) For the purposes of this section, a "licensed health care provider" means a physician and surgeon, a physician assistant, a registered nurse who has been certified in advanced practices, a certified nurse midwife, a licensed clinical social worker, a marriage and family therapist, a licensed educational psychologist, or a licensed psychologist.

(2) Not have had the privilege to practice the profession for which he or she is licensed ~~medicine~~ terminated, suspended, or otherwise restricted as a result of a final disciplinary action (excluding judicial review of that action) by any state healing arts licensing ~~medical~~ board or any agency of the federal government, including the military, within 5 years immediately preceding his or her participation in a preceptorship.

(3) By reason of his or her professional ~~medical~~ education, specialty and nature of practice be sufficiently qualified to teach and supervise preceptees within the scope of his or her license.

~~(4) Not be assigned to supervise more than one preceptee at a time.~~

(4) ~~(5)~~ Teach and supervise the preceptee in accordance with the provisions and limitations of sections 1399.540 and 1399.541.

~~(6) Shall in conjunction with his or her use of a preceptee, charge a fee for only those personal and identifiable services which he or she, the preceptor, renders. The services of the preceptee shall be considered as part of the global services provided and there shall be no separate billing for the services rendered by the preceptee.~~

(5) ~~(7)~~ Obtain the necessary patient consent as required in section 1399.538.

(b) It shall be the responsibility of the approved program to assure that preceptors comply with the foregoing requirements.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

April 10, 2012

Glen Mitchell
 Physician Assistant Committee
 2005 Evergreen Street, Suite 100
 Sacramento, CA 95815

Re: Proposed Regulations Concerning "Requirements for Preceptors"

Dear Mr. Mitchell:

The California Academy of Physician Assistants (CAPA) and the California Medical Association (CMA) are submitting this joint letter to address a concern put forth during the public comment period of the regulatory hearing on proposed regulations concerning requirements for preceptors, held at the Physician Assistant Committee meeting on February 6, 2012. At the hearing, CMA testified about the need to define the physician's role in physician assistant student preceptorships, but related language changes were not adopted at the hearing.

In follow-up discussion, CAPA and CMA met to address the concern regarding the physician's role and came to an agreement on a possible modification to the language. CAPA and CMA request your consideration of the following proposed change to California Code of Regulations, Title 16, Sect.1399.536, *Requirements for Preceptors*, paragraph (a):

PHYSICIAN ASSISTANT COMMITTEE Specific Language of Proposed Changed § 1399.536. Requirements for Preceptors.

(a) Preceptorship shall mean the supervised clinical practice phase of a physician assistant student's training. A preceptorship shall include licensed physicians as preceptors. Other licensed health care providers approved by a program may serve as preceptors to supplement physician supervised clinical practice experiences. Preceptors participating in the preceptorship of an approved program shall:

Thank you for your consideration, and we are happy to assist with further clarification in this matter, if needed. Scott Clark at CMA can be reached at 916-551-2887 or sclark@cmanet.org. Teresa Anderson at CAPA can be reached at 916-759-0163 or TandersonCAPA@aol.com.

Respectfully submitted,



Teresa Anderson
 Public Policy Director
 California Academy of Physician Assistants




Scott Clark
 Center for Medical and Regulatory Policy
 California Medical Association





PHYSICIAN ASSISTANT COMMITTEE

2005 Evergreen Street, Suite 1100, Sacramento, CA 95815

Telephone: 916 561-8780 Fax: 916 263-2671 Website: www.pac.ca.gov



PHYSICIAN ASSISTANT COMMITTEE

**IMPLEMENTATION OF UNIFORM STANDARDS AND
REVISIONS TO THE DISCIPLINARY GUIDELINES**

INTERESTED PARTIES WORKSHOP

MAY 15, 2012

**Physician Assistant Committee
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815**

AGENDA

10:00 A.M. – 12:00 P.M.

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

The Physician Assistant Committee invites you to an informational meeting to discuss implementation of the Uniform Standards for substance abusing licensees and revisions to the Disciplinary Guidelines. This will provide an opportunity for open discussion on the agenda items identified below. No action will be taken at the May 15, 2012 meeting.

1. Welcome and Introductions
2. Overview and Discussion of Implementation of the Uniform Standards for Substance Abusing Licensees and Revisions to the Disciplinary Guidelines
3. Next Steps
4. Adjournment

Notice: 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 Lynn Forsyth at (916) 561-8785 or email Lynn.Forsyth@mbc.ca.gov or send a written request to the Physician Assistant Committee, 2005 Evergreen Street, Suite 1100, Sacramento, California 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the request.



MEMORANDUM

DATE	April 5, 2012
TO	ALL HEALING ARTS BOARDS
FROM	 DOREATHEA JOHNSON Deputy Director, Legal Affairs Department of Consumer Affairs
SUBJECT	Opinion Regarding Uniform Standards for Substance-Abusing Licensees (SB 1441)

This memo addresses a number of questions that have been raised concerning the discretion of healing arts boards, with respect to the Uniform Standards for Substance-Abusing Healing Arts Licensees ("Uniform Standards") that were formulated by the Substance Abuse Coordination Committee and mandated by Business and Professions Code section 315. Previously, there have been discussions and advice rendered, opining that the boards retain the discretion to modify the Uniform Standards. This opinion, largely influenced by the fact that the rulemaking process necessarily involves the exercise of a board's discretion, has been followed by a number of boards as they completed the regulatory process.

Two opinions, one issued by the Legislative Counsel Bureau ("Legislative Counsel") dated October 27, 2011, and an informal legal opinion, rendered by the Government Law Section of the Office of the Attorney General ("Attorney General"), dated February 29, 2012, have been issued and address the discretion of the boards, in adopting the Uniform Standards. This memo is to advise the healing arts boards of this office's opinion regarding the questions raised, after a review of these two opinions. A copy of each opinion is attached for your convenience.

Questions Presented

1. **Do the healing arts boards retain the discretion to modify the content of the specific terms or conditions of probation that make up the Uniform Standards?**

Both Legislative Counsel and the Attorney General concluded that the healing arts boards do not have the discretion to modify the content of the specific terms or conditions of probation that make up the Uniform Standards. We concur with that conclusion.

2. **Do the healing arts boards have the discretion to determine which of the Uniform Standards apply in a particular case?**

Legislative Counsel opined that, unless the Uniform Standards specifically so provide, all of the Uniform Standards must be applied to cases involving substance-abusing licensees, as it was their belief that the Legislative intent was to "provide for the full implementation of the Uniform Standards." The Attorney General agreed with Legislative Counsel. Following our review and analysis of Business and Professions Code Section 315, we concur with both the Office of the Attorney General and the Legislative Counsel.

3. **Is the Substance Abuse Coordination Committee (SACC) the entity with rulemaking authority over the uniform standards to be used by the healing arts boards?**

The Legislative Counsel concluded that the SACC had the authority to promulgate regulations mandating that the boards implement the Uniform Standards. However, the Office of the Attorney General disagreed and concluded that the SACC was not vested with the authority to adopt regulations implementing the uniform standards. We agree with the Office of the Attorney General. It is our opinion that the authority to promulgate the regulations necessary to implement the Uniform Standards, lies with the individual boards that implement, interpret or make specific, the laws administered by those boards. As the SACC is limited to the creation or formulation of the uniform standards, but is not authorized to implement the laws of the healing arts boards, it does not have authority to adopt regulations to implement those standards. Consequently, we agree with the Attorney General's opinion that the SACC is not the rule-making entity with respect to the Uniform Standards, and therefore has no authority to adopt the Uniform Standards as regulations.

It is our recommendation that healing arts boards move forward as soon as possible to implement the mandate of Business and Professions Code section 315, as it relates to

the Uniform Standards. Some of the standards are appropriate for inclusion in an agency's disciplinary guidelines, which necessarily will involve the regulatory process. Others are administrative in nature and not appropriate for inclusion in the disciplinary guidelines. For example, Uniform Standard No. 16 which sets forth reporting requirements would not be appropriate for inclusion in disciplinary guidelines.

Please work with your assigned legal counsel to determine how best to implement the Uniform Standards. This should include a discussion as to whether : (1) the Uniform Standards should be placed in a regulation separate from the disciplinary guidelines; (2) the implementing regulation should include a definition of (or criteria by which to determine) what constitutes a "substance-abusing licensee."

It is hopeful that the foregoing information addresses your concerns with respect to the implementation of the mandatory uniform standards.

Attachments

cc: Denise Brown, DCA Director
Awet Kidane, DCA Chief Deputy Director
DCA Legal Affairs Attorneys



LEGISLATIVE
COUNSEL
BUREAU

LEGISLATIVE COUNSEL BUREAU
1500 S. STANISLAUS ST., SUITE 300
SACRAMENTO, CALIFORNIA 95834
(916) 227-3300
WWW.LEGISLATIVECOUNSEL.BUREAU.CA.GOV

October 27, 2011

Honorable Curren D. Price Jr.
Room 2053, State Capitol

HEALING ARTS BOARDS: ADOPTION OF UNIFORM STANDARDS - #1124437

Dear Senator Price:

You have asked two questions with regard to the adoption of uniform standards by the Substance Abuse Coordination Committee pursuant to Section 315 of the Business and Professions Code. You have asked whether the Substance Abuse Coordination Committee is required to adopt the uniform standards pursuant to the rulemaking procedures under the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.). You have also asked, if the uniform standards are properly adopted by the Substance Abuse Coordination Committee, whether the healing arts boards are required to implement them.

By way of background, Section 315 of the Business and Professions Code¹ provides as follows:

"315. (a) For the purpose of determining uniform standards that will be used by healing arts boards in dealing with substance-abusing licensees, there is established in the Department of Consumer Affairs the Substance Abuse Coordination Committee. The committee shall be comprised of the executive officers of the department's healing arts boards established pursuant to Division 2 (commencing with Section 500), the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and a designee of the State Department of Alcohol and Drug Programs. The Director of Consumer Affairs shall chair the committee and may invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee.

¹ All further section references are to the Business and Professions Code, unless otherwise referenced.

“(b) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code).

“(c) By January 1, 2010, the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program:

“(1) Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

“(2) Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic evaluation described in paragraph (1) and any treatment recommended by the evaluator described in paragraph (1) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

“(3) Specific requirements that govern the ability of the licensing board to communicate with the licensee’s employer about the licensee’s status and condition.

“(4) Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomness, method of notice to the licensee, number of hours between the provision of notice and the test standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

“(5) Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

“(6) Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

“(7) Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

“(8) Procedures to be followed when a licensee tests positive for a banned substance.

“(9) Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

"(10) Specific consequences for major violations and minor violations. In particular, the committee shall consider the use of a deferred prosecution stipulation similar to the stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency unless or until the licensee commits a major violation, in which case it is revived and the license is surrendered.

"(11) Criteria that a licensee must meet in order to petition for return to practice on a full-time basis.

"(12) Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

"(13) If a board uses a private-sector vendor that provides diversion services, standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and standards for a licensee's termination from the program and referral to enforcement.

"(14) If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

"(15) If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

"(16) Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term." (Emphasis added.)

Thus, the Legislature has established in the Department of Consumer Affairs (hereafter department) the Substance Abuse Coordination Committee (subd. (2), Sec. 315, hereafter committee). The committee is comprised of the executive officers of each healing arts board within the department,² the State Board of Chiropractic Examiners, and the

²The department's healing arts boards are those boards established under Division 2 (commencing with Section 500) to license and regulate practitioners of the healing arts. Those boards include, among others, the Dental Board of California, the Medical Board of California, the Veterinary Medical Board, and the Board of Registered Nursing.

Osteopathic Medical Board of California (hereafter, collectively, healing arts boards), and a designee of the State Department of Alcohol and Drug Programs (Ibid.). The Director of Consumer Affairs chairs the committee and is authorized to invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee (Ibid.).

The committee is required to formulate uniform and specific standards in each of 16 areas provided by the Legislature, but otherwise has discretion to adopt the uniform standards each healing arts board shall use in dealing with substance-abusing licensees (subd. (c), Sec. 315). The committee adopted its initial set of uniform standards in April 2010, and revised those initial standards as recently as April 2011.⁷ Although the committee has adopted the uniform standards pursuant to its own procedures, it has yet to adopt those standards pursuant to the rulemaking procedures of the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.; hereafter APA).

You have asked whether the committee is required to adopt the uniform standards pursuant to the rulemaking procedures of the APA.

The APA establishes basic minimum procedural requirements for the adoption, amendment, or repeal of administrative regulations by state agencies (subd. (a), Sec. 11346, Gov. C.). The APA is applicable to the exercise of any quasi-legislative power conferred by any statute (Ibid.). Quasi-legislative powers consist of the authority to make rules and regulations having the force and effect of law (*California Advocates for Nursing Home Reform v. Bonta* (2003) 106 Cal.App.4th 498, 517; hereafter *California Advocates*). The APA may not be superseded or modified by any subsequent legislation except to the extent that the legislation does so expressly (subd. (a), Sec. 11346, Gov. C.).

The term "regulation" is defined for purposes of the APA to mean "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure" (Sec. 11342.600, Gov. C.; emphasis added). The APA provides that a state agency shall not issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation under the APA, unless properly adopted under the procedures set forth in the APA, and the Office of Administrative Law is empowered to determine whether any such guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule is a regulation under the APA (Sec. 11340.5, Gov. C.).

In *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571 (hereafter *Tidewater*), the California Supreme Court found as follows:

⁷ See http://www.dca.ca.gov/about_dca/sacc/index.shtml (as of September 20, 2011).

"A regulation subject to the APA thus has two principal identifying characteristics. (See *Union of American Physicians & Dentists v. Kizer* (1990) 223 Cal.App.3d 490, 497 [272 Cal.Rptr. 886] [describing two-part test of the Office of Administrative Law].) First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. (*Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622, 630 [167 Cal.Rptr. 552].) Second, the rule must 'implement, interpret, or make specific the law enforced or administered by [the agency], or ... govern [the agency's] procedure.' (Gov. Code, § 11342, subd. (g).)"

If a policy or procedure falls within the definition of a "regulation" within the meaning of the APA, the adopting agency must comply with the procedures for formalizing the regulation, which include public notice and approval by the Office of Administrative Law (*County of Butte v. Emergency Medical Services Authority* (2010) 187 Cal.App.4th 1175, 1200). The Office of Administrative Law is required to review all regulations adopted pursuant to the APA and to make its determinations according to specified standards that include, among other things, assessing the necessity for the regulation and the regulation's consistency with the agency's statutory obligation to implement a statute (subd. (a), Sec. 11349.1, Gov. C.).

Applying these principles to the question presented, the uniform standards are subject to the rulemaking procedures of the APA if the following criteria are met: (1) Section 315 does not expressly preclude application of the APA, (2) the committee is a state agency under the APA, (3) the uniform standards are regulations subject to the APA, and (4) no exemption applies under the APA.

With respect to the first criterion, Section 315 is silent on the application of the APA. Thus, Section 315 does not expressly preclude application of the APA, and the APA will apply to any regulation adopted under Section 315.

We turn next to the second criterion, and whether the committee is an "agency" for purposes of the APA. The word "agency" is defined, for purposes of the APA, by several separate provisions of law. For purposes of the rulemaking procedures of the APA, "agency" is defined to mean a state agency (Sec. 11342.520, Gov. C.). That reference to state agency is defined elsewhere in the Government Code to include every state office, officer, department, division, bureau, board, and commission (subd. (a), Sec. 11000, Gov. C.). The APA does not apply to an agency in the judicial or legislative branch of the state government (subd. (a), Sec. 11340.9, Gov. C.).

Along those lines, the APA is applicable to the exercise of any quasi-legislative power conferred by any statute (subd. (a), Sec. 11346, Gov. C.). Quasi-legislative powers consist of the authority to make rules and regulations having the force and effect of law (*California Advocates*, *supra*, at p. 517). Thus, for purposes of our analysis, we think that an "agency" means any state office, officer, department, division, bureau, board, or commission that exercises quasi-legislative powers.

Here, the committee is a state office comprised of executive officers of the healing arts boards and the Director of Consumer Affairs. Although the Legislature has set forth 16 areas in which the committee is required to adopt standards, the committee itself is required to exercise quasi-legislative powers and adopt uniform standards within those areas. Those standards shall have the force and effect of law, since the healing arts boards, as discussed more extensively below, are required to use the standards in dealing with substance-abusing licensees and the standards are required to govern matters such as when a licensee is temporarily removed from practice or subject to drug testing or work monitoring (paras. (2), (4), and (7), subd. (c), Sec. 315). Accordingly, we think the committee is an agency to which the APA applies.

As to the third criterion, two elements must be met for the uniform standards at issue to be a regulation: they must apply generally and they must implement, interpret, or make specific a law enforced or administered by the agency or that governs its procedures (*Tidewater*, supra, at p. 571; Sec. 11342.600, Gov. C.). Section 315 requires the committee to formulate uniform and specific standards in specified areas that each healing arts board within the department shall use when dealing with substance-abusing licensees, whether or not the board chooses to have a formal diversion program. The uniform standards will not be limited in application to particular instances or individuals but, instead, will apply generally to those licensees. Further, under this statutory scheme, the uniform standards will implement Section 315 and will be enforced and administered by, and will govern the procedures of, each healing arts board that is a member of the committee. Thus, the uniform standards are, in our view, a regulation under the APA.

Lastly, we turn to the fourth criterion, and whether the regulation is exempt from the APA. Certain policies and procedures are expressly exempted by statute from the requirement that they be adopted as regulations pursuant to the APA. In that regard, Section 11340.9 of the Government Code provides as follows:

"11340.9. This chapter does not apply to any of the following:

"(a) An agency in the judicial or legislative branch of the state government.

"(b) A legal ruling of counsel issued by the Franchise Tax Board or State Board of Equalization.

"(c) A form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation on any requirement that a regulation be adopted pursuant to this chapter when one is needed to implement the law under which the form is issued.

"(d) A regulation that relates only to the internal management of the state agency.

"(e) A regulation that establishes criteria or guidelines to be used by the staff of an agency in performing an audit, investigation, examination, or inspection, settling a commercial dispute, negotiating a commercial

arrangement, or in the defense, prosecution, or settlement of a case, if disclosure of the criteria or guidelines would do any of the following:

"(1) Enable a law violator to avoid detection.

"(2) Facilitate disregard of requirements imposed by law.

"(3) Give clearly improper advantage to a person who is in an adverse position to the state.

"(f) A regulation that embodies the only legally tenable interpretation of a provision of law.

"(g) A regulation that establishes or fixes rates, prices, or tariffs.

"(h) A regulation that relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the regulation determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.

"(i) A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state."

None of the exemptions contained in the APA can be reasonably construed to apply to the committee or the uniform standards to be used by the healing arts boards. In addition, we are aware of no other applicable exemption.

Thus, because all four of the criteria are met, it is our opinion that the Substance Abuse Coordination Committee is required to adopt the uniform standards pursuant to the rulemaking procedures under the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.).

Having reached this conclusion, we next turn to whether the healing arts boards are required to use the uniform standards if those standards are properly adopted. In addressing that question, we apply certain established rules of statutory construction. To ascertain the meaning of a statute, we begin with the language in which the statute is framed (*Leroy T. v. Workmen's Comp. Appeals Bd.* (1974) 12 Cal.3d 434, 438; *Visalia School Dist. v. Workers' Comp. Appeals Bd.* (1995) 40 Cal.App.4th 1211, 1220). Significance should be given to every word, and construction making some words surplusage is to be avoided (*Lambert Steel Co. v. Heller Financial, Inc.* (1993) 16 Cal.App.4th 1034, 1040). In addition, effect should be given to statutes according to the usual, ordinary import of the language employed in framing them (*DuBois v. Workers' Comp. Appeals Bd.* (1993) 5 Cal.4th 382, 388).

As set forth above, subdivision (c) of Section 315 provides that "the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program" (emphasis added). Section 19 provides that "shall" is mandatory and "may" is permissive. The word "may" is ordinarily construed as permissive, whereas the word "shall" is ordinarily construed as mandatory (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 443).

Here, in Section 315, the Legislature uses the term "shall" rather than "may" in providing that each healing arts board "shall use" the specific and uniform standards adopted by the committee when dealing with substance-abusing licensees. The Legislature uses the term "shall use" as compared to "shall consider," "may consider," or "may use." The Legislature's use of the term "shall" indicates that the healing arts boards are required to use the standards adopted by the committee rather than being provided the discretion to do so. Moreover, as employed in this context, the word "use" implies that the healing arts boards must implement and apply those standards rather than merely considering them. Finally, the use of the term "uniform" suggests that the Legislature intended each board to apply the same standards. If the healing arts boards were not required to use the standards as adopted by the committee, the standards employed by these boards would vary rather than being "uniform."

Notwithstanding the plain meaning of Section 315, one could argue that the enactment of Section 315.4 indicates that the Legislature intended that implementation of the uniform standards by the boards be discretionary. Section 315.4, which was added by Senate Bill No. 1172 of the 2009-10 Regular Session (Ch. 517, Stats. 2010; hereafter S.B. 1172), provides that a healing arts board "may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315." Section 315.4 could be read to imply that a healing arts board is not required to implement those uniform standards because the board was given discretion to adopt the regulations that would allow that board to implement the standards, if necessary.

It is a maxim of statutory construction that a statute is to be construed so as to harmonize its various parts within the legislative purpose of the statute as a whole (*Wells v. Marina City Properties, Inc.*, (1981) 29 Cal.3d 781, 788). As discussed above, we believe that the plain meaning of Section 315 requires the healing arts boards to implement the uniform standards adopted by the committee. Thus, whether Section 315.4 indicates, to the contrary, that the Legislature intended the boards to have discretion in that regard depends upon whether there is a rational basis for harmonizing the two statutes.

In harmonizing Sections 315 and 315.4, we note that S.B. 1172 did not make any changes to Section 315, such as changing the term "shall" to "may" in subdivision (c) of Section 315 or deleting any subdivisions of Section 315. S.B. 1172 did not diminish the scope of the authority provided to the committee to adopt the uniform standards. In fact, the analysis of the Senate Committee on Business, Professions and Economic Development for S.B. 1172, dated April 19, 2010 (hereafter committee analysis), describes the purpose of S.B. 1172 and the enactment of Section 315.4, as follows:

"The Author points out that pursuant to SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), the DCA was required to adopt uniform guidelines on sixteen specific standards that would apply to substance abusing health care licensees, regardless of whether a board has a diversion program. Although most of the adopted guidelines do not need additional statutes for

implementation, there are a couple of changes that must be statutorily adopted to fully implement these standards. This bill seeks to provide the statutory authority to allow boards to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program, if a major violation is committed and while undergoing clinical diagnostic evaluation" (Committee analysis, at p. 4.)

The committee analysis further provides that the purpose of S.B. 1172 was to grant specific authority to implement those standards and "provide for the full implementation of the Uniform Standards" (committee analysis, at p. 11). The committee analysis at no time implies that the Legislature intended the Section 315 uniform standards to be revised or repealed by S.B. 1172 or that, in enacting Section 315.4, the Legislature intended that the implementation of the uniform standards be subject to the discretion of each healing arts board.

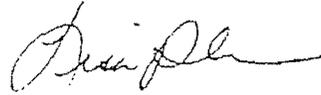
Thus, in our view, Section 315.4 may be reasonably construed in a manner that harmonizes it with Section 315. Specifically, we think that the intent of the Legislature in enacting Section 315.4 was not to make the uniform standards discretionary but to "provide for the full implementation of the Uniform Standards" by providing the authority to adopt regulations where the Legislature believed that further statutory authority was needed. Accordingly, we think implementation by the various healing arts boards of the uniform standards adopted under Section 315 is mandatory.⁴

⁴ Although Section 108 and Division 2 (commencing with Section 500) authorize the healing arts boards to set standards and adopt regulations (see, for example, Secs. 1224, 1614, 2018, 2531.95, 2615, 2715, 2854, 2930, 3025, 3510, and 3546), it is an axiom of statutory construction that a particular or specific provision takes precedence over a conflicting general provision (Sec. 1859, C.C.P., *Agricultural Labor Relations Bd. v. Superior Court* (1976) 16 Cal.3d 392, 420, app. dism., *Kobe v. Agricultural Relations Bd.* (1976) 429 U.S. 802; see also Sec. 3534, Civ. C.). Thus, in our view, the specific requirement under Section 315 that the uniform standards be adopted supersedes any general provision authorizing the boards to set standards and adopt regulations.

Thus, it is our opinion that, if the uniform standards are properly adopted by the Substance Abuse Coordination Committee, the healing arts boards are required to implement them.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel



By
Lisa M. Plummer
Deputy Legislative Counsel

LMP:syl

Memorandum

To : Doreathea Johnson
Deputy Director & Chief Counsel
Department of Consumer Affairs
Legal Affairs Division

Date: February 29, 2012
Telephone: (916) 445-7480
FACSIMILE: (916) 324-8835
E-mail: Kathleen.Lynch@doj.ca.gov

From : Kathleen A. Lynch
Deputy Attorney General
Government Law Section
Office of the Attorney General – Sacramento

Subject : Uniform Standards Related to Substance-Abusing Licensees (Bus. & Prof. Code, §§ 315 - 315.4)

Executive Summary

Issues

You asked us to review Legislative Counsel's letter of October 27, 2011, which rendered certain opinions regarding the Substance Abuse Coordination Committee (SACC), which was created by Business and Professions Code section 315 to formulate uniform standards for use by the healing arts boards to deal with substance-abusing licensees. Legislative Counsel opined that:

(1) SACC was required to formally promulgate the uniform standards as regulations pursuant to the Administrative Procedures Act (APA), and

(2) the healing arts boards are required to use such standards under Business and Professions Code sections 315.

Summary of Responses

With respect to question (1), we see things differently from Legislative Counsel, in two respects.

First, we believe that SACC's adoption of uniform standards does not need to undergo the formal rule-making process under the APA. While other laws could potentially require the adoption of regulations when the standards are implemented by the boards (such as statutes governing particular boards or the APA's provisions applicable to disciplinary proceedings), we disagree that section 315 itself triggers the need to issue the uniform standards as regulations.

Second, even assuming the uniform standards must be adopted as regulations, we disagree with Legislative Counsel's apparent assumption that SACC would issue the regulations under section 315. The legislative histories of the relevant laws and statutory authorities of the

individual boards indicate that the boards would issue the regulations to implement the uniform standards.

As to question (2), we agree with Legislative Counsel that the healing arts boards must use the uniform standards under sections 315. A board cannot simply disregard a specific standard because it does not like the standard or because it believes that the standard is too cumbersome. However, some specific uniform standards themselves recognize a board's discretion whether to order a particular action in the first place. Thus, boards still retain authority to determine if they will undertake certain types of actions if permitted under a specific uniform standard.

Statutory Background

In 2008, SACC was legislatively established within the Department of Consumer Affairs to create uniform standards to be used by the healing arts boards when addressing licensees with substance abuse problems. (Bus. & Prof. Code, § 315, subd. (a); Stats. 2008, ch. 548 (SB 1441).) By January 1, 2010, SACC was required to "formulate uniform and specific standards" in 16 identified areas "that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program." (*Id.* at § 315, subd. (c).) These 16 standards include requirements for: clinical diagnostic evaluation of licensees; the temporary removal of the licensee from practice for clinical diagnostic evaluation and any treatment, and criteria before being permitted to return to practice on a full-time or part-time basis; aspects of drug testing; whether inpatient, outpatient, or other type of treatment is necessary; worksite monitoring requirements and standards; consequences for major and minor violations; and criteria for a licensee to return to practice and petition for reinstatement of a full and unrestricted license. (*Ibid.*) SACC meetings to create these standards are subject to Bagley-Keene Act open meeting requirements. (*Id.* at subd. (b).)

On March 3, 2009, SACC conducted its first public hearing, which included a discussion of an overview of the diversion programs, the importance of addressing substance abuse issues for health care professionals, and the impact of allowing health care professionals who are impaired to continue to practice. (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.) During this meeting, SACC members agreed to draft uniform guidelines for each of the standards, and during subsequent meetings, roundtable discussions were held on the draft uniform standards, including public comments. (*Ibid.*) In December 2009, the Department of Consumer Affairs adopted the uniform guidelines for each of the standards required by SB 1441. (*Ibid.*) These standards have subsequently been amended by SACC, and the current standards were issued in April of 2011.

According to the author of SB 1441 (Ridley-Thomas), the intent of the legislation was to protect the public by ensuring that, at a minimum, a set of best practices or standards were adopted by health-care-related boards to deal with practitioners with alcohol or drug problems. (Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008.) The legislation was also meant to ensure uniformity among the

standards established throughout the healing arts licensing boards under the Department of Consumer Affairs. (*Ibid.*) Specifically, the author explains:

SB 1441 is not attempting to dictate to [the health-related boards] how to run their diversion programs, but instead sets parameters for these boards. The following is true to all of these boards' diversion programs: licensees suffer from alcohol or drug abuse problems, there is a potential threat to allowing licensees with substance abuse problems to continue to practice, actual harm is possible and, sadly, has happened. The failures of the Medical Board of California's (MBC) diversion program prove that there must be consistency when dealing with drug or alcohol issues of licensees.

(Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008.)

In the view of its author, "[t]his bill allows the boards to continue a measure of self-governance; the standards for dealing with substance-abusing licensees determined by the commission set a floor, and boards are permitted to establish regulations above these levels." (*Ibid.*)

In 2010, additional legislation was enacted to further implement section 315. Specifically, it provided that the healing arts boards, as described in section 315 and with the exception of the Board of Registered Nursing, "may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315." (Bus. & Prof. Code, § 315.4, subd. (a); Stats. 2010, ch. 517 (SB 1172).) An order to cease practice does not require a formal hearing and does not constitute a disciplinary action. (*Id.* § 315.4 subds. (b), (c).)

According to the author of SB 1172 (Negrete McLoud), this subsequent statute was necessary "because current law does not give boards the authority to order a cease practice." (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.) The author explains:

Although most of the adopted guidelines do not need additional statutes for implementation, there are a few changes that must be statutorily adopted to fully implement these standards. [¶] This bill seeks to provide the statutory authority to allow boards to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program, if a major violation is committed and while undergoing clinical diagnostic evaluation. [¶] The ability of a board to order a licensee to cease practice under these circumstances provides a delicate balance to the inherent confidentiality of diversion programs. The protection of the public remains the top priority of boards when dealing with substance abusing licensees.

(Senate Third Reading, Analysis of SB 1172 (2010-2011 Reg. Sess.); as amended June 22, 2010.)

Legal Analysis

1a. Section 315 should be construed as not requiring that the uniform standards be adopted as regulations.

Legislative Counsel opined that SACC must adopt the uniform standards as regulations under section 315, because (1) the standards meet the definition of regulations, (2) none of the express exemptions under Government Code section 11340.9 remove them from the APA rule-making process, and (3) section 315 contains no express language precluding application of the rulemaking provisions of the APA. (October 27, 2011 Letter, p. 5.) We have a different view on the threshold issue of whether the standards qualify as a regulation under section 315.

Under the APA, a regulation is defined as "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure." (Gov. Code, § 11342.600.) "No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless [it has been adopted in compliance with the APA]." (*Id.* § 11340.5, subd. (a).) This requirement cannot be superseded or modified by subsequent legislation, unless the statute does so expressly. (*Id.* § 11346, subd. (a).)

An agency standard subject to the APA has two identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. Second, the rule must "implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency's] procedure." (*Morning Star Co. v. State Bd. of Equalization* (2006) 38

Cal.4th 324, 333, quoting *Tidewater Marine Western, Inc. et al. v. Bradshaw* (1996) 14 Cal.4th 557, 571.)

Whether a particular standard or rule is a regulation requiring APA compliance depends on the facts of each case, considering the rule in question, and the applicable statutory scheme. Generally speaking, courts tend to readily find the need for such compliance. We understand that certain healing arts boards have already adopted regulations incorporating the uniform standards. (See, e.g., Cal. Code Regs., tit. 16, § 4147 [Board of Occupational Therapy].) This approach is understandable in light of the usually broad requirement that agency rules be adopted as regulations and, as noted below, may be required by other laws when they are implemented by the boards. Here, however, the wording and intent of section 315 indicate the Legislature did not intend that the initial act of formulating and adopting the uniform standards is within the purview of the formal APA rule-making process.

“The fundamental rule of statutory construction is that the court should ascertain the intent of the Legislature so as to effectuate the purpose of the law.” (*Bodell Const. Co. v. Trustees of California State University* (1998) 62 Cal.App.4th 1508, 1515.) In determining that intent, courts “first examine the words of the statute itself. Under the so-called ‘plain meaning’ rule, courts seek to give the words employed by the Legislature their usual and ordinary meaning. If the language of the statute is clear and unambiguous, there is no need for construction. However, the ‘plain meaning’ rule does not prohibit a court from determining whether the literal meaning of a statute comports with its purpose. If the terms of the statute provide no definitive answer, then courts may resort to extrinsic sources, including the ostensible objects to be achieved and the legislative history.” (*Ibid.* [citations omitted].) Courts “must select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences.” (*Ibid.* [citation omitted].) “The legislative purpose will not be sacrificed to a literal construction of any part of the statute.” (*Ibid.*)

In *Paleski v. State Department of Health Services* (2006) 144 Cal.App.4th 713, the Court of Appeal applied these rules of statutory construction and found that the challenged agency criteria were not required to be adopted as regulations under the APA. (*Id.* at pp. 728-729.) In *Paleski*, plaintiff challenged an agency’s criteria for the prescription of certain drugs because the department had not promulgated them in compliance with the APA. (*Ibid.*) The statute, however, expressly authorized the criteria to be effectuated by publishing them in a manual. (*Ibid.*) According to the court, the “necessary effect” of this language was that the Legislature did not intend for the broader notice procedure of the APA to apply when the agency issued the criteria. (*Ibid.*)

Similar reasoning should apply here. Under the plain meaning of section 315, SACC was legislatively established to create uniform standards to be used by the healing arts boards when addressing licensees with substance abuse problems. (Bus. & Prof. Code, § 315, subd. (a).) The intent of the legislation was to protect the public and to ensure that minimum standards are met and to ensure uniformity among the standards established throughout the healing arts

licensing boards under the Department of Consumer affairs. (Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008.) In formulating these uniform standards, SACC was subject to the Bagley-Keene Act, which requires noticed public meetings. Many roundtable discussions were held on the draft uniform standards, including public vetting and public comments. In that way, the affected community learned about the standards and had the opportunity to comment. This is a prime requirement and purpose of the APA rule-making process (see Gov. Code, § 11343 *et seq.*), but it has already been fulfilled by the procedures set forth in section 315. To now require SACC to repeat that process by promulgating the standards as regulations would make little sense and be duplicative.

Nor does the process for the formulation of the standards set forth in section 315 comport with the other purposes and procedures of the APA. During the APA rule-making process, an agency must provide various reasons, justifications, analyses, and supporting evidence for the proposed regulation. (Gov. Code, § 11346.2.) Those provisions and other provisions of the APA are intended to address the proliferation, content, and effect of regulations proposed by administrative agencies. (*Id.* §§ 11340, 11340.1.) Here, the agency is not proposing to adopt the uniform standards. The Legislature has required that the standards adopted by SACC, be uniform, and be used by the boards. Given this statutory mandate that they be implemented, subjecting the uniform standards to substantive review under the APA again makes little sense.¹

1b. The SACC would not be the rule-making entity, even if the uniform standards would have to be adopted as regulations.

Even assuming that APA compliance was required under section 315, it is doubtful that SACC would carry the responsibility to adopt regulations. The second component of a regulation requires that the rule must “implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency’s] procedure.” (*Morning Star Co.*, *supra*, 38 Cal.4th at p. 333.) Here, SACC was mandated to create the uniform standards to be used by separate boards; the SACC’s creation of the uniform standards does not implement,

¹ Even though the standards do not have to be promulgated as regulations by SACC under section 315, this does not mean that certain regulations would not arguably be required on the part of some or all of the boards under other statutory schemes, such as the laws applicable to a particular board or the APA’s provisions on quasi-adjudicatory proceedings. This type of analysis would require a fact specific, case-by-case study of each board’s practices and its regulatory scheme and may include consideration of: (1) whether a board’s statutory authority requires the adoption of regulations related to actions against substance-abusing licensees, (2) whether current regulations conflict with the standards, and (3) whether in an administrative adjudicative setting, the standards are considered “penalties” and thus must be adopted as regulations under section 11425.50, subdivision (e), of the Government Code.

interpret, or make any law more specific. (Bus. & Prof. Code, § 315, subds. (a), (c).) The only express statutory role of the SACC is to determine the uniform standards in the first place.²

The boards are then required to use and apply the standards and have much clearer authority to adopt regulations. “Each of the boards [within the Department of Consumer Affairs] exists as a separate unit, and has the function of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and hold hearings for the revocation of licenses, and the imposing of penalties following such hearings, in so far as these powers are given by statute to each respective board.” (Bus. & Prof. Code, § 108.)

The legislative history for section 315 also supports this conclusion. According to its author, section 315 was adopted to protect the public by ensuring that, at a minimum, a set of best practices or standards *were adopted by health care related boards to deal with practitioners with alcohol or drug problems*. (Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008, emphasis added.)³ Practically speaking, it would be difficult for the SACC (or the Department of Consumer Affairs) to draft regulations applicable to all boards, given that they are unique and deal with different subject areas, unless such regulations were adopted wholesale, on a one-size-fits-all basis. As explained below, while the healing arts boards must use the standards, they only have to use the ones that apply to their procedures.

Thus, while section 315 does not require regulations to initially adopt the standards, the boards (and not SACC) would more reasonably be tasked with this responsibility.

2. The healing arts boards must use the uniform standards to the extent that they apply.

The original language of section 315 is clear that the standards must be used. (Bus. & Prof. Code, § 315, subd. (a) [“uniform standards that will be used by healing arts boards”], subd. (b) [“uniform standards . . . that each healing arts board shall use in dealing with substance-abusing licenses”].) Legislative Counsel was asked to opine on whether subsequent legislation (Bus. & Prof. Code, § 315.4) somehow made these uniform standards discretionary. We agree with

² The SACC is a committee formed by various executive officers of healing arts boards and other public officials formed within the Department of Consumer Affairs. (Bus. & Prof. Code, § 315, subds. (a).)

³ As discussed shortly, the legislative history for follow-up legislation similarly explains that its purpose was to provide statutory authority for some healing arts boards to issue regulations to implement certain of the uniform standards. (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.)

BILL NUMBER: AB 415 CHAPTERED
BILL TEXT

AGENDA ITEM # 9

CHAPTER 547
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AMENDED IN SENATE JULY 7, 2011
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AMENDED IN ASSEMBLY MAY 10, 2011
AMENDED IN ASSEMBLY APRIL 25, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011

INTRODUCED BY Assembly Member Logue
(Principal coauthors: Assembly Members Chesbro, Galgiani, Pan, and
V. Manuel Pérez)

FEBRUARY 14, 2011

An act to repeal and add Section 2290.5 of the Business and Professions Code, to repeal and add Section 1374.13 of the Health and Safety Code, to repeal and add Section 10123.85 of the Insurance Code, and to amend Sections 14132.72 and 14132.725 of the Welfare and Institutions Code, relating to telehealth.

LEGISLATIVE COUNSEL'S DIGEST

AB 415, Logue. Healing arts: telehealth.

(1) Existing law provides for the licensure and regulation of various healing arts professions by various boards within the Department of Consumer Affairs. A violation of specified provisions is a crime. Existing law defines telemedicine, for the purpose of its regulation, to mean the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Existing law requires a health care practitioner, as defined, to obtain verbal and written informed consent from the patient or the patient's legal representative before telemedicine is delivered. Existing law also imposes various requirements with regard to the provision of telemedicine by health care service plans, health insurers, or under the Medi-Cal program, including a prohibition on requiring face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to certain contracts or policies. Existing federal regulations, for the purposes of participation in the Medicare and Medicaid programs, authorize the governing body of a hospital whose patients are receiving telemedicine services to grant privileges based on its medical staff recommendations that rely on information provided by the distant-site hospital. Existing state regulations require medical staff, appointed by the governing body of a hospital, to adopt procedures for the evaluation of staff applications for credentials and privileges. Existing law provides that health care service plans and health insurers shall not be required to pay for consultations provided by telephone or facsimile machines. Existing law provides

that a willful violation of the provisions governing health care service plans is a crime.

This bill would delete the provisions of state law regarding telemedicine as described above, and would instead set forth provisions relating to telehealth, as defined. This bill would require a health care provider, as defined, prior to the delivery of health care via telehealth, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient. This bill would provide that failure to comply with this provision constitutes unprofessional conduct. This bill would, subject to contract terms and conditions, also preclude health care service plans and health insurers from imposing prior to payment, certain requirements regarding the manner of service delivery. This bill would establish procedures for granting privileges to, and verifying and approving credentials for, providers of telehealth services. By changing the definition of a crime applicable to health care service plans, the bill would impose a state-mandated local program.

(2) Existing law prohibits a requirement of face-to-face contact between a health care provider and a patient under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine.

This bill would, instead, prohibit a requirement of in-person contact between a health care provider and patient under the Medi-Cal program for any service otherwise covered by the Medi-Cal program when the service is appropriately provided by telehealth, as defined, and would make related changes.

(3) Existing law, until January 1, 2013, and to the extent that federal financial participation is available, authorizes, under the Medi-Cal program, teleophthalmology and teledermatology by store and forward, as defined.

This bill would delete the repeal of the above-described authorization.

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

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Telehealth Advancement Act of 2011.

SEC. 2. The Legislature finds and declares all of the following:

(a) Lack of primary care providers, specialty providers, and transportation continue to be significant barriers to access to health services in medically underserved rural and urban areas.

(b) Parts of California have difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care.

(c) Many health care providers in medically underserved areas are isolated from mentors, colleagues, and the information resources necessary to support them personally and professionally.

(d) It is the intent of the Legislature to create a parity of telehealth with other health care delivery modes, to actively promote telehealth as a tool to advance stakeholders' goals regarding health

status and health system improvement, and to create opportunities and flexibility for telehealth to be used in new models of care and system improvements.

(e) Telehealth is a mode of delivering health care services and public health utilizing information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.

(f) Telehealth is part of a multifaceted approach to address the problem of inadequate provider distribution and the development of health systems in medically underserved areas by improving communication capabilities and providing convenient access to up-to-date information, consultations, and other forms of support.

(g) The use of information and telecommunication technologies to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care, particularly in rural and other medically underserved areas.

(h) Telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of medical care in the local area, strengthening the health infrastructure, and preserving health care-related jobs.

(i) Consumers of health care will benefit from telehealth in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

(j) It is the intent of the Legislature that the fundamental health care provider-patient relationship cannot only be preserved, but can also be augmented and enhanced, through the use of telehealth as a tool to be integrated into practices.

(k) Without the assurance of payment and the resolution of legal and policy barriers, the full potential of telehealth will not be realized.

SEC. 3. Section 2290.5 of the Business and Professions Code is repealed.

SEC. 4. Section 2290.5 is added to the Business and Professions Code, to read:

2290.5. (a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at

a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient's medical record.

(c) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(d) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(e) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

(f) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(g) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 5. Section 1374.13 of the Health and Safety Code is repealed.

SEC. 6. Section 1374.13 is added to the Health and Safety Code, to read:

1374.13. (a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health care service plan shall require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups.

(d) No health care service plan shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health

care service plan and its participating providers or provider groups.

(e) The requirements of this subdivision shall also be operative for health care service plan contracts with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), or Article 2.91 (commencing with Section 14089) of Chapter 7, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other provision, this section shall not be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

SEC. 7. Section 10123.85 of the Insurance Code is repealed.

SEC. 8. Section 10123.85 is added to the Insurance Code, to read:

10123.85. (a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health insurer shall require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups.

(d) No health insurer shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups.

(e) Notwithstanding any other provision, this section shall not be interpreted to authorize a health insurer to require the use of telehealth when the health care provider has determined that it is not appropriate.

SEC. 9. Section 14132.72 of the Welfare and Institutions Code is amended to read:

14132.72. (a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider.

(c) In-person contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. Nothing in this section or the Telehealth Advancement Act of 2011 shall be construed to conflict with or supersede the provisions of Section 14091.3 of this code or any other existing state laws or regulations related to reimbursement for services provided by a noncontracted provider.

(d) The department shall not require a health care provider to

document a barrier to an in-person visit for Medi-Cal coverage of services provided via telehealth.

(e) For the purposes of payment for covered treatment or services provided through telehealth, the department shall not limit the type of setting where services are provided for the patient or by the health care provider.

(f) Nothing in this section shall be interpreted to authorize the department to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

SEC. 10. Section 14132.725 of the Welfare and Institutions Code is amended to read:

14132.725. (a) Commencing July 1, 2006, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for teleophthalmology and teledermatology by store and forward. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department.

(b) For purposes of this section, "teleophthalmology and teledermatology by store and forward" means an asynchronous transmission of medical information to be reviewed at a later time by a physician at a distant site who is trained in ophthalmology or dermatology or, for teleophthalmology, by an optometrist who is licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, where the physician or optometrist at the distant site reviews the medical information without the patient being present in real time. A patient receiving teleophthalmology or teledermatology by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician or optometrist, and shall receive an interactive communication with the distant specialist physician or optometrist, upon request. If requested, communication with the distant specialist physician or optometrist may occur either at the time of the consultation, or within 30 days of the patient's notification of the results of the consultation. If the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code, that consultation or referral shall be with an ophthalmologist or other appropriate physician and surgeon, as required.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

(d) On or before January 1, 2008, the department shall report to the Legislature the number and type of services provided, and the payments made related to the application of store and forward telemedicine as provided, under this section as a Medi-Cal benefit.

SEC. 11. 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.



April 17, 2012

Senator Curren Price, Jr.
Chair, Senate Committee on Business
Professions and Economic Development
State Capitol, Room 2053
Sacramento, CA 95814

Dear Senator Price,

The Physician Assistant Committee has undergone Sunset Review process. As requested by the Sunset Committee and submitted on behalf of the Physician Assistant Committee, enclosed is a response from the Physician Assistant Committee to issues raised by Sunset Committee staff in the background paper for Sunset Review 2012.

The Physician Assistant Committee and I wish to thank you and your staff for supporting the Physician Assistant Committee in its mandate of consumer protection.

Please let me know if you need further information or clarification on any of the issues contained in the report.

Sincerely,

A handwritten signature in cursive script that reads "Elberta Portman".

Elberta Portman
Executive Officer
Physician Assistant Committee

RESPONSE FROM PHYSICIAN ASSISTANT COMMITTEE TO ISSUES RAISED BY COMMITTEE STAFF IN THE BACKGROUND PAPER FOR SUNSET REVIEW 2012

NEW ISSUES BROUGHT FORWARD AT THE SUNSET HEARING:

The Physician Assistant Committee (PAC) respectfully requested and submitted two additional proposals to the Sunset Committee which were not included in the Sunset Background Paper.

Military Waiver and Retired License Status

1. The PAC recognizes that there is current legislation in process, AB 1588, to exempt active military from payment of license renewals. The PAC respectfully supports a proposal for a waiver of the Physician Assistant Committee license renewal fees for active duty military licensees. The PAC staff has received numerous requests from active duty military PAs asking for a renewal fee waivers. The PAC supports offering an exemption as an appropriate way to honor licensees in active military service. This proposal is similar to the Medical Board's exemption status for active military physicians.
2. The second proposal requests that the PAC be granted a "retired" license status to accommodate licensees no longer practicing to retain their license without payment of renewal fees or completion of CME. This license status is similar to other licensing boards within the Department of Consumer Affairs.

Following are the Physician Assistant Committee Responses to the Sunset Review issues:

ISSUE 1 - (NEED FOR CONTINUED ENHANCEMENT OF THE COMMITTEE'S INTERNET SERVICES AND IMPLEMENTATION OF BreEZe.) Should the Committee continue to explore ways to enhance its internet services and Website to licensees and members of the public? What is the status of the BreEZe Project?

Staff Recommendation: *The committee should provide an update on the current status of its efforts to fully implement electronic payments of fees and online application and renewal processing, including anticipated timelines, existing impediments and current status of BreEZe. The Committee may wish to consider putting an interim plan in place to ease the collection of license renewal fees? The Committee should continue to explore ways to enhance its Internet Services to licensees and members of the public, including posting meeting materials, board policies, and legislative reports on the Internet and webcasting meetings.*

Response: As reported in the Sunset Hearing on March 19, 2012, the Physician Assistant Committee (PAC) is included in the first phase of the implementation of the BreEZe project (Phase I). Upon implementation, the PAC will begin using the database

developed for BreEZe, and will begin offering online renewal payments and payment for initial licensing for both licensees and applicants. Additionally, all enforcement tracking activities will also migrate to BreEZe. The Department of Consumer Affairs has informed us that the anticipated time for implementation to BreEZe is September 2012.

During the implementation of the online renewal process, the PAC recognizes that online renewals are crucial to providing excellent customer service and will allow licensees to renew their license in a convenient and quick manner. This service also includes the ability for new applicants to pay fees online and track the progress of their application.

As we have in the past, during the transition period to BreEZe to assist licensees in processing their renewals, we will continue to accept payments sent or delivered directly to our office. When BreEZe is fully implemented during the first phase in September 2012, then licensees will be able to renew online and license records and expiration dates will be updated immediately.

We are looking forward to the implementation of BreEZe, as it will allow us to provide improved customer service and while at the same time providing better efficiency in the renewal and application process.

The PAC continues work to enhance and improve information on the PAC website. New enhancements to be made include the following:

- The PAC Career Page will be reviewed and updated to ensure it is more informative to perspective students interested in the PA profession. Additionally, the PAC will develop a new brochure for Career information.
- The PAC will place regulatory rulemaking files on the website. Currently, the website contains the past three years' of rulemaking files, but for historical purposes will include all rulemaking files on the website, space permitting, or will make the files available electronically.
- The PAC currently posts meeting minutes on the website and will add all historical minutes on the website for historical purposes, space permitting.
- In the area of webcasting, the PAC continues to webcast all public meetings to allow members of the public and interested parties to view meetings without being physically present. The PAC began webcasting in 2011 and has received positive comments from the public and interested parties.
- Enhanced public participation: The PAC is exploring ways to enhance public participation in their meetings by including, if possible, the ability for the public to interact in real time at meetings by telephone at a designated location or some other media system. The PAC will work with the Department of Consumer Affairs in this area to determine how best to accomplish this task.

At this time, with the implementation of BreEZe, it is our understanding that a Budget Change Proposal (BCP) has been prepared to address the anticipated costs of implementation of the system.

ISSUE 2 – (CHANGE THE COMPOSITION AND NAME OF THE PHYSICIAN ASSISTANT COMMITTEE.) Should the Committee's name be changed to "Physician Assistant Board"? Is it necessary to continue to have a physician member of the Committee or should the Committee instead be comprised of five physician assistants and four members of the public?

Staff Recommendation: *Consideration should be given to changing the name of the Committee to the Physician Assistant Board. Consideration should also be given to replacing the physician member of the Committee with a physician assistant to constitute a simple majority of professional members, in keeping with many other health boards.*

Response: The PAC supports the Sunset Committee's recommendation that the name of the "Physician Assistant Committee" be changed to "Physician Assistant Board". The recommendation for the name change and the replacement of the MD member will be presented to the full Committee at its May 7, 2012 meeting.

The Sunset Committee recognizes that the PAC maintains a close relationship with the Medical Board of California (MBC) and that the relationship would continue. Because physician assistants may not practice independently and are required to have a supervising physician, our interaction and current relationship with the Medical Board is valued and important.

ISSUE 3 – (NEED FOR EMPLOYER REPORTING) Should health care plans and health care facilities be required to report certain actions taken against PAs to the Committee?

Staff Recommendation: *It should be made clear that the reporting requirements under the section 800 series of the Business and Professions Code also apply to Physician Assistants.*

Response: The PAC supports and appreciates the Committee's recommendation that PAs be specifically added to the 800 series reporting requirements. This will ensure public protection is maintained and enhanced. Historically, there has been confusion on the reporting requirements for employing entities. This recommended change would serve to eliminate any confusion and would enhance public protection. Additionally, physician assistants would be held accountable as are other health care providers.

ISSUE 4 – (CONTINUING EDUCATION AUDITS) Is licensee self-reporting of continuing education completion sufficient to satisfy the 50 hour requirement.

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ISSUE 4 – (CONTINUING EDUCATION AUDITS) Is licensee self-reporting of continuing education completion sufficient to satisfy the 50 hour requirement.

Staff Recommendation: *The Committee should explain the lack of self-reporting audits and describe plans to implement audits.*

Response: Physician assistant continuing medical education (CME) requirements may be met by completing 50 hours of continuing medical education every two years or demonstrating certification by the National Council on Certification of Physician Assistants, which also requires CME to maintain. As of March 2012, there are currently 8,477 licensees in California. Nationally, there are 7,000 California licensees who maintain their national certification, which is 82% of the total number of licensees.

In January 2008, AB 2482 became effective, authorizing the PAC to require licensees to complete CME as a condition of license renewal. The Office of Administrative Law approved regulations implementing provisions of AB 2482 effective January 2011. Notification was sent to each physician assistant licensed in California notifying them of the new CME requirement that would require them to begin accruing CME after January 2011. Beginning on and after January 1, 2013, licensees who renew their license will self certify if they have satisfied the CME requirement.

Licensees were given one full two year renewal cycle in order to accrue the required CME in order to allow licensees who had not been accruing or maintaining CME to take and complete the required 50 CME. A PA who renews his or her license on or after January 2013 will be required to certify his or her compliance with the CME requirement by noting that they are either nationally certified or have completed the required CME if they are not nationally certified.

Licensees are required to retain proof of their CME for four years after the accrual, to allow for review of the CME documentation if requested during an audit or investigation.

The CME requirement is similar to the requirement for physicians licensed by the Medical Board of California as well as other boards who require self-certification.

Any audit of CME will occur after the January 2013 reporting requirement date. Prior to January 2013 renewal notices being sent, we will modify the renewal form to include the new certification area. Staff has been working with the BreEZE team for developing of the modified renewal form.

The PAC plans to conduct CME audits on a scheduled basis to ensure compliance. Audits will randomly select licensees who attest compliance. Staff will send out a contact letter asking the licensees to either send in their CME documentation or ask NCCPA to send a verification that they have maintained their certification.

ISSUE 5 – (PROMOTING AND UNDERSTANDING WORKFORCE DEVELOPMENT ISSUES FOR PHYSICIAN ASSISTANTS) Has the PAC taken enough action to encourage utilization of qualified PAs in the state's health care delivery system? With the implementation of the federal Patient Protection and Affordable Care Act, what should the PAC be doing to promote PAs role in providing quality health care?

Staff Recommendation: *The Committee should explain what additional efforts it can take or models it can follow to increase the PA workforce and ensure participation of its licensees in the state's health care delivery system. The Committee should look closely at the efforts and the collection of data by the Registered Nursing Board in determining workforce needs and in making future recommendations to policy makers, the Legislature and the Governor.*

Response: The PAC recognizes the need for training, employing and retention of qualified, licensed physician assistants in California, especially in light of the health care reforms underway.

At the May 7, 2012 PAC meeting promotion of Workforce Development will be on the agenda, including forming a Subcommittee to review this issue and retention and distribution of PAs in California to support increased access to health care by consumers. The PAC will also be working with the California Academy of Physician Assistants on this issue.

Additionally, the PAC will work with the Department of Consumer Affairs to develop an information bulletin and brochure for distribution to persons interested in pursuing a career as a physician assistant and work with them on development of more reporting on employment statistics of PAs in California.

As recommended by the Committee, the PAC supports the suggestion that the Executive Officer meet with the Board of Registered Nursing to discuss their data collection efforts regarding workforce needs.

ISSUE 6 – (Continued Regulation by the Committee) Should the licensing and regulation of physician assistants be continued and be regulated by the current Committee membership?

Staff Recommendation: *Recommend that the physician assistant profession continue to be regulated by a "Physician Assistant Board," with five professional and four public members, in order to protect the interests of the public and be reviewed once again in four years.*

Response: The PAC wishes to take this opportunity to thank the Senate Committee on Business, Professions and Economic Development for their review and evaluation of the PAC's work and accomplishments during the past four years. The PAC recognizes that health care reform will bring unique challenges and opportunities to California and is prepared to work with the Legislature, the Governor and other interested parties to ensure that physician assistants in California are licensed timely and remain competent to provide excellent patient care to the consumers of California.

**BACKGROUND PAPER FOR THE
PHYSICIAN ASSISTANT COMMITTEE
(Oversight Hearing, March 19, 2012, Senate Committee on
Business, Professions and Economic Development)**

**IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS
REGARDING THE PHYSICIAN ASSISTANT COMMITTEE**

**BRIEF OVERVIEW OF THE
PHYSICIAN ASSISTANT COMMITTEE**

The Physician Assistant Committee (Committee) was created by the Legislature in 1975. At the time, the California Legislature was concerned about the existing shortage and geographic maldistribution of health care services in California. The intent was in part to "create a framework for the development of a new category of health manpower, the physician assistant,"¹ and to encourage their utilization as a way of serving California's health care consumers. Physician Assistants (PAs) are medical practitioners who perform services under the supervision of physicians.

The Committee's primary role is the licensure of Physician Assistants (PAs). The Committee exists within the Medical Board of California (MBC) but has limited ties to that Board and acts independently on many of its mandates. The Committee does still rely on MBC for investigative and other services and generally has a cooperative working arrangement with the Board.

The scope of practice of the PA is described in the Physician Assistant Practice Act and in regulations promulgated by MBC. Pursuant to these laws, each PA may perform only those services he or she is authorized to perform pursuant to a written delegation of authority by the supervising physician.

The Physician Assistant Committee's mandates include:

- Approving the educational and training requirements of Physician Assistants.
- Licensing of Physician Assistants.
- Promoting the health and safety of California health care consumers by enhancing PA competence.
- Coordinating investigation and disciplinary processes.
- Providing information and education regarding the Committee or PA professionals to California consumers.
- Managing a diversion program for PAs with alcohol/substance abuse problems.
- Collaborating with others regarding legal and regulatory issues that involve PA activities or the profession.

¹ Cal. Business and Professions Code § 3500 (2012)

The current Physician Assistant Committee mission statement, as stated in its 2009 Strategic Plan, is as follows:

The mission of the Physician Assistant Committee of the Medical Board of California is to protect and serve consumers through licensing, education and objective enforcement of PA laws and regulations.

The Committee has established the following goals and objectives which provide the framework for its efforts to further its mission:

- Protecting consumers by licensing qualified applicants using a timely, accurate and cost efficient process.
- Protecting consumers through an enforcement process that is timely, fair and consistent with applicable laws and regulations.
- Providing education and outreach to consumers, health care providers, physician assistant training programs and applicants in an accurate, accessible manner; including presentations to diverse, underserved populations.
- Providing cost-effective, quality services to consumers, applicants and licensees by utilizing the latest management tools and technology.
- Supporting legislation and pursuing laws and regulations that meet the needs of consumers in an ever-changing health care environment.
- Addressing PA workforce needs.

The Committee is comprised of nine members; 4 PAs, 4 public members and one physician representative of MBC. Four PA members are appointed by the Governor. Two public members are also appointed by the Governor. One public member is appointed by the Senate Committee on Rules and one member is appointed by the Speaker of the Assembly. Committee members receive a \$100-a-day per diem. The Committee meets about four times per year. All Committee meetings are subject to the Bagley-Keene Open Meetings Act. There are currently three vacancies on the Committee.

The following is a listing of the current Committee members and their bios:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority
<p>Robert Sachs, Chairman, Physician Assistant Member Previously served on the Committee from 1993 to 2008. Has practiced with the Cardiovascular Thoracic Institute of the Keck School of Medicine since 1995 and as a clinical instructor of cardiothoracic surgery at USC's Keck School of Medicine since 2002. Member of the American Academy of Physician Assistants, California Academy of Physician Assistants, Veterans Caucus, American Academy of Physician Assistants and the California Institute of Technology Associates.</p>	01/02/2011	01/01/2015	Governor
<p>Steven Klompus, Vice Chair, Physician Assistant Member Mr. Klompus has served as a member since 2006. He has been a PA with East Edinger Industrial Urgent Care since 2005. He has been a clinical instructor of Physician Assistant Education at Western University of Health Sciences, USC and Loma Linda University since 1999. Mr. Klompus previously practiced occupational medicine at Concentra Medical Center in 2005 and U.S. HealthWorks Medical Group from 1997 to 2005. He served as a PA from 1983 to 1997 with various clinics including Orange Coast Managed Care Services Incorporated from 1996</p>	03/17/2008	01/01/2012	Governor

to 1997, California Physicians Management Group Incorporated from 1987 to 1996 and Ball Taft Medical Clinic from 1983 to 1987.			
A. Cristina Gomez-Vidal Diaz, Public Member Ms. Gomez-Vidal Diaz is the Grant Coordinator for Darin M. Camarena Health Centers, Inc. in Madera, California. Ms. Gomez-Vidal Diaz currently serves on the Sherman Thomas Charter School Board, the Madera Vision Steering Committee and on the health committee for the California National Council of La Raza Affiliate Network. Ms. Gomez-Vidal Diaz is a HOPE Leadership Institute Alumni and Central Valley Policy Leadership Institute Alumni. Ms. Gomez-Vidal Diaz has facilitated and presented for organizations including, The Women's Foundation, Hispanas Organized for Political Equality, California Elected Woman's Association for Education and Research and The Great Valley Center.	01/17/2011	01/01/2015	Senate Rules Committee
Reginald Low, M.D., Physician Member Dr. Low has served as a member of the MBC since 2006. Additionally, since 2000, he has been a professor and chief of the Division of Cardiovascular Medicine at the University of California, Davis School of Medicine. From 1997 to 2000, he was medical director of cardiovascular services for Mercy Healthcare Sacramento and from 1989 to 1997 was director of the Mercy Heart Institute. From 1983 to 2000, Dr. Low was a managing partner of Regional Cardiology Associates and, from 1981 to 1982, was assistant professor of medicine at the University of Kentucky. He is a member of the American College of Cardiology and the American Heart Association.	02/04/2008	01/01/2012	Governor
Shaquawn D. Schasa, Public Member Ms. Schasa has served on the Committee since 2007. Since 2005, she has served as a financial advisor for Merrill Lynch. From 1999 to 2005, she was a senior account executive and sales director for Allegiance Telecom-XO Communications. Prior to that, Schasa was an account executive for AT&T Wireless from 1996 to 1999. She currently serves on the Regional Black Chamber of Commerce Executive Advisory Board and also volunteers for the Women of Color Breast Cancer Survivor Support Group.	03/17/2008	01/01/2012	Governor
Steven H. Stumpf, EdD, Public Member Dr. Stumpf was Program Educator with the University of Southern California Physician Assistant program from 1986 to 1996 where he developed the Bachelor and Master degree programs. He oversaw development of the board certification exam for APACVS. Dr. Stumpf eventually moved to the Department of Family Medicine as Director of Research, Evaluation, and Development. He finished his 18 year career at USC Keck School of Medicine as Director of Projects Development and Chief of Operations with the Advanced BioTelecommunications & BioInformatics Center. He has published more than 25 journal articles and written approximately 30 successful grant proposals.	05/15/2009	01/01/2013	Assembly
Vacant – Public Member			Governor
Vacant – Physician Assistant Member			Governor
Vacant – Physician Assistant Member			Governor

The Committee is a special fund agency, and its funding comes from the licensing of physician assistants and biennial renewal fees of physician assistants. Currently, the license fee for physician assistants is \$200 while the renewal fee is \$300. These fees were increased over a period of two years ending in 2002 as a result of the phasing out of physician-paid supervisor approval and renewal fees for physicians who supervised physician assistants. These fees provided approximately 60% of the Committee's revenue thus to compensate for the loss of revenue from the supervising physician fees,

the physician assistant application and renewal fees were increased. The Committee currently licenses 7,589 licensees.

Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2007/08 Revenue	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	% of Total Revenue
Application	25	25	14,325	14,895	7,425	75	0
Initial License	200	250	110,000	113,200	76,200	1200	.1
App & Initial	225	225	n/a	n/a	74,700	155,015	11.4
Biennial Renewal	300	300	944,800	993,010	1,051,200	1,121,372	82.9
Delinquency	25	25	3,300	3,100	3,375	2,925	.2
Duplicate License	10	10	2,260	1,970	2,180	2,790	.2
Verification	10	10	3,150	3,090	3,190	3,560	.3
Cost Recovery	various	N/A	4,321	8,439	14,834	29,219	2.2
Cite Fine	various	5000	3,250	970	3,350	700	.1
PA Program app	5	500	5	5	0	5	0
PA Program Appr	5	100	5	5	0	5	0
Reimbursement	various	N/A	31,377	43,258	47,310	35,933	2.6

The total revenues anticipated by the Committee for FY 2011/12, is \$2,002,000 and for FY 2012/13, \$1,948,000. The total expenditures anticipated for the Committee for FY 2011/12, is \$1,371,000, and for FY 2012/2013, 1,469,000. The Committee anticipates it would have approximately 5.2 months in reserve for FY 2011/12, and 3.8 months in reserve for FY 2012/13. The Committee spends approximately 62 percent of its budget on its enforcement program, 20 percent on its licensing program, 8 percent on its diversion program and 10 percent on administration.

Fund Condition						
(Dollars in Thousands)	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Beginning Balance	1847	1903	1952	2098	2170	631
Revenues and Transfers	1173	1181	1241	1301	1332	1317
GF Loan	0	0	0	0	\$(1500)	0
Total Revenue	\$3020	\$3084	\$3193	\$3399	\$2002	\$1948
Budget Authority	1157	1186	1274	1400	1368	1363
Expenditures	1137	1135	1095	1229	1371	1469
Fund Balance	\$1883	\$1949	\$2098	\$2170	\$631	\$479
Months in Reserve	19.9	21.4	20.5	19	5.2	3.8

The Committee's staff is comprised of the Executive Officer and four additional staff including two Associate Governmental Program Analysts, one Staff Services Analyst, and a .5 Office Technician. At this time the .5 Office Technician licensing position has been vacant since March 1, 2011 and has not

been filled because the Committee was denied an exemption from the current hiring freeze for state employees.

In 2010, the Department of Consumer Affairs (DCA) launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement process of healing arts boards. According to the DCA, the CPEI is a systematic approach designed to address three specific areas: Legislative Changes, Staffing and Information Technology Resources, and Administrative Improvements. Once fully implemented, the DCA expects the healing arts boards to reduce the average enforcement completion timeline to between 12-18 months. The DCA requested an increase of 106.8 authorized positions and \$12,690,000 (special funds) in FY 2010-11 and 138.5 positions and \$14,103,000 in FY 2011-12 and ongoing to specified healing arts boards for purposes of funding the CPEI. As part of CPEI, the Committee was authorized to hire one .4 Staff Services Analyst position but due to the 5% staff reduction directive from the Department of Finance on October 26, 2010, the position remains vacant.

According to the Committee, a significant portion of enforcement expenditures are paid to other agencies for services within the disciplinary process such as the MBC (for investigation), consultants that provide expert opinion on cases, the Office of the Attorney General (for attorneys), and the Office of Administrative Hearings (for Administrative Law Judges and court reporters). The Committee does not administer its own examination but utilizes the Physician Assistant National Certifying Examination administered by the National Commission on Certification for Physician Assistants and therefore, there are no examination costs to the Committee. The twenty percent amount of the Committee budget used for the licensing program includes initial licensing and renewals.

In anticipation of the 2010-11 budget cycle, and concern that the Committee would not have adequate funding to meet the legal requirements of operating this program without jeopardizing the quality and quantity of service, the Committee requested an ongoing special fund augmentation of \$25,000 to adequately fund its Diversion Program contract but was denied. The Committee again requested an ongoing special fund augmentation, this time of \$35,000 for FY 2011-12 to adequately fund its Diversion Program contract but was again denied. The Committee reports an increase in costs related to the Diversion Program due to the increase in the number of participants and Program costs. The Committee implemented new regulations on January 19, 2011, that require licensees who are required to participate in the diversion program as a result of disciplinary action to pay the full amount of the monthly participation fee (\$280.16) to the program contractor, and licensees voluntarily in the diversion program to pay 75% of the monthly participation fee to the program contractor (\$210.12).

The Physician Assistant Committee does not have committees recognized in statute or regulations but has created a number of subcommittees or task forces with specified functions to address issues that may arise, including:

- The AB 3 Task Force was created on November 8, 2007 to allow the Committee to establish course standards and promulgate regulations to meet the requirements of Assembly Bill 3 (Bass, Chapter 376, Statutes of 2007) which eliminated the patient specific drug order requirement if a physician assistant completes a course approved by the Committee. However, the supervising physician may continue to require patient specific drug authority in his or her individual practice, even if the physician assistant has taken the course.

- The AB 2482 Task Force was created on August 14, 2008 to inform and assist the Committee in implementing continuing medical education requirements set forth in Assembly Bill 2482 (Maze & Bass, Chapter 76, Statutes of 2008) as a condition of license renewal.
- The Program Accreditation Task Force was created November 5, 2009 to provide input and develop regulation language regarding program accreditation. The Committee approves California PA training programs; Committee regulations specify that if an educational program has been approved by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), that program shall be deemed approved by the Committee. These educational programs are not reviewed periodically by the Committee. Instead, if ARC-PA terminates accreditation, the Committee's approval of the school automatically terminates. Thus, as the regulations currently state, if the PA training program is ARC-PA approved, it is thus approved by the Committee.

The task force reviewed new national PA training program accreditation standards which would require that all programs be offered at the master's degree level. A survey was conducted by the Committee for the five affected California PA training programs to determine how the new standards would impact the programs. Because this issue continues to evolve at the national level, the task force determined that the Committee should continue to keep abreast of the latest development and take possible appropriate action as new developments occur.

- A working group and ad hoc subcommittee was formed to review the Committee's educational requirements for physician assistants. Since these regulations were initially developed, there have been many changes in how physician assistants are educated, and the focus of the work group was to review changes and determine whether or not there was a need for additional updates to align the current educational standards with the Committee's regulations. The Committee is currently in the process of developing regulations based on the group's findings.

Licensing

As stated in its Strategic Plan, the Physician Assistant Committee is committed to protecting consumers by licensing qualified applicants using a timely, accurate and time cost effective process. The Committee is required to inform an applicant for licensure in writing within 28 days of receipt of an application whether the application is complete and accepted for filing or is deficient and what specific information is required. The Committee is also required to inform the applicant within 10 days after completion of the application of its decision whether the applicant meets the requirements for licensure. The Committee is bound by minimum (4 days), median (128 days), and maximum (994) processing times in its regulations for an application for licensure from the time of receipt of the initial application until the Committee makes its final decision on the application.

The Committee states a goal of initial application review response to applicants within one to two weeks of receipt of applications. According to the Committee, it is generally able to review applications within this timeframe and licenses are typically issued within four to six weeks of receipt of the application. As a result of a vacant licensing position, the Committee reports that its processing times are currently slower than what is required and to backfill the vacancy and prevent additional application backlogs, staff from other program areas also assist in license processing.

The Committee requires verification of documents to prevent falsification of licensing documents. To ensure authenticity, all documents verifying an applicant's training, examination status, out-of-state licensure, and disciplinary actions must be sent directly to the Committee from the respective agency rather than from the applicant. As part of the licensing process, all applicants are required to submit fingerprint cards or utilize the "Live Scan" electronic fingerprinting process in order to obtain prior criminal history criminal record clearance from the California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). Upon review of adverse information or a criminal record by Committee staff and the executive officer, the Committee may issue a probationary license with specific terms and conditions, or deny the license. Applicants may appeal the decision and request a hearing before an administrative law judge, pursuant to the Administrative Procedures Act. Licenses are not issued until clearance is obtained from both DOJ and FBI background checks. Additionally, since applicants are fingerprinted, the Committee is able to obtain any subsequent criminal conviction information that may occur while the individual is licensed as a PA. Applicants who have been licensed in other states as physician assistants or who have other health care licenses must request that the respective agencies submit verification of license status and any disciplinary actions directly to the Committee for verification. The Committee also queries the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank to determine prior disciplinary actions taken against licenses in other states or other health care-related licenses the applicant may process. Additionally, denied applicants and licensees subject to discipline by the Committee are reported to these data banks.

The Committee requires primary source documentation as part of the licensure process which includes: certification of completion of a physician assistant training program that is submitted directly to the Committee from the training program; certification of a passing score of the Physician Assistant National Certification Examination (PANCE), a computer-based, multiple-choice test comprised of questions that assess basic medical and surgical knowledge, that is submitted directly to the Committee from NCCPA and; verification of licensure or registration as a physician assistant and/or other health care provider from other states that is submitted directly to the Committee from the respective licensing agencies. The Committee's licensing process is the same for in-state, out-of-state, and out-of-country applicants and there are not any additional or alternative applicant review processes to determine eligibility of in-state, out-of-state, or out-of-country applicants. All applicants must meet the same licensure requirements.

Licensee Population					
		FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11
Physician Assistant	Active	6403	6787	7162	7589
	Out-of-State	447	472	530	582
	Out-of-Country	3	1	2	6
	Delinquent	828	843	861	857

Enforcement

Complaint processing and investigations comprise the majority of the Committee's enforcement actions. An investigation may be closed without formal action, with a citation and fine or warning notice, public reprimand, or referred to the Office of the Attorney General (AG) for disciplinary action.

The Committee has established performance targets for its enforcement program of: 10 days to complete complaint intake; 150 days from the time the complaint is received until the investigation is

completed and; 540 days from the time a complaint is received and the disciplinary decision is ordered. On average, the Committee is close to meeting these targets. Specifically, over the past three years, it has taken the Committee an average of 8 days to complete complaint intake, 118 days to complete investigations and 633 days to complete a disciplinary case. With the small number of disciplinary cases the Committee processes, one lengthy case may dramatically increase the average days to complete other cases. Additionally, the enforcement process is complex and involves several agencies including the Committee staff and members, physician assistant experts, physician experts, analysts, investigators and MBC analysts as well the legal and judicial services provided by the AG and the Office of Administrative Hearings (OAH). With so many agencies involved, the Committee states that there are many factors that contribute to the disciplinary process such as staff shortages and investigator workload, workload of deputy attorneys general and the length of time (sometimes six months or more) to schedule or calendar time for a hearing with OAH.

The Committee has noted that the number of criminal convictions and arrest notices increased over the past three years, resulting in an increase in accusations filed for criminal convictions, primarily Driving Under the Influence. The Committee believes that one reason for this increase is the regulation adopted in 2009 requiring all licensees to disclose convictions of any violation of law in California or other state, other country (except traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances) on their renewal notice.

The overall statistics indicate that the number of disciplinary actions taken over the past three fiscal years is approximately the same as the previous Sunset period. The Committee files approximately 14 accusations and takes approximately 16 disciplinary actions per year. The total number of complaints received increased in FY 2010/11 to 235, compared to 173 in FY 2009/10 and 178 in FY 2008/09. The average number of complaints received per year over the past three years is 195, compared to 135 during the previous Sunset Review. The Committee attributes this increase to the increased presence of its licensees in correctional facilities as employees of the Department of Corrections and Rehabilitation. According to the Committee, the number of complaints received from inmates in correctional facilities was approximately 11 in 2008/09, 37 in 2009/10 and 70 in FY 2010/11. Prior to the 2005 Sunset Review, PAs were not employed by the Department of Corrections and Rehabilitation and the Committee did not receive any complaints regarding care provided in correctional facilities during that time. The Committee reports that without correctional facilities complaints, which are primarily related to Department of Corrections and Rehabilitation policies on pain medications, rather than medical care provided by physician assistants, the average number of complaints over the past three years would be 156.

The Citation and Fine is an alternative method in which the Committee may impose a sanction and take action against a licensee who is found to be in violation of the physician assistant laws or regulations. The Committee utilizes the Citation and Fine program in cases to address minor violations that do not rise to the level of taking formal disciplinary action. A citation and fine is not considered disciplinary action and is utilized in an attempt to correct and educate licensees for minor violations of the laws governing the practice. Citations may be issued as a result of the formal investigation process when the investigation determines the case is not serious enough to warrant formal discipline or for less serious violations when the case warrants more than an educational or advisory letter. Citations are a useful tool to educate physician assistants regarding the laws and regulations. Citations are subject to public disclosure and are posted on the Committee Website but are not considered discipline. The Citation and Fine regulations were updated in 2008 increasing the maximum fine from \$2500 to \$5000 and added additional violations for which the Committee may issue citations. Regulations were

also updated in 2010 amending provisions that specify the violations for which the Committee may issue citations.

According to the Committee, the five most common violations for citations are:

- Failure to maintain adequate/legible medical records.
- Failure to order an x-ray or other laboratory test.
- Writing drug orders for a scheduled medication without patient specific authority.
- Failure to obtain and/or review patient's medical history.
- Unlicensed practice (either unlicensed practice or failure to renew the PA license).

For more detailed information regarding the responsibilities, operation and functions of the Physician Assistant Committee, please refer to the Committee's "Sunset Review Report 2011." This report is available on its Website at http://www.pac.ca.gov/forms_pubs/sunset_2012.pdf.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The Physician Assistant committee was last reviewed in 2005 by the Joint Legislative Sunset Review Committee (JLSRC). During the previous sunset review, JLSRC raised 13 issues. The final recommendations from JLSRC contained a set of recommendations to address the issues. Below are actions which the Committee and the Legislature took over the past 6 years to address many of these issues, as well as significant changes to the Committee's functions. For those which were not addressed and which may still be of concern to the Committee, they are addressed and more fully discussed under "Current Sunset Review Issues."

In November, 2011, the Committee submitted its required sunset report to this Committee. In this report, the Committee described actions it has taken since its prior review to address the recommendations of JLSRC. According to the Committee, the following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made:

- Probation monitoring of PA licensees and associated costs
The Committee assumed responsibility for monitoring its probationers in 2008 upon notification that the Medical Board of California (MBC) would not be able to provide this monitoring. The Committee hired four retired annuitants with investigator experience to provide necessary probation monitoring for licensees. Committee probation monitors began to conduct background checks for petitioners who were petitioning the Committee for reduction or modification of their probation or reinstatement of licensure. Prior to this, MBC provided these services; however, this change resulted in the petitions being processed in one to two months rather than four to six months.

In its Sunset Report for 2005, the Committee noted that the cost of monitoring physician assistants who have had their license disciplined and were placed on probation was paid by the Committee through the enforcement budget. With that arrangement, all licensees would pay for the actions of a limited number of licensees who are placed on probation for violations of the laws and regulations. In February 2007, the Committee amended its Disciplinary Guidelines to require that probationers pay the costs of their probation. Probationers are now

required to pay the costs for an investigation and prosecution of the case, and if they fail to pay, their name is then forwarded to the Franchise Tax Board for collection. Prior to 2007, probation monitoring costs were included in stipulated settlements.

- Pocket licenses

In 2005, the Committee requested authorization to release funds to cover the costs of providing original and renewal pocket plastic licenses to its licensees. Paper licenses, which were previously issued, were not durable, often became illegible often and, due to handling, often did not hold up for the two-year license period. As a result, many PAs had to order a replacement pocket license. Additionally, many hospitals and clinics make copies of the licenses and the plastic licenses contain security features not available on paper licenses and also are not as alterable. In 2008, the Committee secured a small business contract using existing funds to provide plastic licenses for all initial licenses and renewals. The Committee began to issue plastic credit card type pocket licenses in order to prevent fraudulent tampering and to provide a more durable license.

- Greater utilization of the profession

The JLSRC raised the issue of whether the Committee was “meeting its legislative mandate to encourage utilization of physician assistants by physicians in underserved areas of the state, and to allow for development of programs for the education and training of physician assistants.” The passage of AB 3 in 2008 allowed supervising physicians the authority to supervise four PAs at any one time instead of two. Previously, supervising physicians could only supervise two PAs at any one time unless they were practicing in underserved areas. This change provided more opportunity for PAs to be utilized in California and is essential to meet the growing demand for health care.

AB 3 also expanded the scope of practice for PAs to include prescriptive authority to provide for more effective utilization of PAs by physicians. Prior to the bill’s passage, PAs had to obtain patient specific authority before prescribing class II-V controlled substances but under the legislation, that requirement was eliminated and PAs who complete an approved educational course in controlled substances, and if delegated by the supervising physician, can write the order. The bill required a PA and his or her supervising physician and surgeon to establish written supervisory guidelines and specifies that this requirement may be satisfied by the adoption of specified protocols. If a PA chooses not to take the educational course, the requirements for patient-specific authority are still in place.

Senate Bill 1069 (Pavley, Chapter 512, Statutes of 2010) provided that a physician assistant acts as the agent of the supervising physician when performing authorized activities, and authorized a physician assistant to perform physical examinations and other specified medical services, and sign and attest to any document evidencing those examinations and other services, as required pursuant to specified provisions of law. The bill also clarified that a delegation of services agreement may authorize PAs to order durable medical equipment and make arrangements with regard to home health services or personal care services. Additionally, SB 1069 authorized physician assistants to perform a physical examination that is required for participation in an interscholastic athletic program.

According to the Committee, it engages in outreach to encourage utilization of PAs by: publishing informational articles during each publication of the MBC’s Newsletter, which is sent via email to subscribers; providing information on its Website for supervising physicians,

potential PA students and consumers and; participating at PA programs and conferences throughout the year.

- Use of a national practitioner database
The Committee began to request applicants to request a report on their licensing background through the National Practitioner Data Bank if they held a PA license in another state or held any previous health care licenses. The purpose of the report is to receive information about any previous disciplinary actions taken by another state or licensing agency.
- Website enhancements
- Adoption of a new strategic plan in 2009
- Continuing education
In 2010, the Committee updated its regulations to require 50 hours of continuing medical education (CME) or maintain certification by the National Commission on Certification of Physician Assistants (NCCPA) for each renewal period beginning with their license renewal on or after June 2012.
- Examination given on a continuing basis
Senate Bill 819 (Yee, Chapter 308, Statutes of 2009) eliminated interim approval from the application process to reflect that the Physician Assistant National Certification Examination was previously only given twice a year. Prior to SB 819, interim approval was a method to allow applicants who had completed a PA training program to practice as a PA before they obtained licensure; however, with the examination offered on a continuing basis, applicants can only practice once they have taken and passed the examination. Additionally, exam scores are now being submitted via a secure Website from the NCCPA to provide for timelier transmittal to the Committee.
- Streamlining efforts
Notices of deficient applications and other license-related notices are now generated by the DCA's Applicant Tracking System which results in consistent and standardized correspondence and less staff time to prepare such notices. These notices are also issued to applicants via email, if provided on an application, to allow for quicker receipt by the applicant as well as cost savings to the Committee on supplies and postage. The Committee has also performed routine evaluations of its application and eliminated questions and sections unrelated to the licensure process.

CURRENT SUNSET REVIEW ISSUES FOR THE PHYSICIAN ASSISTANT COMMITTEE

The following are unresolved issues pertaining to the Committee, or those which were not previously addressed by the Committee, and other areas of concern for this Committee to consider along with background information concerning the particular issue. There are also recommendations the Business, Professions and Economic Development Committee staff have made regarding particular issues or problem areas which need to be addressed. The Committee and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

ISSUE #1: (NEED FOR CONTINUED ENHANCEMENT OF THE COMMITTEE'S INTERNET SERVICES AND IMPLEMENTATION OF BreZe.) Should the Committee continue to explore ways to enhance its Internet Services and Website to licensees and members of the public? What is the status of The BreZe Project?

Background: The Committee points out that one of the major changes since its last sunset review has been its increased utilization of the Internet and computer technology to provide services and information to the public and its licensees on its Website. These include: placing a career page on the Committee Website with links and specific information regarding the PA profession; adding a link for out of state licensure applicants to order fingerprint cards online; adding a customer satisfaction survey so that consumers, licensees and others may provide their comments to the Committee regarding service they receive or enhancements to the Committee program; adding licensing statistics for counties throughout the state which are updated quarterly; adding a quarterly Disciplinary Actions Report which allows consumers to view disciplinary actions by date or by practitioner name; adding a quarterly Enforcement Statistical Report which provides information regarding complaints, investigations, disciplinary actions, cost recovery, probationers and citation and fines; adding an online change of address link for licensees and applicants; developing and implementing a voluntary Website-based self-test for PA laws and regulations which allows Website visitors to test their current knowledge of PA laws and regulations; adding all citations issued by the Committee to the section of documents available to the public on the Website (previously only disciplinary actions such as statements of issue, accusations, decisions, probationary orders, surrenders, defaults and revocations were available on the Committee Website); and making the licensing application available on the Website.

Despite these improvements, PA licensees are still not able to renew their licenses online or by using credit cards. According to the Committee, licensees and employers have been asking for several years that the Committee enable them to renew on line and with credit cards. Staff receives numerous calls on a daily basis asking if renewals can be completed either online or over the telephone using a credit card. As a result, license renewals are delayed considerably because licensees need to mail in a check to be processed. The Committee reports that renewals are often delayed because the licensee did not mail in a check 6-8 weeks prior to the renewal date, and the licensee is then suspended from practice by their employer or placed on unpaid leave until the check is processed and the license is updated. The Committee notes that the recent economic downturn has also contributed to the problem, as licensees may not be in a position financially to relinquish fees for their license renewal as far as 6-8 weeks in advance to ensure timely processing and additionally do not have the ability to spend extra money to expedite mail delivery of a second renewal check to the Committee if the first was not

received in time. This disruption can erode delivery of patient care as patients may not be able to be seen at scheduled appointments.

As consumers, licensees are typically used to making electronic payments often online for purchases and payments. No doubt it would be of great benefit to the licensing population and be more efficient for the Committee to be able to make credit card payments for fees online. Providing this service of allowing online renewals with a credit card will allow PAs to continue providing needed health care and would decrease staff work.

The DCA is in the process of establishing a new integrated licensing and enforcement system, BreEZe, which would also allow for licensure and renewal to be submitted via the internet. BreEZe will replace the existing outdated legacy systems and multiple "work around" systems with an integrated solution based on updated technology. The goal is for BreEZe to provide all the DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreEZe will improve the DCA's service to the public and connect all license types for an individual licensee. BreEZe will be web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information. The BreEZe solution will be maintained at a three-tier State Data Center in alignment with current State IT policy.

In November of 2009, the DCA received approval of the BreEZe Feasibility Study Report (FSR), which thoroughly documented the existing technical shortcomings at the DCA and how the BreEZe solution would support the achievement of the DCA's various business objectives. The January 2010 Governor's Budget and subsequent Budget Act included funding to support the BreEZe Project based on the project cost estimates presented in the FSR.

BreEZe is an important opportunity to improve Committee operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have actively participated with the BreEZe Project and Committee staff continues to meet with BreEZe consultants to develop Committee-specific components of the system.

It would be helpful for the Committee to more fully understand what the current impediments are to being able to receive credit card payments online, and when the Committee anticipates that it will be able to take advantage of this convenient technology for its licensing consumers.

Staff Recommendation: *The Committee should provide an update on the current status of its efforts to fully implement electronic payments of fees and online application and renewal processing, including anticipated timelines, existing impediments and current status of BreEZe. The Committee may wish to consider putting an interim plan in place to ease the collection of license renewal fees? The Committee should continue to explore ways to enhance its Internet Services to licensees and members of the public, including posting meeting materials, board policies, and legislative reports on the Internet and webcasting meetings.*

ISSUE #2: (CHANGE THE COMPOSITION AND NAME OF THE PHYSICIAN ASSISTANT COMMITTEE.) Should the Committee's name be changed to "Physician Assistant Board"? Is it necessary to continue to have a physician member of the Committee or should the Committee instead be comprised of five physician assistants and four members of the public?

Background: In 2005, JLSRC asked whether the Committee should continue under the jurisdiction of MBC, be given statutory independence as an independent board, merged with MBC, or have its operations and functions be assumed by DCA. The Committee continued its current status with ties to MBC and reliance on the Board for investigative and minor administrative services. At a July 2010 meeting, the Committee agreed to move forward to seek legislation to change its name from the "Physician Assistant Committee" to the "Physician Assistant Board," a change that is not intended to alter or do away with the current cooperative working arrangement with MBC; as PAs will continue to work under supervising physicians and that relationship is paramount to the physician assistant practice. An example of the affiliation which the Committee has with the MBC is that of the Board of Podiatric Medicine. This Board also relies on the MBC to provide many of the services that the Committee receives.

There is a question as to whether or not the Committee should still continue with a voting physician member on its Committee once it is considered as an independent "board." It would not appear necessary to continue with a physician as a member of this board if the primary focus of this agency is on the practice of PAs. When this Committee, as well as some of the other health boards (former committees) were considered as part of the "allied health professions," they were primarily under the jurisdiction of the Medical Board and physicians were added to some of the former committees. This is no longer the case, and now all other health boards have independence from the MBC; even though this Committee is still unique in that it utilizes the services of the MBC. There does not appear to be any good reason to continue with a physician on this Committee, and it would seem more appropriate to replace the physician with a physician assistant.

Staff Recommendation: *Consideration should be given to changing the name of the Committee to the Physician Assistant Board. Consideration should also be given to replacing the physician member of the Committee with a physician assistant to constitute a simple majority of professional members, in keeping with many other health boards.*

ISSUE #3: (NEED FOR EMPLOYER REPORTING.) Should health care plans and health care facilities be required to report certain actions taken against PAs to the Committee?

Background: Current law, the Business and Professions Code Section 800 series provides several reporting mandates for the MBC and several other health professions to assist licensing boards in protecting consumers from licensees who have had action taken against them by their employers, altering their workplace privileges. The Committee maintains that the current Physician Assistant Practice Act does not clarify whether reports should be made to the Committee about certain actions against its licensees. The Committee encourages agencies to voluntarily provide 800 series reports on PAs to the Committee for review and processing and when a report is received, the Committee opens a complaint and takes appropriate action. However, under current physician assistant laws, it is not explicitly clear that health plans and health care facilities are required to report certain actions taken by these entities against a licensee's privileges. The only reporting mandate that applies to PAs requires

that the district attorney, city attorney, and prosecuting agencies to notify the Committee immediately upon obtaining information of any filings charging a felony against a Committee licensee.

The Committee is interested in adding PAs to the 800 series, which it believes would enhance consumer protection and allow the Committee to receive critical information about its licensees. Employers would be required to report any actions taken against physician assistants by peer review bodies for medical disciplinary cause or reason to the Committee.

Staff Recommendation: *It should be made clear that the reporting requirements under the Section 800 series of the Business and Professions Code also apply to Physician Assistants.*

ISSUE #4: (CONTINUING EDUCATION AUDITS.) **Is licensee self-reporting of continuing education completion sufficient to satisfy the 50-hour requirement?**

Background: Assembly Bill 2482 (Maze & Bass, Chapter 76, Statutes of 2008) authorized the Committee to require a licensee to complete continuing medical education (CME) as a condition of license renewal. This requirement may be met by completing 50 hours of CME every two years or by obtaining certification by the National Commission on Certification by Physician Assistants (NCCPA), or other qualified certifying body as determined by the PAC. On June 20, 2010, Committee regulations became effective to implement the provisions of AB 2482, including establishing criteria for complying with the statute, provisions for non-compliance, record-keeping requirements, approved course providers, audit and sanction provisions for non-compliance, and waiver provisions. Additionally, the regulatory change established an inactive status, allowing licensees to be exempt from renewal or continuing medical education requirements.

The Committee verifies completion of CME through a self-reporting question on license renewal applications, allowing licensees to verify whether they met the requirement or not by simply checking a yes or no box. According to the Committee, PAs are currently required to meet the CME requirements; however, the self-reporting certification will only start appearing on renewal notices later this year. While the Committee plans to conduct random audits to verify compliance of those licensees who stated they had completed their CME hours, it has not yet conducted any audit. The Committee may be lacking information about improper compliance reporting, as licensees have yet to be required to provide any certification or records of complying with the continuing education requirement. The only licensees whose compliance can be verified directly are those PAs certified by the National Commission on Certification of Physician Assistants, as the Committee can obtain records directly from the Commission.

Staff Recommendation: *The Committee should explain the lack of self-reporting audits and describe plans to implement audits.*

ISSUE #5: (PROMOTING AND UNDERSTANDING WORKFORCE DEVELOPMENT ISSUES FOR PHYSICIAN ASSISTANTS.) Has the Committee taken enough action to encourage utilization of qualified physician assistants in the state's health care delivery system? With the implementation of the federal Patient Protection and Affordable Care Act, what should the Committee be doing to promote PAs role in providing quality health care?

Background: In establishing the physician assistant profession in this state, the Legislature intended to address "the growing shortage and maldistribution of health care services in California" by eliminating "existing legal constraints" that constitute "an unnecessary hindrance to the more effective provision of health care services." Physician assistants have effectively and safely fulfilled this role and are widely recognized as an effective solution to access to care problems in all settings. A disproportionate number of physician assistants provide services in medically underserved settings (e.g., health manpower shortage areas) and settings where cost containment is especially important, e.g., HMOs). The physician assistant profession has an exemplary safety record, and there is no evidence that physician assistants commit malpractice more frequently than physicians or nurse practitioners.

Recent federal health care reform efforts will result in a large need for new health care providers to a growing population across the nation and in California. However, the state already faces a shortage of primary care providers which can result in potentially lower standards of care and longer wait times to access care. Recognizing the role that physician assistants can play in meeting health care needs, the Patient Protection and Affordable Care Act (Act), the law, among other things, supported the educational preparation of PAs who intend to provide primary care services in rural and underserved communities and integrated PAs into newly established models of coordinated care, such as the patient centered primary care medical home and the independence at home models of care. The Act also funded a program to expand PA training with the intention of increasing student enrollment in PA programs. Over a five-year period beginning in 2010, the program will provide \$32 million in funding for approximately 40 primary care PA training programs. Funds go to physician assistant student stipends, educational expenses, reasonable living expenses and indirect costs for a total of \$22,000 per student, for a maximum of two years per student, plus indirect costs.

According to the Committee, it monitors efforts by the California Academy of Physician Assistants to promote the use of PAs in health care settings. The Committee states that it plans to continue to review the relationship of PAs and Medical Assistants (MAs) in the health care workplace setting, including a discussion of the supervision of MAs by physician assistants, as several attempts have been made by the CAPA to pass legislation regarding this issue which could allow further use of PAs in delivery of health care in California and promote workforce development. The Committee has also encouraged California PA training programs to work with the Office of Statewide Health Planning and Development (OSHPD) for new graduates to apply for grants to work in medically underserved areas. OSHPD is also currently collecting data on the use of PAs in health care settings which could also allow better utilization of PAs, particularly in underserved areas. The Committee notes that one of its members was recently appointed to California Healthcare Workforce Policy Commission and plans to share data from this effort with the Committee. The Committee also states that it works collaboratively with MBC to ensure that physicians are able to utilize PAs effectively.

Staff Recommendation: *The Committee should explain what additional efforts it can take or models it can follow to increase the PA workforce and ensure participation of its licensees in the state's health care delivery system. The Committee should look closely at the efforts and the*

collection of data by the Registered Nursing Board in determining workforce needs and in making future recommendations to policy makers, the Legislature and the Governor.

**CONTINUED REGULATION OF THE PROFESSION BY THE
CURRENT PHYSICIAN ASSISTANT COMMITTEE**

ISSUE #6. (CONTINUED REGULATION BY THE COMMITTEE.) Should the licensing and regulation of physician assistants be continued and be regulated by the current Committee membership?

Background: The Committee has shown over the years a strong commitment to improve its overall efficiency and effectiveness and has worked cooperatively with the Legislature and this Committee to bring about necessary changes. The Committee should be continued with the possible name change to the “Physician Assistant Board” with a four-year extension of its sunset date so that this “Board” may once again review if the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: *Recommend that the physician assistant profession continue to be regulated by a “Physician Assistant Board,” with five professional and four public members, in order to protect the interests of the public and be reviewed once again in four years.*

House	Bill #	Author	Subject	Summary	Program
AB	0338	Wagner	Regulations: legislative validation: effective date.	The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. That act provides that a regulation or an order of repeal of a regulation becomes effective on the 30th day after it is filed with the Secretary of State, unless prescribed conditions occur. This bill would require the office to also submit to the Legislature for review a copy of each disapproved regulation where the basis for that disapproval was a determination that the agency exceeded its statutory authority in adopting the regulation. This bill would also require that a regulation become effective on the 60th day after it is filed with the Secretary of State, unless prescribed conditions occur.	All Bds/Bureaus
AB	1504	Morrell	Administrative regulations.	This bill would require each state agency that is considering adopting, amending, or repealing a regulation, in addition to those existing economic impact analysis requirements, to complete an economic assessment of the proposed action at least 90 days prior to submitting a notice of proposed action to the office. The bill would subject the economic assessment to public comment. The bill would require the economic assessment to include specified analyses. This bill contains other related provisions and other existing laws.	All Bds/Bureaus
AB	1537	Cook	Government Accountability Act of 2012.	The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. This bill would enact the Government Accountability Act of 2012 and require that a major regulation, as defined, proposed on or after January 1, 2013, include a provision to repeal the regulation 2 years after the date that the regulation is approved by the office. The bill would require the office to return to an agency any proposed regulation that does not include the repeal provision. The bill would provide that the repeal date shall be void if the Legislature enacts a statute that expressly validates and approves the content of the regulation, as specified.	All Bds/Bureaus
AB	1588	Atkins	Professions and vocations: reservist licensees: fees and continuing education.	This bill would require the boards, commissions, or bureaus described under Department of Consumer Affairs to waive the renewal fees and continuing education requirements, if either is applicable, of any licensee or registrant who is a reservist called to active duty as a member of the United States Military Reserve or the California National Guard if certain requirements are met.	All Bds/Bureaus
AB	1894	Logue	Physician assistants.	Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law requires the committee to issue a license to all physician assistant applicants meeting specified requirements, including not being subject to denial of licensure, as specified. This bill would make a technical, nonsubstantive change to that provision.	Physician Assistants
AB	1904	Block	Professions and vocations: military spouses: temporary licenses.	The bill would authorize a board under the Department of Consumer Affairs to issue a temporary license (valid for 180 days) to the spouse or domestic partner of a military member on active duty, if the applicant submits the required application, fees, and fingerprints to the board. This bill would require a board to expedite the issuance of a temporary license to an applicant that complies with the requirements for temporary licensure. This bill would authorize a board to adopt regulations necessary to administer the provisions of this bill.	All Bds/Bureaus
AB	1914	Garrick	Agency reports.	This bill would require each state or local agency that is required to submit one or more reports to the Legislature to submit, by April 1 of each year, a list of all reports the agency has not yet submitted to the Legislature along with a status summary for each report, including a statement explaining why any overdue report has not yet been submitted. In addition, the bill would state the intent of the Legislature to withhold appropriations for an agency that fails to submit timely reports.	All Bds/Bureaus

House	Bill #	Author	Subject	Summary	Program
AB	1982	Wagner	Regulations: effective date: legislative review.	This bill would require the office to submit to the Legislature for review a copy of each major regulation that it submits to the Secretary of State. This bill would extend the time period that a regulation becomes effective after being filed with the Secretary of State from 30 days to 90 days. This bill would specify that the list of prescribed conditions that prevent a regulation from becoming effective include a statutory override of the regulation.	All Bds/Bureaus
AB	2041	Swanson	Regulations: adoption: disability access.	This bill would require an agency to include within the notice of proposed action a specified statement regarding the availability of narrative descriptions for persons with visual or other specified disabilities. This bill contains other existing laws.	All Bds/Bureaus
AB	2090	Berryhill, Bill	Regulations.	This bill would declare the intent of the Legislature to enact legislation that would provide greater oversight over the regulatory process.	All Bds/Bureaus
AB	2091	Berryhill, Bill	Regulations: new or emerging technology.	This bill would require a state agency proposing an administrative regulation that would require a person or entity to use a new or emerging technology or equipment in order to achieve the identified purpose of the regulation to determine if that technology is available and effective in accordance with certain requirements. The bill would also require the state agency that is proposing the regulation to include certain provisions in the regulation. The bill would require the state agency to submit to the office, and make available to the public upon request, a statement that the agency has complied with the requirements of this act. The bill would require the office to return to the agency the proposed regulation if the agency has not complied with the prescribed requirements.	All Bds/Bureaus
AB	2213	Donnelly	Government reorganization: realignment or closure.	This bill would establish the Bureaucracy Realignment and Closure Commission in state government with a specified membership. Beginning on January 1, 2014, the Controller, the Director of Finance, the Legislative Analyst, the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, and the State Auditor would be required to develop recommendations for the closure or realignment of state bureaucracies for consideration by the commission. By requiring money in the State Audit Fund to be spent for a new purpose, this bill would make an appropriation. The commission, not later than July 15, 2015, would be required to submit a report of its final recommendations to the Governor and the Legislature that establishes a list of state bureaucracies that are proposed to be realigned or abolished. This bill contains other related provisions.	All B

House	Bill #	Author	Subject	Summary	Program
AB	0338	Wagner	Regulations: legislative validation: effective date.	The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. That act provides that a regulation or an order of repeal of a regulation becomes effective on the 30th day after it is filed with the Secretary of State, unless prescribed conditions occur. This bill would require the office to also submit to the Legislature for review a copy of each disapproved regulation where the basis for that disapproval was a determination that the agency exceeded its statutory authority in adopting the regulation. This bill would also require that a regulation become effective on the 60th day after it is filed with the Secretary of State, unless prescribed conditions occur.	All Bds/Bureaus
AB	1504	Morrell	Administrative regulations.	This bill would require each state agency that is considering adopting, amending, or repealing a regulation, in addition to those existing economic impact analysis requirements, to complete an economic assessment of the proposed action at least 90 days prior to submitting a notice of proposed action to the office. The bill would subject the economic assessment to public comment. The bill would require the economic assessment to include specified analyses. This bill contains other related provisions and other existing laws.	All Bds/Bureaus
AB	1537	Cook	Government Accountability Act of 2012.	The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. This bill would enact the Government Accountability Act of 2012 and require that a major regulation , as defined, proposed on or after January 1, 2013, include a provision to repeal the regulation 2 years after the date that the regulation is approved by the office. The bill would require the office to return to an agency any proposed regulation that does not include the repeal provision. The bill would provide that the repeal date shall be void if the Legislature enacts a statute that expressly validates and approves the content of the regulation, as specified.	All Bds/Bureaus
AB	1588	Atkins	Professions and vocations: reservist licensees: fees and continuing education.	This bill would require the boards, commissions, or bureaus described under Department of Consumer Affairs to waive the renewal fees and continuing education requirements, if either is applicable, of any licensee or registrant who is a reservist called to active duty as a member of the United States Military Reserve or the California National Guard if certain requirements are met.	All Bds/Bureaus
AB	1894	Logue	Physician assistants.	Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law requires the committee to issue a license to all physician assistant applicants meeting specified requirements, including not being subject to denial of licensure, as specified. This bill would make a technical, nonsubstantive change to that provision.	Physician Assistants
AB	1904	Block	Professions and vocations: military spouses: temporary licenses.	The bill would authorize a board under the Department of Consumer Affairs to issue a temporary license (valid for 180 days) to the spouse or domestic partner of a military member on active duty, if the applicant submits the required application, fees, and fingerprints to the board. This bill would require a board to expedite the issuance of a temporary license to an applicant that complies with the requirements for temporary licensure. This bill would authorize a board to adopt regulations necessary to administer the provisions of this bill.	All Bds/Bureaus
AB	1914	Garrick	Agency reports.	This bill would require each state or local agency that is required to submit one or more reports to the Legislature to submit, by April 1 of each year, a list of all reports the agency has not yet submitted to the Legislature along with a status summary for each report, including a statement explaining why any overdue report has not yet been submitted. In addition, the bill would state the intent of the Legislature to withhold appropriations for an agency that fails to submit timely reports.	All Bds/Bureaus

CURRENT BILL STATUS

MEASURE : A.B. No. 137
AUTHOR(S) : Portantino.
TOPIC : Health care coverage: mammographies.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 01/23/2012

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 02/16/2012
LAST HIST. ACTION : Referred to Com. on HEALTH.
COMM. LOCATION : SEN HEALTH

TITLE : An act to amend Section 1367.65 of, and to add Section 1367.651 to, the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, the Insurance Code, relating to health care coverage.

AMENDED IN ASSEMBLY JANUARY 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 137

Introduced by Assembly Member Portantino

January 12, 2011

An act to amend Section 1367.65 of, and to add Section 1367.651 to, the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 137, as amended, Portantino. Health care coverage: mammographies.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Under existing law, an individual or group policy of disability insurance that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide specified coverage based upon age for mammography for screening or diagnostic purposes upon referral by a participating nurse

practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

This bill would provide that health care service plan contracts and individual or group policies of health insurance issued, amended, delivered, or renewed on or after July 1, ~~2012~~ 2013, shall be deemed to provide coverage for mammographies for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician, as specified. The bill would, commencing July 1, ~~2012~~ 2013, require plans and insurers subject to these provisions to provide subscribers or policyholders with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer, as specified.

Because this bill would specify additional requirements for health care service plans, the willful violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 1367.65 of the Health and Safety Code
2 is amended to read:
3 1367.65. (a) Until June 30, ~~2012~~ 2013, every health care
4 service plan contract, except a specialized health care service plan
5 contract, that is issued, amended, delivered, or renewed shall be
6 deemed to provide coverage for mammography for screening or
7 diagnostic purposes upon referral by a participating nurse
8 practitioner, participating certified nurse-midwife, or participating
9 physician, providing care to the patient and operating within the
10 scope of practice provided under existing law.
11 (b) On or after July 1, ~~2012~~ 2013, every health care service plan
12 contract, except a specialized health care service plan contract,
13 that is issued, amended, delivered, or renewed shall be deemed to

1 provide coverage for mammography for screening or diagnostic
2 purposes upon referral by a participating nurse practitioner,
3 participating certified nurse-midwife, participating physician
4 assistant, or participating physician, providing care to the patient
5 and operating within the scope of practice provided under existing
6 law.

7 (c) Nothing in this section shall be construed to prevent
8 application of copayment or deductible provisions in a plan, nor
9 shall this section be construed to require that a plan be extended
10 to cover any other procedures under an individual or a group health
11 care service plan contract. Nothing in this section shall be construed
12 to authorize a plan enrollee to receive the services required to be
13 covered by this section if those services are furnished by a
14 nonparticipating provider, unless the plan enrollee is referred to
15 that provider by a participating provider identified in subdivision
16 (a) or (b), as applicable, providing care to the patient.

17 SEC. 2. Section 1367.651 is added to the Health and Safety
18 Code, to read:

19 1367.651. Commencing July 1, ~~2012~~ 2013, a health care service
20 plan subject to Section 1367.6 or 1367.65 shall provide a subscriber
21 with information regarding recommended timelines for an
22 individual to undergo tests for the screening or diagnosis of breast
23 cancer. This information may be provided by written letter sent to
24 the subscriber, by publication in a newsletter sent to the subscriber,
25 by publication in evidence of coverage, by direct telephone call
26 to the subscriber, by electronic transmission, by Web-based portal
27 containing various plan and benefit information if the subscriber
28 has access to that portal, or by any other means that will reasonably
29 notify the subscriber of the recommended timelines for testing.
30 Communications made by a plan's contracted providers that satisfy
31 the requirements of this section shall constitute compliance by the
32 plan with this section.

33 SEC. 3. Section 10123.81 of the Insurance Code is amended
34 to read:

35 10123.81. (a) Until June 30, ~~2012~~ 2013, every individual or
36 group policy of disability insurance or self-insured employee
37 welfare benefit plan that is issued, amended, or renewed, shall be
38 deemed to provide coverage for at least the following, upon the
39 referral of a nurse practitioner, certified nurse-midwife, or
40 physician, providing care to the patient and operating within the

1 scope of practice provided under existing law for breast cancer
2 screening or diagnostic purposes:

3 (1) A baseline mammogram for women age 35 to 39, inclusive.

4 (2) A mammogram for women age 40 to 49, inclusive, every
5 two years or more frequently based on the women's physician's
6 recommendation.

7 (3) A mammogram every year for women age 50 and over.

8 (b) On or after July 1, ~~2012~~ 2013, every individual or group
9 policy of health insurance that is issued, amended, delivered, or
10 renewed shall be deemed to provide coverage for mammography
11 for screening or diagnostic purposes upon referral by a participating
12 nurse practitioner, participating certified nurse-midwife,
13 participating physician assistant, or participating physician,
14 providing care to the patient and operating within the scope of
15 practice provided under existing law.

16 (c) Nothing in this section shall be construed to require an
17 individual or group policy to cover the surgical procedure known
18 as mastectomy or to prevent application of deductible or copayment
19 provisions contained in the policy or plan, nor shall this section
20 be construed to require that coverage under an individual or group
21 policy be extended to any other procedures.

22 (d) Nothing in this section shall be construed to authorize an
23 insured or plan member to receive the coverage required by this
24 section if that coverage is furnished by a nonparticipating provider,
25 unless the insured or plan member is referred to that provider by
26 a participating provider identified in subdivision (a) or (b), as
27 applicable, providing care to the patient.

28 (e) This section shall not apply to specialized health insurance,
29 Medicare supplement insurance, short-term limited duration health
30 insurance, CHAMPUS supplement insurance, TRI-CARE
31 supplement insurance, or to hospital indemnity, accident-only, or
32 specified disease insurance.

33 SEC. 4. Section 10123.815 is added to the Insurance Code, to
34 read:

35 10123.815. (a) Commencing July 1, ~~2012~~ 2013, a health
36 insurer subject to Section 10123.8 or 10123.81 shall provide a
37 policyholder with information regarding recommended timelines
38 for an individual to undergo tests for the screening or diagnosis of
39 breast cancer. This information may be provided by written letter
40 sent to the policyholder, by publication in a newsletter sent to the

1 policyholder, by publication in evidence of coverage, by direct
2 telephone call to the policyholder, by electronic transmission, by
3 Web-based portal containing various plan or policy and benefit
4 information if the policyholder has access to that portal, or by any
5 other means that will reasonably notify the policyholder of the
6 recommended timelines for testing. Communications made by an
7 insurer's contracted providers that satisfy the requirements of this
8 section shall constitute compliance by the insurer with this section.

9 (b) This section shall not apply to specialized health insurance,
10 Medicare supplement insurance, short-term limited duration health
11 insurance, CHAMPUS supplement insurance, TRI-CARE
12 supplement insurance, or to hospital indemnity, accident-only, or
13 specified disease insurance.

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

CURRENT BILL STATUS

MEASURE : A.B. No. 1548
AUTHOR(S) : Carter (Coauthors: Bill Berryhill and Hill) (Coauthors:
Senators Correa, Emmerson, Negrete McLeod, and Wyland).
TOPIC : Practice of medicine: cosmetic surgery: employment of
physicians and surgeons.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 03/22/2012

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/19/2012
LAST HIST. ACTION : Read second time. Ordered to consent calendar.
FILE : ASM CONSENT CALENDAR - 2ND DAY
FILE DATE : 04/24/2012
ITEM : 68

COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 04/18/2012
COMM. ACTION : Do pass, to Consent Calendar.
COMM. VOTE SUMMARY : Ayes: 17 Noes: 00PASS

TITLE : An act to add Section 2417.5 to the Business and
Professions Code, relating to the practice of medicine.

CURRENT BILL STATUS

MEASURE : A.B. No. 1548
AUTHOR(S) : Carter (Coauthors: Bill Berryhill and Hill) (Coauthors:
Senators Correa, Emmerson, Negrete McLeod, and Wyland).
TOPIC : Practice of medicine: cosmetic surgery: employment of
physicians and surgeons.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 03/22/2012

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/19/2012
LAST HIST. ACTION : Read second time. Ordered to consent calendar.
FILE : ASM CONSENT CALENDAR - 2ND DAY
FILE DATE : 04/24/2012
ITEM : 68

COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 04/18/2012
COMM. ACTION : Do pass, to Consent Calendar.
COMM. VOTE SUMMARY : Ayes: 17 Noes: 00PASS

TITLE : An act to add Section 2417.5 to the Business and
Professions Code, relating to the practice of medicine.

AMENDED IN ASSEMBLY MARCH 22, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1548

Introduced by Assembly Member Carter
(Coauthors: Assembly Members Bill Berryhill and Hill)
(Coauthors: Senators Correa, Emmerson, Negrete McLeod, and Wyland)

January 25, 2012

An act to add Section 2417.5 to the Business and Professions Code, relating to the practice of medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as amended, Carter. Practice of medicine: cosmetic surgery: employment of physicians and surgeons.

Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law makes it unlawful to knowingly make, or cause to be made, any false or fraudulent claim for payment of a health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition a public offense.

This bill, with respect to a business organization that provides outpatient elective cosmetic medical procedures or treatments, that is owned and operated in violation of the prohibition against employment of licensed physicians and surgeons and podiatrists, and that contracts with or employs these licensees to facilitate the offer or provision of procedures or treatments that may only be provided by these licensees,

would make that business organization guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claim for payment of a health care benefit. *The bill would prohibit construing its provisions to alter or apply to any arrangements currently authorized by law.* Because the bill would expand a public offense, it would impose a state-mandated local program.

This bill would state that its provisions are declaratory of existing law.

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. The Legislature finds and declares that the
2 Medical Practice Act ~~restricts the employment of physicians and~~
3 ~~surgeons by a corporation or prohibits corporations and other~~
4 ~~artificial legal entity entities from exercising professional rights,~~
5 *privileges, or powers, as described in Article 18 (commencing*
6 *with Section 2400) of Chapter 5 of Division 2 of the Business and*
7 *Professions Code, and that the prohibited conduct described in*
8 *Section 2417.5 of the Business and Professions Code, as added by*
9 *this act, is declaratory of existing law.*

10 SEC. 2. Section 2417.5 is added to the Business and Professions
11 Code, to read:

12 2417.5. (a) A business organization that offers to provide, or
13 provides, outpatient elective cosmetic medical procedures or
14 treatments, that is owned or operated in violation of Section 2400,
15 and that contracts with, or otherwise employs, a physician and
16 surgeon to facilitate its offers to provide, or the provision of,
17 outpatient elective cosmetic medical procedures or treatments that
18 may be provided only by the holder of a valid physician's and
19 surgeon's certificate is guilty of violating paragraph (6) of
20 subdivision (a) of Section 550 of the Penal Code.

21 (b) For purposes of this section, "outpatient elective cosmetic
22 medical procedures or treatments" means medical procedures or

1 treatments that are performed to alter or reshape normal structures
2 of the body solely in order to improve appearance.

3 *(c) Nothing in this section shall be construed to alter or apply*
4 *to arrangements currently authorized by law, including, but not*
5 *limited to, any entity operating a medical facility or other business*
6 *authorized to provide medical services under Section 1206 of the*
7 *Health and Safety Code.*

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

CURRENT BILL STATUS

MEASURE : A.B. No. 1894
AUTHOR(S) : Logue.
TOPIC : Physician assistants.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 02/23/2012

LAST HIST. ACTION : From printer. May be heard in committee March 24.

TITLE : An act to amend Section 3519 of the Business and Professions Code, relating to healing arts.

ASSEMBLY BILL

No. 1894

Introduced by Assembly Member Logue

February 22, 2012

An act to amend Section 3519 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1894, as introduced, Logue. Physician assistants.

Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California. Existing law requires the committee to issue a license to all physician assistant applicants meeting specified requirements, including not being subject to denial of licensure, as specified.

This bill would make a technical, nonsubstantive change to that provision.

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

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

- 1 SECTION 1. Section 3519 of the Business and Professions
- 2 Code is amended to read:
- 3 3519. The committee shall issue under the name of the Medical
- 4 Board of California a license to all physician assistant applicants
- 5 who meet all of the following requirements:
- 6 (a) Provide evidence of successful completion of an approved
- 7 program.

- 1 (b) Pass any examination required under Section 3517.
- 2 (c) ~~Not be~~ *Are not* subject to denial of licensure under Division
- 3 1.5 (commencing with Section 475) or Section 3527.
- 4 (d) Pay all fees required under Section 3521.1.

CURRENT BILL STATUS

MEASURE : A.B. No. 1904
AUTHOR(S) : Block, Butler, and Cook.
TOPIC : Professions and vocations: military spouses: temporary
licenses.
HOUSE LOCATION : ASM

TYPE OF BILL :
Active
Non-Urgency
Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/18/2012
LAST HIST. ACTION : In committee: Set, first hearing. Referred to APPR.
suspense file.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to add Section 115.5 to the Business and
Professions Code, relating to professions and vocations,
and making an appropriation therefor.

ASSEMBLY BILL

No. 1904

Introduced by Assembly Members Block, Butler, and Cook

February 22, 2012

An act to add Section 115.5 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1904, as introduced, Block. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Under existing law, licensing fees imposed by certain boards within the department are deposited in funds that are continuously appropriated.

This bill would authorize a board within the department to issue a temporary license to an applicant who, among other requirements, holds an equivalent license in another jurisdiction, as specified, and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. The bill would require a board to expedite the process for issuing these temporary licenses. The bill would require the applicant to pay any fees required by the board and would require that those fees be deposited in the fund used by the board to administer its licensing program. To the extent that the bill would

increase the amount of money deposited into a continuously appropriated fund, the bill would make an appropriation.

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

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

1 SECTION 1. Section 115.5 is added to the Business and
2 Professions Code, to read:

3 115.5. (a) A board within the department may issue a
4 temporary license to an applicant who meets all of the following
5 requirements:

6 (1) Submits an application in the manner prescribed by the
7 board.

8 (2) Supplies evidence satisfactory to the board that the applicant
9 is married to, or in a domestic partnership or other legal union
10 with, an active duty member of the Armed Forces of the United
11 States who is assigned to a duty station in this state under official
12 active duty military orders.

13 (3) Holds a current license in another state, district, or territory
14 of the United States with the requirements that the board determines
15 are substantially equivalent to those established under this code
16 for that occupation.

17 (4) Has not committed an act in any jurisdiction that would have
18 constituted grounds for denial, suspension, or revocation of the
19 license under this code at the time the act was committed.

20 (5) Has not been disciplined by a licensing entity in another
21 jurisdiction and is not the subject of an unresolved complaint,
22 review procedure, or disciplinary proceeding conducted by a
23 licensing entity in another jurisdiction.

24 (6) Pays any fees required by the board. Those fees shall be
25 deposited in the applicable fund or account used by the board to
26 administer its licensing program.

27 (7) Submits fingerprints and any applicable fingerprinting fee
28 in the manner required of an applicant for a regular license.

29 (b) A board shall expedite the procedure for issuing a temporary
30 license pursuant to this section.

31 (c) A temporary license issued under this section shall be valid
32 for 180 days, except that the license may, at the discretion of the

- 1 board, be extended for an additional 180-day period on application
- 2 of the license holder.
- 3 (d) A board may adopt regulations necessary to administer this
- 4 section.

O

CURRENT BILL STATUS

MEASURE : S.B. No. 1501
AUTHOR(S) : Kehoe.
TOPIC : Open-space easements.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 04/11/2012

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/19/2012
LAST HIST. ACTION : Read second time. Ordered to third reading.
FILE : SEN THIRD READING
FILE DATE : 04/24/2012
ITEM : 33

COMM. LOCATION : SEN GOVERNANCE AND FINANCE
COMM. ACTION DATE : 04/18/2012
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 06 Noes: 00PASS

TITLE : An act to amend Sections 51051, 51053, 51054, 51055, 51059, 51084, and 51087 of, and to repeal Section 51052 of, the Government Code, relating to local government.

AMENDED IN SENATE APRIL 11, 2012

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1501

Introduced by Senator Kehoe

February 24, 2012

An act to amend ~~Section 51087~~ of Sections 51051, 51053, 51054, 51055, 51059, 51084, and 51087 of, and to repeal Section 51052 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1501, as amended, Kehoe. Open-space easements.

(1) Existing law regulates the execution and acceptance of a grant of an open-space easement, as defined. The execution and acceptance of a grant of an open-space easement constitutes a dedication to the public of the open-space character of the lands for the term specified. Existing law provides that the easement and covenant run for a term of not less than 20 years. Existing law authorizes an open-space easement to contain a covenant against the extraction of natural resources or other activities that may destroy the unique physical and scenic characteristics of the land, as specified.

This bill would make technical, nonsubstantive changes to these provisions.

(2) The Open-Space Easement Act of 1974 authorizes any county or city that has an adopted open-space plan to accept or approve a grant of an open-space easement, as defined, on privately owned lands lying within the county or city in a specified manner for a term not less than 10 years. Existing law authorizes a grant of an open-space easement to be accepted only if the governing body, by resolution, makes specified findings, including a finding that the preservation of the land as open

space is consistent with the general plan of the county or city and that it is important to the public for a specified purpose.

This bill would expand the purposes for which a governing body may approve a grant of an open-space easement, as specified.

~~The Open-Space Easement Act of 1974~~

(3) Existing law requires the clerk of the governing board of a city or county, upon acceptance or approval of a grant of an open-space easement on privately owned lands within a city or county, as defined, to record the easement in the office of the county recorder and file a copy of the easement with the county assessor, as specified.

Existing law requires the county recorder in each county to develop and maintain, within the existing indexing system, a comprehensive index of conservation easements and notice of conservation easement on lands within that county.

This bill would require an easement accepted or approved pursuant to ~~the Open-Space Easement Act of 1974~~ existing law to be recorded consistent with the existing indexing system maintained by ~~the~~ a county recorder.

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

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

1 SECTION 1. Section 51051 of the Government Code is
2 amended to read:
3 51051. As used in this chapter, the following terms have the
4 following meanings:
5 “Grant
6 (a) “Grant of an open-space easement” means a grant by an
7 instrument whereby the owner relinquishes to the public, either in
8 perpetuity or for a term of years, the right to construct
9 improvements upon the land except as may be expressly reserved
10 in the instrument and which contains a covenant with the city or
11 county, running with the land, either in perpetuity or for a term of
12 years, not to construct or permit the construction of any
13 improvements, except as ~~such~~ that right is expressly reserved in
14 the instrument and except for public service facilities installed for
15 the benefit of the land subject to ~~such~~ any covenant or public
16 service facilities installed pursuant to an authorization by the

1 governing body of the city or county or the Public Utilities
2 Commission.

3 Any such reservation shall be consistent with the purposes of
4 this chapter or with the findings of the county or city pursuant to
5 Section 51056 and shall not permit any action ~~which~~ *that* will
6 materially impair the open-space character of the land.

7 (b) "Owner" means any lessee or trustee, if the expiration of
8 the lease or trust occurs at a time later than the expiration of the
9 easement or any extension thereof.

10 SEC. 2. Section 51052 of the Government Code is repealed.

11 ~~51052. For the purposes of this chapter, "owner" includes a~~
12 ~~lessee or trustee, if the expiration of the lease or trust occurs at a~~
13 ~~time later than the expiration of the easement or any extension~~
14 ~~thereof.~~

15 SEC. 3. Section 51053 of the Government Code is amended to
16 read:

17 51053. The execution and acceptance of an instrument
18 described in *subdivision (a)* of Section 51051 shall constitute a
19 dedication to the public of the open-space character of the lands
20 for the term specified. Any such easement and covenant shall run
21 for a term of not less than 20 years.

22 SEC. 4. Section 51054 of the Government Code is amended to
23 read:

24 51054. An instrument described in *subdivision (a)* of Section
25 51051 may contain, and the city or county in appropriate cases
26 may require that it contain, a covenant against the extraction of
27 natural resources or other activities which may destroy the unique
28 physical and scenic characteristics of the land or a covenant against
29 the cutting of timber, trees and other natural growth, except as may
30 be required for fire prevention, thinning, elimination of diseased
31 growth and similar protective measures, or for the harvest of trees
32 in a manner compatible with scenic purposes.

33 SEC. 5. Section 51055 of the Government Code is amended to
34 read:

35 51055. ~~No~~ An instrument described in *subdivision (a)* of Section
36 51051 shall *not* be effective until it has been accepted by resolution
37 of the governing body of the city or county and its acceptance
38 endorsed thereon.

39 SEC. 6. Section 51059 of the Government Code is amended to
40 read:

1 governing body of the city or county or the Public Utilities
2 Commission.

3 Any such reservation shall be consistent with the purposes of
4 this chapter or with the findings of the county or city pursuant to
5 Section 51056 and shall not permit any action ~~which~~ that will
6 materially impair the open-space character of the land.

7 (b) "Owner" means any lessee or trustee, if the expiration of
8 the lease or trust occurs at a time later than the expiration of the
9 easement or any extension thereof.

10 SEC. 2. Section 51052 of the Government Code is repealed.

11 ~~51052. For the purposes of this chapter, "owner" includes a~~
12 ~~lessee or trustee, if the expiration of the lease or trust occurs at a~~
13 ~~time later than the expiration of the easement or any extension~~
14 ~~thereof.~~

15 SEC. 3. Section 51053 of the Government Code is amended to
16 read:

17 51053. The execution and acceptance of an instrument
18 described in subdivision (a) of Section 51051 shall constitute a
19 dedication to the public of the open-space character of the lands
20 for the term specified. Any such easement and covenant shall run
21 for a term of not less than 20 years.

22 SEC. 4. Section 51054 of the Government Code is amended to
23 read:

24 51054. An instrument described in subdivision (a) of Section
25 51051 may contain, and the city or county in appropriate cases
26 may require that it contain, a covenant against the extraction of
27 natural resources or other activities which may destroy the unique
28 physical and scenic characteristics of the land or a covenant against
29 the cutting of timber, trees and other natural growth, except as may
30 be required for fire prevention, thinning, elimination of diseased
31 growth and similar protective measures, or for the harvest of trees
32 in a manner compatible with scenic purposes.

33 SEC. 5. Section 51055 of the Government Code is amended to
34 read:

35 51055. ~~No~~ An instrument described in subdivision (a) of Section
36 51051 shall ~~not~~ be effective until it has been accepted by resolution
37 of the governing body of the city or county and its acceptance
38 endorsed thereon.

39 SEC. 6. Section 51059 of the Government Code is amended to
40 read:

1 51059. Upon the acceptance of any instrument creating an
2 open-space easement the clerk of the governing body shall record
3 the same in the office of the county recorder and file a copy thereof
4 with the county assessor. *The recording shall be consistent with*
5 *Section 27255.* From and after the time of ~~such~~ the recordation
6 ~~such~~, the contract shall impart ~~such~~ the notice thereof to all persons
7 as is afforded by the recording laws of this state.

8 *SEC. 7. Section 51084 of the Government Code is amended to*
9 *read:*

10 51084. ~~No~~*A* grant of an open-space easement shall *not* be
11 accepted or approved by a county or city, unless the governing
12 body, by resolution, finds:

13 (a) That the preservation of the land as open space is consistent
14 with the general plan of the county or city; and

15 (b) That the preservation of the land as open space is in the best
16 interest of the *state, county or, city and, or city and county and is*
17 *important to the public for the enjoyment of scenic beauty, for the*
18 *use of natural resources, for recreation, or for the production of*
19 *food or fiber* specifically because one or more of the following
20 reasons exists:

21 (1) That the land is essentially unimproved and if retained in
22 its natural state has either scenic value to the public, or is valuable
23 as a watershed or as a wildlife preserve, and the instrument contains
24 appropriate covenants to that end.

25 (2) It is in the public interest that the land be retained as open
26 space because such land either will add to the amenities of living
27 in neighboring urbanized areas or will help preserve the rural
28 character of the area in which the land is located.

29 (3) *The land lies in an area that in the public interest should*
30 *remain rural in character and the retention of the land as open*
31 *space will preserve the rural character of the area.*

32 (4) *It is in the public interest that the land remain in its natural*
33 *state, including the trees and other natural growth, as a means of*
34 *preventing floods or because of its value as watershed.*

35 (5) *The land lies within an established scenic highway corridor.*

36 (6) *The land is valuable to the public as a wildlife preserve or*
37 *sanctuary and the instrument contains appropriate covenants to*
38 *that end.*

39 ~~(3)~~

1 (7) The public interest will otherwise be served in a manner
2 recited in the resolution and consistent with the purposes of this
3 subdivision and Section 8 of Article XIII of the Constitution of
4 the State of California.

5 The resolution of the governing body shall establish a conclusive
6 presumption that the conditions set forth in subdivisions (a) and
7 (b) have been satisfied.

8 SECTION 4.

9 SEC. 8. Section 51087 of the Government Code is amended
10 to read:

11 51087. Upon the acceptance or approval of any instrument
12 creating an open-space easement the clerk of the governing body
13 shall record the same in the office of the county recorder and file
14 a copy thereof with the county assessor. The recording shall be
15 consistent with Section 27255. From and after the time of the
16 recordation, the easement shall impart notice thereof to all persons
17 as is afforded by the recording laws of this state.

Introduced by Senator Price

February 23, 2012

An act to amend Sections 800, 801.01, 802.1, 802.5, 803, 803.1, 803.5, 803.6, 805, 2335, 2460, 2465, 2470, 2472, 2475, 2477, 2484, 2493, 2496, 2497.5, 3501, 3502, 3502.1, 3502.3, 3502.5, 3504, 3504.1, 3505, ~~and~~ 3506, 3507, 3508, 3509, 3509.5, 3510, 3511, 3512, 3513, 3514.1, 3516, 3516.5, 3517, 3518, 3519, 3519.5, 3520, 3521, 3521.1, 3521.2, 3521.5, 3522, 3523, 3524, 3524.5, 3526, 3527, 3529, 3530, 3531, 3533, 3534, 3534.1, 3534.2, 3534.3, 3534.4, 3534.5, 3534.6, 3534.7, 3534.9, 3534.10, 3535, 3537.10, 3537.20, 3537.30, 3537.50, 3540, 3546 of, and to add Sections 3521.3 and 3521.4 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1236, as amended, Price. Healing arts boards.

Existing

(1) *Existing* law provides for the licensure certification and regulation of podiatrists by the California Board of Podiatric Medicine within the jurisdiction of the Medical Board of California. ~~Existing law provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California.~~ Under existing law, the California Board of Podiatric Medicine ~~and the committee~~ will be repealed on January 1, 2013. Existing law requires that boards scheduled for repeal be reviewed by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of the California Board of Podiatric Medicine ~~and the committee~~ until January 1, 2017. The bill

would specify that the board and committee are is subject to review by the appropriate policy committees of the Legislature. *The bill would revise provisions regarding the examination of applicants for certification to practice podiatric medicine.*

(2) *Existing law establishes the Physician Assistant Committee within the jurisdiction of the Medical Board of California and provides for its membership, operation, duties, and powers with respect to licensure and regulation of physician assistants, including requirements for the payment of license renewal fees. Under existing law, the committee will be repealed on January 1, 2013.*

This bill would rename the committee as the Physician Assistant Board, make various conforming changes relative to this change in designation, and extend the operation of the board until January 1, 2017. The bill would revise the composition of the board and would specify exemptions to the requirements for the payment of license renewal fees. The bill would specify that the board is subject to review by the appropriate policy committees of the Legislature.

(3) *Existing law specifies reports to be made and procedures to be followed when a coroner receives information, as specified, that a death may be the result of a physician and surgeon's, or podiatrist's gross negligence or incompetence, and in connection with disciplinary actions against those licensees.*

This bill would expand those provisions to include conduct of a physician assistant.

(4) *Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her licensing board the occurrence of an indictment or information charging a felony against the licensee or the conviction of the licensee of a felony or misdemeanor. Under existing law the failure of those licensees to submit the required report is a crime.*

This bill would impose that requirement on a physician assistant. Because a violation of this requirement by a physician assistant 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.

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

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

1 SECTION 1. Section 800 of the Business and Professions Code
2 is amended to read:
3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Osteopathic
5 Medical Board of California, the State Board of Chiropractic
6 Examiners, the Board of Registered Nursing, the Board of
7 Vocational Nursing and Psychiatric Technicians, the State Board
8 of Optometry, the Veterinary Medical Board, the Board of
9 Behavioral Sciences, the Physical Therapy Board of California,
10 the California State Board of Pharmacy, the Speech-Language
11 Pathology and Audiology and Hearing Aid Dispensers Board, the
12 California Board of Occupational Therapy, ~~and~~ the Acupuncture
13 Board, *and the Physician Assistant Board* shall each separately
14 create and maintain a central file of the names of all persons who
15 hold a license, certificate, or similar authority from that board.
16 Each central file shall be created and maintained to provide an
17 individual historical record for each licensee with respect to the
18 following information:
19 (1) Any conviction of a crime in this or any other state that
20 constitutes unprofessional conduct pursuant to the reporting
21 requirements of Section 803.
22 (2) Any judgment or settlement requiring the licensee or his or
23 her insurer to pay any amount of damages in excess of three
24 thousand dollars (\$3,000) for any claim that injury or death was
25 proximately caused by the licensee's negligence, error or omission
26 in practice, or by rendering unauthorized professional services,
27 pursuant to the reporting requirements of Section 801 or 802.
28 (3) Any public complaints for which provision is made pursuant
29 to subdivision (b).
30 (4) Disciplinary information reported pursuant to Section 805,
31 including any additional exculpatory or explanatory statements
32 submitted by the licentiate pursuant to subdivision (f) of Section
33 805. If a court finds, in a final judgment, that the peer review
34 resulting in the 805 report was conducted in bad faith and the
35 licensee who is the subject of the report notifies the board of that

1 finding, the board shall include that finding in the central file. For
2 purposes of this paragraph, “peer review” has the same meaning
3 as defined in Section 805.

4 (5) Information reported pursuant to Section 805.01, including
5 any explanatory or exculpatory information submitted by the
6 licensee pursuant to subdivision (b) of that section.

7 (b) Each board shall prescribe and promulgate forms on which
8 members of the public and other licensees or certificate holders
9 may file written complaints to the board alleging any act of
10 misconduct in, or connected with, the performance of professional
11 services by the licensee.

12 If a board, or division thereof, a committee, or a panel has failed
13 to act upon a complaint or report within five years, or has found
14 that the complaint or report is without merit, the central file shall
15 be purged of information relating to the complaint or report.

16 Notwithstanding this subdivision, the Board of Psychology, the
17 Board of Behavioral Sciences, and the Respiratory Care Board of
18 California shall maintain complaints or reports as long as each
19 board deems necessary.

20 (c) The contents of any central file that are not public records
21 under any other provision of law shall be confidential except that
22 the licensee involved, or his or her counsel or representative, shall
23 have the right to inspect and have copies made of his or her
24 complete file except for the provision that may disclose the identity
25 of an information source. For the purposes of this section, a board
26 may protect an information source by providing a copy of the
27 material with only those deletions necessary to protect the identity
28 of the source or by providing a comprehensive summary of the
29 substance of the material. Whichever method is used, the board
30 shall ensure that full disclosure is made to the subject of any
31 personal information that could reasonably in any way reflect or
32 convey anything detrimental, disparaging, or threatening to a
33 licensee’s reputation, rights, benefits, privileges, or qualifications,
34 or be used by a board to make a determination that would affect
35 a licensee’s rights, benefits, privileges, or qualifications. The
36 information required to be disclosed pursuant to Section 803.1
37 shall not be considered among the contents of a central file for the
38 purposes of this subdivision.

1 The licensee may, but is not required to, submit any additional
2 exculpatory or explanatory statement or other information that the
3 board shall include in the central file.

4 Each board may permit any law enforcement or regulatory
5 agency when required for an investigation of unlawful activity or
6 for licensing, certification, or regulatory purposes to inspect and
7 have copies made of that licensee's file, unless the disclosure is
8 otherwise prohibited by law.

9 These disclosures shall effect no change in the confidential status
10 of these records.

11 *SEC. 2. Section 801.01 of the Business and Professions Code*
12 *is amended to read:*

13 801.01. The Legislature finds and declares that the filing of
14 reports with the applicable state agencies required under this
15 section is essential for the protection of the public. It is the intent
16 of the Legislature that the reporting requirements set forth in this
17 section be interpreted broadly in order to expand reporting
18 obligations.

19 (a) A complete report shall be sent to the Medical Board of
20 California, the Osteopathic Medical Board of California, ~~or the~~
21 California Board of Podiatric Medicine, *or the Physician Assistant*
22 *Board* with respect to a licensee of the board as to the following:

23 (1) A settlement over thirty thousand dollars (\$30,000) or
24 arbitration award of any amount or a civil judgment of any amount,
25 whether or not vacated by a settlement after entry of the judgment,
26 that was not reversed on appeal, of a claim or action for damages
27 for death or personal injury caused by the licensee's alleged
28 negligence, error, or omission in practice, or by his or her rendering
29 of unauthorized professional services.

30 (2) A settlement over thirty thousand dollars (\$30,000), if the
31 settlement is based on the licensee's alleged negligence, error, or
32 omission in practice, or on the licensee's rendering of unauthorized
33 professional services, and a party to the settlement is a corporation,
34 medical group, partnership, or other corporate entity in which the
35 licensee has an ownership interest or that employs or contracts
36 with the licensee.

37 (b) The report shall be sent by the following:

38 (1) The insurer providing professional liability insurance to the
39 licensee.

1 (2) The licensee, or his or her counsel, if the licensee does not
2 possess professional liability insurance.

3 (3) A state or local governmental agency that self-insures the
4 licensee. For purposes of this section “state governmental agency”
5 includes, but is not limited to, the University of California.

6 (c) The entity, person, or licensee obligated to report pursuant
7 to subdivision (b) shall send the complete report if the judgment,
8 settlement agreement, or arbitration award is entered against or
9 paid by the employer of the licensee and not entered against or
10 paid by the licensee. “Employer,” as used in this paragraph, means
11 a professional corporation, a group practice, a health care facility
12 or clinic licensed or exempt from licensure under the Health and
13 Safety Code, a licensed health care service plan, a medical care
14 foundation, an educational institution, a professional institution,
15 a professional school or college, a general law corporation, a public
16 entity, or a nonprofit organization that employs, retains, or contracts
17 with a licensee referred to in this section. Nothing in this paragraph
18 shall be construed to authorize the employment of, or contracting
19 with, any licensee in violation of Section 2400.

20 (d) The report shall be sent to the Medical Board of California,
21 the Osteopathic Medical Board of California, ~~or~~ the California
22 Board of Podiatric Medicine, *or the Physician Assistant Board* as
23 appropriate, within 30 days after the written settlement agreement
24 has been reduced to writing and signed by all parties thereto, within
25 30 days after service of the arbitration award on the parties, or
26 within 30 days after the date of entry of the civil judgment.

27 (e) The entity, person, or licensee required to report under
28 subdivision (b) shall notify the claimant or his or her counsel, if
29 he or she is represented by counsel, that the report has been sent
30 to the Medical Board of California, the Osteopathic Medical Board
31 of California, ~~or~~ the California Board of Podiatric Medicine, *or*
32 *the Physician Assistant Board*. If the claimant or his or her counsel
33 has not received this notice within 45 days after the settlement was
34 reduced to writing and signed by all of the parties or the arbitration
35 award was served on the parties or the date of entry of the civil
36 judgment, the claimant or the claimant’s counsel shall make the
37 report to the appropriate board.

38 (f) Failure to substantially comply with this section is a public
39 offense punishable by a fine of not less than five hundred dollars
40 (\$500) and not more than five thousand dollars (\$5,000).

1 (g) (1) The Medical Board of California, the Osteopathic
2 Medical Board of California, ~~and~~ the California Board of Podiatric
3 Medicine, *and the Physician Assistant Board* may develop a
4 prescribed form for the report.

5 (2) The report shall be deemed complete only if it includes the
6 following information:

7 (A) The name and last known business and residential addresses
8 of every plaintiff or claimant involved in the matter, whether or
9 not the person received an award under the settlement, arbitration,
10 or judgment.

11 (B) The name and last known business and residential address
12 of every licensee who was alleged to have acted improperly,
13 whether or not that person was a named defendant in the action
14 and whether or not that person was required to pay any damages
15 pursuant to the settlement, arbitration award, or judgment.

16 (C) The name, address, and principal place of business of every
17 insurer providing professional liability insurance to any person
18 described in subparagraph (B), and the insured's policy number.

19 (D) The name of the court in which the action or any part of the
20 action was filed, and the date of filing and case number of each
21 action.

22 (E) A description or summary of the facts of each claim, charge,
23 or allegation, including the date of occurrence and the licensee's
24 role in the care or professional services provided to the patient
25 with respect to those services at issue in the claim or action.

26 (F) The name and last known business address of each attorney
27 who represented a party in the settlement, arbitration, or civil
28 action, including the name of the client he or she represented.

29 (G) The amount of the judgment, the date of its entry, and a
30 copy of the judgment; the amount of the arbitration award, the date
31 of its service on the parties, and a copy of the award document; or
32 the amount of the settlement and the date it was reduced to writing
33 and signed by all parties. If an otherwise reportable settlement is
34 entered into after a reportable judgment or arbitration award is
35 issued, the report shall include both the settlement and a copy of
36 the judgment or award.

37 (H) The specialty or subspecialty of the licensee who was the
38 subject of the claim or action.

39 (I) Any other information the Medical Board of California, the
40 Osteopathic Medical Board of California, ~~or~~ the California Board

1 of Podiatric Medicine, *or the Physician Assistant Board* may, by
2 regulation, require.

3 (3) Every professional liability insurer, self-insured
4 governmental agency, or licensee or his or her counsel that makes
5 a report under this section and has received a copy of any written
6 or electronic patient medical or hospital records prepared by the
7 treating physician and surgeon ~~or podiatrist, or physician assistant,~~
8 or the staff of the treating physician and surgeon, podiatrist, or
9 hospital, describing the medical condition, history, care, or
10 treatment of the person whose death or injury is the subject of the
11 report, or a copy of any deposition in the matter that discusses the
12 care, treatment, or medical condition of the person, shall include
13 with the report, copies of the records and depositions, subject to
14 reasonable costs to be paid by the Medical Board of California,
15 the Osteopathic Medical Board of California, ~~or the California~~
16 Board of Podiatric Medicine, *or the Physician Assistant Board*. If
17 confidentiality is required by court order and, as a result, the
18 reporter is unable to provide the records and depositions,
19 documentation to that effect shall accompany the original report.
20 The applicable board may, upon prior notification of the parties
21 to the action, petition the appropriate court for modification of any
22 protective order to permit disclosure to the board. A professional
23 liability insurer, self-insured governmental agency, or licensee or
24 his or her counsel shall maintain the records and depositions
25 referred to in this paragraph for at least one year from the date of
26 filing of the report required by this section.

27 (h) If the board, within 60 days of its receipt of a report filed
28 under this section, notifies a person named in the report, that person
29 shall maintain for the period of three years from the date of filing
30 of the report any records he or she has as to the matter in question
31 and shall make those records available upon request to the board
32 to which the report was sent.

33 (i) Notwithstanding any other provision of law, no insurer shall
34 enter into a settlement without the written consent of the insured,
35 except that this prohibition shall not void any settlement entered
36 into without that written consent. The requirement of written
37 consent shall only be waived by both the insured and the insurer.

38 (j) (1) A state or local governmental agency that self-insures
39 licensees shall, prior to sending a report pursuant to this section,

1 do all of the following with respect to each licensee who will be
2 identified in the report:

3 (A) Before deciding that a licensee will be identified, provide
4 written notice to the licensee that the agency intends to submit a
5 report in which the licensee may be identified, based on his or her
6 role in the care or professional services provided to the patient that
7 were at issue in the claim or action. This notice shall describe the
8 reasons for notifying the licensee. The agency shall include with
9 this notice a reasonable opportunity for the licensee to review a
10 copy of records to be used by the agency in deciding whether to
11 identify the licensee in the report.

12 (B) Provide the licensee with a reasonable opportunity to provide
13 a written response to the agency and written materials in support
14 of the licensee’s position. If the licensee is identified in the report,
15 the agency shall include this response and materials in the report
16 submitted to a board under this section if requested by the licensee.

17 (C) At least 10 days prior to the expiration of the 30-day
18 reporting requirement under subdivision (d), provide the licensee
19 with the opportunity to present arguments to the body that will
20 make the final decision or to that body’s designee. The body shall
21 review the care or professional services provided to the patient
22 with respect to those services at issue in the claim or action and
23 determine the licensee or licensees to be identified in the report
24 and the amount of the settlement to be apportioned to the licensee.

25 (2) Nothing in this subdivision shall be construed to modify
26 either the content of a report required under this section or the
27 timeframe for filing that report.

28 (k) For purposes of this section, “licensee” means a licensee of
29 the Medical Board of California, the Osteopathic Medical Board
30 of California, ~~or~~ the California Board of Podiatric Medicine, *or*
31 *the Physician Assistant Board.*

32 *SEC. 3. Section 802.1 of the Business and Professions Code*
33 *is amended to read:*

34 802.1. (a) (1) A physician and surgeon, osteopathic physician
35 and surgeon, ~~and~~ a doctor of podiatric medicine, *and a physician*
36 *assistant* shall report either of the following to the entity that issued
37 his or her license:

38 (A) The bringing of an indictment or information charging a
39 felony against the licensee.

1 (B) The conviction of the licensee, including any verdict of
2 guilty, or plea of guilty or no contest, of any felony or
3 misdemeanor.

4 (2) The report required by this subdivision shall be made in
5 writing within 30 days of the date of the bringing of the indictment
6 or information or of the conviction.

7 (b) Failure to make a report required by this section shall be a
8 public offense punishable by a fine not to exceed five thousand
9 dollars (\$5,000).

10 *SEC. 4. Section 802.5 of the Business and Professions Code*
11 *is amended to read:*

12 802.5. (a) When a coroner receives information that is based
13 on findings that were reached by, or documented and approved by
14 a board-certified or board-eligible pathologist indicating that a
15 death may be the result of a ~~physician's~~ or *physician and surgeon's*,
16 *podiatrist's, or physician assistant's* gross negligence or
17 incompetence, a report shall be filed with the Medical Board of
18 California, the Osteopathic Medical Board of California, ~~or the~~
19 *California Board of Podiatric Medicine, or the Physician Assistant*
20 *Board.* The initial report shall include the name of the decedent,
21 date and place of death, attending physicians or podiatrists, and
22 all other relevant information available. The initial report shall be
23 followed, within 90 days, by copies of the coroner's report, autopsy
24 protocol, and all other relevant information.

25 (b) The report required by this section shall be confidential. No
26 coroner, physician and surgeon, or medical examiner, nor any
27 authorized agent, shall be liable for damages in any civil action as
28 a result of his or her acting in compliance with this section. No
29 board-certified or board-eligible pathologist, nor any authorized
30 agent, shall be liable for damages in any civil action as a result of
31 his or her providing information under subdivision (a).

32 *SEC. 5. Section 803 of the Business and Professions Code is*
33 *amended to read:*

34 803. (a) Except as provided in subdivision (b), within 10 days
35 after a judgment by a court of this state that a person who holds a
36 license, certificate, or other similar authority from the Board of
37 Behavioral Sciences or from an agency mentioned in subdivision
38 (a) of Section 800 (except a person licensed pursuant to Chapter
39 3 (commencing with Section 1200)) has committed a crime, or is
40 liable for any death or personal injury resulting in a judgment for

1 an amount in excess of thirty thousand dollars (\$30,000) caused
2 by his or her negligence, error or omission in practice, or his or
3 her rendering unauthorized professional services, the clerk of the
4 court that rendered the judgment shall report that fact to the agency
5 that issued the license, certificate, or other similar authority.

6 (b) For purposes of a physician and surgeon, osteopathic
7 physician and surgeon, ~~or~~ doctor of podiatric medicine, *or*
8 *physician assistant*, who is liable for any death or personal injury
9 resulting in a judgment of any amount caused by his or her
10 negligence, error or omission in practice, or his or her rendering
11 unauthorized professional services, the clerk of the court that
12 rendered the judgment shall report that fact to the agency that
13 issued the license.

14 *SEC. 6. Section 803.1 of the Business and Professions Code*
15 *is amended to read:*

16 803.1. (a) Notwithstanding any other provision of law, the
17 Medical Board of California, the Osteopathic Medical Board of
18 California, ~~and~~ the California Board of Podiatric Medicine, *and*
19 *the Physician Assistant Board* shall disclose to an inquiring
20 member of the public information regarding any enforcement
21 actions taken against a licensee, including a former licensee, by
22 the board or by another state or jurisdiction, including all of the
23 following:

24 (1) Temporary restraining orders issued.

25 (2) Interim suspension orders issued.

26 (3) Revocations, suspensions, probations, or limitations on
27 practice ordered by the board, including those made part of a
28 probationary order or stipulated agreement.

29 (4) Public letters of reprimand issued.

30 (5) Infractions, citations, or fines imposed.

31 (b) Notwithstanding any other provision of law, in addition to
32 the information provided in subdivision (a), the Medical Board of
33 California, the Osteopathic Medical Board of California, ~~and~~ the
34 California Board of Podiatric Medicine, *and the Physician Assistant*
35 *Board* shall disclose to an inquiring member of the public all of
36 the following:

37 (1) Civil judgments in any amount, whether or not vacated by
38 a settlement after entry of the judgment, that were not reversed on
39 appeal and arbitration awards in any amount of a claim or action
40 for damages for death or personal injury caused by the physician

1 and surgeon's negligence, error, or omission in practice, or by his
2 or her rendering of unauthorized professional services.

3 (2) (A) All settlements in the possession, custody, or control
4 of the board shall be disclosed for a licensee in the low-risk
5 category if there are three or more settlements for that licensee
6 within the last 10 years, except for settlements by a licensee
7 regardless of the amount paid where (i) the settlement is made as
8 a part of the settlement of a class claim, (ii) the licensee paid in
9 settlement of the class claim the same amount as the other licensees
10 in the same class or similarly situated licensees in the same class,
11 and (iii) the settlement was paid in the context of a case where the
12 complaint that alleged class liability on behalf of the licensee also
13 alleged a products liability class action cause of action. All
14 settlements in the possession, custody, or control of the board shall
15 be disclosed for a licensee in the high-risk category if there are
16 four or more settlements for that licensee within the last 10 years
17 except for settlements by a licensee regardless of the amount paid
18 where (i) the settlement is made as a part of the settlement of a
19 class claim, (ii) the licensee paid in settlement of the class claim
20 the same amount as the other licensees in the same class or
21 similarly situated licensees in the same class, and (iii) the
22 settlement was paid in the context of a case where the complaint
23 that alleged class liability on behalf of the licensee also alleged a
24 products liability class action cause of action. Classification of a
25 licensee in either a "high-risk category" or a "low-risk category"
26 depends upon the specialty or subspecialty practiced by the licensee
27 and the designation assigned to that specialty or subspecialty by
28 the Medical Board of California, as described in subdivision (f).
29 For the purposes of this paragraph, "settlement" means a settlement
30 of an action described in paragraph (1) entered into by the licensee
31 on or after January 1, 2003, in an amount of thirty thousand dollars
32 (\$30,000) or more.

33 (B) The board shall not disclose the actual dollar amount of a
34 settlement but shall put the number and amount of the settlement
35 in context by doing the following:

36 (i) Comparing the settlement amount to the experience of other
37 licensees within the same specialty or subspecialty, indicating if
38 it is below average, average, or above average for the most recent
39 10-year period.

1 (ii) Reporting the number of years the licensee has been in
2 practice.

3 (iii) Reporting the total number of licensees in that specialty or
4 subspecialty, the number of those who have entered into a
5 settlement agreement, and the percentage that number represents
6 of the total number of licensees in the specialty or subspecialty.

7 (3) Current American Board of Medical Specialty certification
8 or board equivalent as certified by the Medical Board of California,
9 the Osteopathic Medical Board of California, or the California
10 Board of Podiatric Medicine.

11 (4) Approved postgraduate training.

12 (5) Status of the license of a licensee. By January 1, 2004, the
13 Medical Board of California, the Osteopathic Medical Board of
14 California, and the California Board of Podiatric Medicine shall
15 adopt regulations defining the status of a licensee. The board shall
16 employ this definition when disclosing the status of a licensee
17 pursuant to Section 2027.

18 (6) Any summaries of hospital disciplinary actions that result
19 in the termination or revocation of a licensee's staff privileges for
20 medical disciplinary cause or reason, unless a court finds, in a final
21 judgment, that the peer review resulting in the disciplinary action
22 was conducted in bad faith and the licensee notifies the board of
23 that finding. In addition, any exculpatory or explanatory statements
24 submitted by the licentiate electronically pursuant to subdivision
25 (f) of that section shall be disclosed. For purposes of this paragraph,
26 "peer review" has the same meaning as defined in Section 805.

27 (c) Notwithstanding any other provision of law, the Medical
28 Board of California, the Osteopathic Medical Board of California,
29 ~~and~~ the California Board of Podiatric Medicine, *and the Physician*
30 *Assistant Board* shall disclose to an inquiring member of the public
31 information received regarding felony convictions of a physician
32 and surgeon or doctor of podiatric medicine.

33 (d) The Medical Board of California, the Osteopathic Medical
34 Board of California, ~~and~~ the California Board of Podiatric
35 Medicine, *and the Physician Assistant Board* may formulate
36 appropriate disclaimers or explanatory statements to be included
37 with any information released, and may by regulation establish
38 categories of information that need not be disclosed to an inquiring
39 member of the public because that information is unreliable or not
40 sufficiently related to the licensee's professional practice. The

1 Medical Board of California, the Osteopathic Medical Board of
2 California, ~~and~~ the California Board of Podiatric Medicine, *and*
3 *the Physician Assistant Board* shall include the following statement
4 when disclosing information concerning a settlement:
5

6 “Some studies have shown that there is no significant correlation
7 between malpractice history and a doctor’s competence. At the
8 same time, the State of California believes that consumers should
9 have access to malpractice information. In these profiles, the State
10 of California has given you information about both the malpractice
11 settlement history for the doctor’s specialty and the doctor’s history
12 of settlement payments only if in the last 10 years, the doctor, if
13 in a low-risk specialty, has three or more settlements or the doctor,
14 if in a high-risk specialty, has four or more settlements. The State
15 of California has excluded some class action lawsuits because
16 those cases are commonly related to systems issues such as product
17 liability, rather than questions of individual professional
18 competence and because they are brought on a class basis where
19 the economic incentive for settlement is great. The State of
20 California has placed payment amounts into three statistical
21 categories: below average, average, and above average compared
22 to others in the doctor’s specialty. To make the best health care
23 decisions, you should view this information in perspective. You
24 could miss an opportunity for high-quality care by selecting a
25 doctor based solely on malpractice history.

26 When considering malpractice data, please keep in mind:

27 Malpractice histories tend to vary by specialty. Some specialties
28 are more likely than others to be the subject of litigation. This
29 report compares doctors only to the members of their specialty,
30 not to all doctors, in order to make an individual doctor’s history
31 more meaningful.

32 This report reflects data only for settlements made on or after
33 January 1, 2003. Moreover, it includes information concerning
34 those settlements for a 10-year period only. Therefore, you should
35 know that a doctor may have made settlements in the 10 years
36 immediately preceding January 1, 2003, that are not included in
37 this report. After January 1, 2013, for doctors practicing less than
38 10 years, the data covers their total years of practice. You should
39 take into account the effective date of settlement disclosure as well

1 as how long the doctor has been in practice when considering
2 malpractice averages.

3 The incident causing the malpractice claim may have happened
4 years before a payment is finally made. Sometimes, it takes a long
5 time for a malpractice lawsuit to settle. Some doctors work
6 primarily with high-risk patients. These doctors may have
7 malpractice settlement histories that are higher than average
8 because they specialize in cases or patients who are at very high
9 risk for problems.

10 Settlement of a claim may occur for a variety of reasons that do
11 not necessarily reflect negatively on the professional competence
12 or conduct of the doctor. A payment in settlement of a medical
13 malpractice action or claim should not be construed as creating a
14 presumption that medical malpractice has occurred.

15 You may wish to discuss information in this report and the
16 general issue of malpractice with your doctor.”

17
18 (e) The Medical Board of California, the Osteopathic Medical
19 Board of California, ~~and~~ the California Board of Podiatric
20 Medicine, *and the Physician Assistant Board* shall, by regulation,
21 develop standard terminology that accurately describes the different
22 types of disciplinary filings and actions to take against a licensee
23 as described in paragraphs (1) to (5), inclusive, of subdivision (a).
24 In providing the public with information about a licensee via the
25 Internet pursuant to Section 2027, the Medical Board of California,
26 the Osteopathic Medical Board of California, ~~and~~ the California
27 Board of Podiatric Medicine, *and the Physician Assistant Board*
28 shall not use the terms “enforcement,” “discipline,” or similar
29 language implying a sanction unless the physician and surgeon
30 has been the subject of one of the actions described in paragraphs
31 (1) to (5), inclusive, of subdivision (a).

32 (f) The Medical Board of California shall adopt regulations no
33 later than July 1, 2003, designating each specialty and subspecialty
34 practice area as either high risk or low risk. In promulgating these
35 regulations, the board shall consult with commercial underwriters
36 of medical malpractice insurance companies, health care systems
37 that self-insure physicians and surgeons, and representatives of
38 the California medical specialty societies. The board shall utilize
39 the carriers’ statewide data to establish the two risk categories and
40 the averages required by subparagraph (B) of paragraph (2) of

1 subdivision (b). Prior to issuing regulations, the board shall
2 convene public meetings with the medical malpractice carriers,
3 self-insurers, and specialty representatives.

4 (g) The Medical Board of California, the Osteopathic Medical
5 Board of California,—and the California Board of Podiatric
6 Medicine, *the Physician Assistant Board* shall provide each
7 licensee, including a former licensee under subdivision (a), with
8 a copy of the text of any proposed public disclosure authorized by
9 this section prior to release of the disclosure to the public. The
10 licensee shall have 10 working days from the date the board
11 provides the copy of the proposed public disclosure to propose
12 corrections of factual inaccuracies. Nothing in this section shall
13 prevent the board from disclosing information to the public prior
14 to the expiration of the 10-day period.

15 (h) Pursuant to subparagraph (A) of paragraph (2) of subdivision
16 (b), the specialty or subspecialty information required by this
17 section shall group physicians by specialty board recognized
18 pursuant to paragraph (5) of subdivision (h) of Section 651 unless
19 a different grouping would be more valid and the board, in its
20 statement of reasons for its regulations, explains why the validity
21 of the grouping would be more valid.

22 *SEC. 7. Section 803.5 of the Business and Professions Code*
23 *is amended to read:*

24 803.5. (a) The district attorney, city attorney, or other
25 prosecuting agency shall notify the Medical Board of California,
26 the Osteopathic Medical Board of California, the California Board
27 of Podiatric Medicine, the State Board of Chiropractic Examiners,
28 *the Physician Assistant Board*, or other appropriate allied health
29 board, and the clerk of the court in which the charges have been
30 filed, of any filings against a licensee of that board charging a
31 felony immediately upon obtaining information that the defendant
32 is a licensee of the board. The notice shall identify the licensee
33 and describe the crimes charged and the facts alleged. The
34 prosecuting agency shall also notify the clerk of the court in which
35 the action is pending that the defendant is a licensee, and the clerk
36 shall record prominently in the file that the defendant holds a
37 license from one of the boards described above.

38 (b) The clerk of the court in which a licensee of one of the
39 boards is convicted of a crime shall, within 48 hours after the

1 conviction, transmit a certified copy of the record of conviction
2 to the applicable board.

3 *SEC. 8. Section 803.6 of the Business and Professions Code*
4 *is amended to read:*

5 803.6. (a) The clerk of the court shall transmit any felony
6 preliminary hearing transcript concerning a defendant licensee to
7 the Medical Board of California, the Osteopathic Medical Board
8 of California, the California Board of Podiatric Medicine, *the*
9 *Physician Assistant Board*, or other appropriate allied health board,
10 as applicable, where the total length of the transcript is under 800
11 pages and shall notify the appropriate board of any proceeding
12 where the transcript exceeds that length.

13 (b) In any case where a probation report on a licensee is prepared
14 for a court pursuant to Section 1203 of the Penal Code, a copy of
15 that report shall be transmitted by the probation officer to the board.

16 *SEC. 9. Section 805 of the Business and Professions Code is*
17 *amended to read:*

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

20 (1) (A) "Peer review" means both of the following:

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

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

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

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

34 (B) "Peer review body" includes:

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

39 (ii) A health care service plan licensed under Chapter 2.2
40 (commencing with Section 1340) of Division 2 of the Health and

1 Safety Code or a disability insurer that contracts with licentiates
2 to provide services at alternative rates of payment pursuant to
3 Section 10133 of the Insurance Code.

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

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

15 (2) "Licentiate" means a physician and surgeon, doctor of
16 podiatric medicine, clinical psychologist, marriage and family
17 therapist, clinical social worker, professional clinical counselor,
18 or dentist, or *physician assistant*. "Licentiate" also includes a
19 person authorized to practice medicine pursuant to Section 2113
20 or 2168.

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

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

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

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

1 (7) “805 report” means the written report required under
2 subdivision (b).

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

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

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

14 (3) Restrictions are imposed, or voluntarily accepted, on staff
15 privileges, membership, or employment for a cumulative total of
16 30 days or more for any 12-month period, for a medical disciplinary
17 cause or reason.

18 (c) If a licentiate takes any action listed in paragraph (1), (2),
19 or (3) after receiving notice of a pending investigation initiated
20 for a medical disciplinary cause or reason or after receiving notice
21 that his or her application for membership or staff privileges is
22 denied or will be denied for a medical disciplinary cause or reason,
23 the chief of staff of a medical or professional staff or other chief
24 executive officer, medical director, or administrator of any peer
25 review body and the chief executive officer or administrator of
26 any licensed health care facility or clinic where the licentiate is
27 employed or has staff privileges or membership or where the
28 licentiate applied for staff privileges or membership, or sought the
29 renewal thereof, shall file an 805 report with the relevant agency
30 within 15 days after the licentiate takes the action.

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

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

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

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

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

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

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

17 A supplemental report shall also be made within 30 days
18 following the date the licentiate is deemed to have satisfied any
19 terms, conditions, or sanctions imposed as disciplinary action by
20 the reporting peer review body. In performing its dissemination
21 functions required by Section 805.5, the agency shall include a
22 copy of a supplemental report, if any, whenever it furnishes a copy
23 of the original 805 report.

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

32 (g) The reporting required by this section shall not act as a
33 waiver of confidentiality of medical records and committee reports.
34 The information reported or disclosed shall be kept confidential
35 except as provided in subdivision (c) of Section 800 and Sections
36 803.1 and 2027, provided that a copy of the report containing the
37 information required by this section may be disclosed as required
38 by Section 805.5 with respect to reports received on or after
39 January 1, 1976.

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

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

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

8 (k) A willful failure to file an 805 report by any person who is
9 designated or otherwise required by law to file an 805 report is
10 punishable by a fine not to exceed one hundred thousand dollars
11 (\$100,000) per violation. The fine may be imposed in any civil or
12 administrative action or proceeding brought by or on behalf of any
13 agency having regulatory jurisdiction over the person regarding
14 whom the report was or should have been filed. If the person who
15 is designated or otherwise required to file an 805 report is a
16 licensed physician and surgeon, the action or proceeding shall be
17 brought by the Medical Board of California. The fine shall be paid
18 to that agency but not expended until appropriated by the
19 Legislature. A violation of this subdivision may constitute
20 unprofessional conduct by the licentiate. A person who is alleged
21 to have violated this subdivision may assert any defense available
22 at law. As used in this subdivision, "willful" means a voluntary
23 and intentional violation of a known legal duty.

24 (l) Except as otherwise provided in subdivision (k), any failure
25 by the administrator of any peer review body, the chief executive
26 officer or administrator of any health care facility, or any person
27 who is designated or otherwise required by law to file an 805
28 report, shall be punishable by a fine that under no circumstances
29 shall exceed fifty thousand dollars (\$50,000) per violation. The
30 fine may be imposed in any civil or administrative action or
31 proceeding brought by or on behalf of any agency having
32 regulatory jurisdiction over the person regarding whom the report
33 was or should have been filed. If the person who is designated or
34 otherwise required to file an 805 report is a licensed physician and
35 surgeon, the action or proceeding shall be brought by the Medical
36 Board of California. The fine shall be paid to that agency but not
37 expended until appropriated by the Legislature. The amount of the
38 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
39 violation, shall be proportional to the severity of the failure to
40 report and shall differ based upon written findings, including

1 whether the failure to file caused harm to a patient or created a
2 risk to patient safety; whether the administrator of any peer review
3 body, the chief executive officer or administrator of any health
4 care facility, or any person who is designated or otherwise required
5 by law to file an 805 report exercised due diligence despite the
6 failure to file or whether they knew or should have known that an
7 805 report would not be filed; and whether there has been a prior
8 failure to file an 805 report. The amount of the fine imposed may
9 also differ based on whether a health care facility is a small or
10 rural hospital as defined in Section 124840 of the Health and Safety
11 Code.

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

20 *SEC. 10. Section 2335 of the Business and Professions Code*
21 *is amended to read:*

22 2335. (a) All proposed decisions and interim orders of the
23 Medical Quality Hearing Panel designated in Section 11371 of the
24 Government Code shall be transmitted to the executive director
25 of the board, or the executive director of the California Board of
26 Podiatric Medicine as to the licensees of that board, within 48
27 hours of filing.

28 (b) All interim orders shall be final when filed.

29 (c) A proposed decision shall be acted upon by the board or by
30 any panel appointed pursuant to Section 2008 or by the California
31 Board of Podiatric Medicine, as the case may be, in accordance
32 with Section 11517 of the Government Code, except that all of the
33 following shall apply to proceedings against licensees under this
34 chapter:

35 (1) When considering a proposed decision, the board or panel
36 and the California Board of Podiatric Medicine shall give great
37 weight to the findings of fact of the administrative law judge,
38 except to the extent those findings of fact are controverted by new
39 evidence.

1 (2) The board's staff or the staff of the California Board of
2 Podiatric Medicine shall poll the members of the board or panel
3 or of the California Board of Podiatric Medicine by written mail
4 ballot concerning the proposed decision. The mail ballot shall be
5 sent within 10 calendar days of receipt of the proposed decision,
6 and shall poll each member on whether the member votes to
7 approve the decision, to approve the decision with an altered
8 penalty, to refer the case back to the administrative law judge for
9 the taking of additional evidence, to defer final decision pending
10 discussion of the case by the panel or board as a whole, or to
11 nonadopt the decision. No party to the proceeding, including
12 employees of the agency that filed the accusation, and no person
13 who has a direct or indirect interest in the outcome of the
14 proceeding or who presided at a previous stage of the decision,
15 may communicate directly or indirectly, upon the merits of a
16 contested matter while the proceeding is pending, with any member
17 of the panel or board, without notice and opportunity for all parties
18 to participate in the communication. The votes of a majority of the
19 board or of the panel, and a majority of the California Board of
20 Podiatric Medicine, are required to approve the decision with an
21 altered penalty, to refer the case back to the administrative law
22 judge for the taking of further evidence, or to nonadopt the
23 decision. The votes of two members of the panel or board are
24 required to defer final decision pending discussion of the case by
25 the panel or board as a whole; *except that, in the case of the*
26 *California Board of Podiatric Medicine, the vote of only one*
27 *member of that board is required to defer final decision pending*
28 *discussion of the case by the board as a whole.* If there is a vote
29 by the specified number to defer final decision pending discussion
30 of the case by the panel or board as a whole, provision shall be
31 made for that discussion before the 100-day period specified in
32 paragraph (3) expires, but in no event shall that 100-day period be
33 extended.

34 (3) If a majority of the board or of the panel, or a majority of
35 the California Board of Podiatric Medicine vote to do so, the board
36 or the panel or the California Board of Podiatric Medicine shall
37 issue an order of nonadoption of a proposed decision within 100
38 calendar days of the date it is received by the board. If the board
39 or the panel or the California Board of Podiatric Medicine does
40 not refer the case back to the administrative law judge for the

1 taking of additional evidence or issue an order of nonadoption
2 within 100 calendar days, the decision shall be final and subject
3 to review under Section 2337. Members of the board or of any
4 panel or of the California Board of Podiatric Medicine who review
5 a proposed decision or other matter and vote by mail as provided
6 in paragraph (2) shall return their votes by mail to the board within
7 30 days from receipt of the proposed decision or other matter.

8 (4) The board or the panel or the California Board of Podiatric
9 Medicine shall afford the parties the opportunity to present oral
10 argument before deciding a case after nonadoption of the
11 administrative law judge's decision.

12 (5) A vote of a majority of the board or of a panel, or a majority
13 of the California Board of Podiatric Medicine, are required to
14 increase the penalty from that contained in the proposed
15 administrative law judge's decision. No member of the board or
16 panel or of the California Board of Podiatric Medicine may vote
17 to increase the penalty except after reading the entire record and
18 personally hearing any additional oral argument and evidence
19 presented to the panel or board.

20 **SECTION 1.**

21 *SEC. 11.* Section 2460 of the Business and Professions Code
22 is amended to read:

23 2460. (a) There is created within the jurisdiction of the Medical
24 Board of California the California Board of Podiatric Medicine.

25 (b) This section shall remain in effect only until January 1, 2017,
26 and as of that date is repealed, unless a later enacted statute, that
27 is enacted before January 1, 2017, deletes or extends that date.
28 Notwithstanding any other provision of law, the repeal of this
29 section renders the California Board of Podiatric Medicine subject
30 to review by the appropriate policy committees of the Legislature.

31 *SEC. 12.* *Section 2465 of the Business and Professions Code*
32 *is amended to read:*

33 2465. No person who directly or indirectly owns any interest
34 in any college, school, or other institution engaged in podiatric
35 medical instruction shall be appointed to the board ~~or~~ nor shall
36 any incumbent member of the board have or acquire any interest,
37 direct or indirect, in any such college, school, or institution.

38 *SEC. 13.* *Section 2470 of the Business and Professions Code*
39 *is amended to read:*

1 2470. The board may adopt, amend, or repeal, in accordance
2 with the provisions of the Administrative Procedure Act (*Chapter*
3 *3.5 (commencing with Section 11340 of Part 1 of Division 1 of*
4 *Title 2 of the Government Code*, regulations necessary to enable
5 the board to carry into effect the provisions of law relating to the
6 practice of podiatric medicine.

7 *SEC. 14. Section 2472 of the Business and Professions Code*
8 *is amended to read:*

9 2472. (a) The certificate to practice podiatric medicine
10 authorizes the holder to practice podiatric medicine.

11 (b) As used in this chapter, "podiatric medicine" means the
12 diagnosis, medical, surgical, mechanical, manipulative, and
13 electrical treatment of the human foot, including the ankle and
14 tendons that insert into the foot and the nonsurgical treatment of
15 the muscles and tendons of the leg governing the functions of the
16 foot.

17 (c) A doctor of podiatric medicine may not administer an
18 anesthetic other than local. If an anesthetic other than local is
19 required for any procedure, the anesthetic shall be administered
20 by another licensed health care practitioner who is authorized to
21 administer the required anesthetic within the scope of his or her
22 practice.

23 (d) (1) A doctor of podiatric medicine ~~who is ankle certified~~
24 ~~by the board on and after January 1, 1984~~, may do the following:

25 (A) Perform surgical treatment of the ankle and tendons at the
26 level of the ankle pursuant to subdivision (e).

27 (B) Perform services under the direct supervision of a physician
28 and surgeon, as an assistant at surgery, in surgical procedures that
29 are otherwise beyond the scope of practice of a doctor of podiatric
30 medicine.

31 (C) Perform a partial amputation of the foot no further proximal
32 than the Chopart's joint.

33 (2) Nothing in this subdivision shall be construed to permit a
34 doctor of podiatric medicine to function as a primary surgeon for
35 any procedure beyond his or her scope of practice.

36 (e) A doctor of podiatric medicine may perform surgical
37 treatment of the ankle and tendons at the level of the ankle only
38 in the following locations:

39 (1) A licensed general acute care hospital, as defined in Section
40 1250 of the Health and Safety Code.

1 (2) A licensed surgical clinic, as defined in Section 1204 of the
2 Health and Safety Code, if the doctor of podiatric medicine has
3 surgical privileges, including the privilege to perform surgery on
4 the ankle, in a general acute care hospital described in paragraph
5 (1) and meets all the protocols of the surgical clinic.

6 (3) An ambulatory surgical center that is certified to participate
7 in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395
8 et seq.) of the federal Social Security Act, if the doctor of podiatric
9 medicine has surgical privileges, including the privilege to perform
10 surgery on the ankle, in a general acute care hospital described in
11 paragraph (1) and meets all the protocols of the surgical center.

12 (4) A freestanding physical plant housing outpatient services
13 of a licensed general acute care hospital, as defined in Section
14 1250 of the Health and Safety Code, if the doctor of podiatric
15 medicine has surgical privileges, including the privilege to perform
16 surgery on the ankle, in a general acute care hospital described in
17 paragraph (1). For purposes of this section, a “freestanding physical
18 plant” means any building that is not physically attached to a
19 building where inpatient services are provided.

20 (5) An outpatient setting accredited pursuant to subdivision (g)
21 of Section 1248.1 of the Health and Safety Code.

22 ~~(f) A doctor of podiatric medicine shall not perform an admitting
23 history and physical examination of a patient in an acute care
24 hospital where doing so would violate the regulations governing
25 the Medicare program.~~

26 ~~(g) A doctor of podiatric medicine licensed under this chapter
27 is a licentiate for purposes of paragraph (2) of subdivision (a) of
28 Section 805, and thus is a health care practitioner subject to the
29 provisions of Section 2290.5 pursuant to subdivision (b) of that
30 section.~~

31 *SEC. 15. Section 2475 of the Business and Professions Code*
32 *is amended to read:*

33 2475. Unless otherwise provided by law, no postgraduate
34 trainee, intern, resident postdoctoral fellow, or instructor may
35 engage in the practice of podiatric medicine, or receive
36 compensation therefor, or offer to engage in the practice of
37 podiatric medicine unless he or she holds a valid, unrevoked, and
38 unsuspended certificate to practice podiatric medicine issued by
39 the division. However, a graduate of an approved college or school
40 of podiatric medicine upon whom the degree doctor of podiatric

1 medicine has been conferred, who is issued a resident's license,
2 which may be renewed annually ~~for up to four years~~ for this
3 purpose by the division upon recommendation of the board, and
4 who is enrolled in a postgraduate training program approved by
5 the board, may engage in the practice of podiatric medicine
6 whenever and wherever required as a part of that program and may
7 receive compensation for that practice under the following
8 conditions:

9 (a) A graduate with a resident's license in an approved
10 internship, residency, or fellowship program may participate in
11 training rotations outside the scope of podiatric medicine, under
12 the supervision of a physician and surgeon who holds a medical
13 doctor or doctor of osteopathy degree wherever and whenever
14 required as a part of the training program, and may receive
15 compensation for that practice. If the graduate fails to receive a
16 license to practice podiatric medicine under this chapter within
17 three years from the commencement of the postgraduate training,
18 all privileges and exemptions under this section shall automatically
19 cease.

20 (b) Hospitals functioning as a part of the teaching program of
21 an approved college or school of podiatric medicine in this state
22 may exchange instructors or resident or assistant resident doctors
23 of podiatric medicine with another approved college or school of
24 podiatric medicine not located in this state, or those hospitals may
25 appoint a graduate of an approved school as such a resident for
26 purposes of postgraduate training. Those instructors and residents
27 may practice and be compensated as provided in this section, but
28 that practice and compensation shall be for a period not to exceed
29 two years.

30 *SEC. 16. Section 2477 of the Business and Professions Code*
31 *is amended to read:*

32 2477. Nothing in this chapter prohibits the manufacture, the
33 recommendation, or the sale of either corrective shoes or appliances
34 for the human feet *to enhance comfort and performance, or,*
35 *following diagnosis and prescription by a licensed practitioner in*
36 *any case involving medical conditions.*

37 *SEC. 17. Section 2484 of the Business and Professions Code*
38 *is amended to read:*

39 2484. In addition to any other requirements of this chapter,
40 before a certificate to practice podiatric medicine may be issued,

1 each applicant shall show by evidence satisfactory to the board,
2 submitted directly to the board by the sponsoring institution, that
3 he or she has satisfactorily completed at least two years of
4 postgraduate podiatric medical and podiatric surgical training in
5 a general acute care hospital approved by the Council of *on*
6 Podiatric Medical Education.

7 *SEC. 18. Section 2493 of the Business and Professions Code*
8 *is amended to read:*

9 2493. (a) An applicant for a certificate to practice podiatric
10 medicine shall pass an examination in the subjects required by
11 Section 2483 in order to ensure a minimum of entry-level
12 competence.

13 (b) ~~The board shall require a passing score on the National Board~~
14 ~~of Podiatric Medical Examiners Part III examination that is~~
15 ~~consistent with the postgraduate training requirement in Section~~
16 ~~2484. The board, as of July 1, 2005, shall require a passing score~~
17 ~~one standard error of measurement higher than the national passing~~
18 ~~scale score until such time as the National Board of Podiatric~~
19 ~~Medical Examiners recommends a higher passing score consistent~~
20 ~~with Section 2484. In consultation with the Office of Professional~~
21 ~~Examination Services of the Department of Consumer Affairs, the~~
22 ~~board shall ensure that the part III examination adequately evaluates~~
23 ~~the full scope of practice established by Section 2472, including~~
24 ~~amputation and other foot and ankle surgical procedures, pursuant~~
25 ~~to Section 139.~~

26 *SEC. 19. Section 2496 of the Business and Professions Code*
27 *is amended to read:*

28 2496. In order to ensure the continuing competence of persons
29 licensed to practice podiatric medicine, the board shall adopt and
30 administer regulations ~~in accordance with the Administrative~~
31 ~~Procedure Act (Chapter 3.5 (commencing with Section 11340) of~~
32 ~~Part 1 of Division 3 of Title 2 of the Government Code) requiring~~
33 continuing education of those licensees. The board shall require
34 those licensees to demonstrate satisfaction of the continuing
35 education requirements and one of the following requirements at
36 each license renewal:

37 (a) Passage of an examination administered by the board within
38 the past 10 years.

39 (b) Passage of an examination administered by an approved
40 specialty certifying board within the past 10 years.

1 (c) Current diplomate, board-eligible, or board-qualified status
2 granted by an approved specialty certifying board within the past
3 10 years.

4 (d) Recertification of current status by an approved specialty
5 certifying board within the past 10 years.

6 (e) Successful completion of an approved residency or
7 fellowship program within the past 10 years.

8 (f) Granting or renewal of current staff privileges within the
9 past five years by a health care facility that is licensed, certified,
10 accredited, conducted, maintained, operated, or otherwise approved
11 by an agency of the federal or state government or an organization
12 approved by the Medical Board of California.

13 (g) Successful completion within the past five years of an
14 extended course of study approved by the board.

15 (h) Passage within the past 10 years of Part III of the
16 examination administered by the National Board of Podiatric
17 Medical Examiners.

18 *SEC. 20. Section 2497.5 of the Business and Professions Code*
19 *is amended to read:*

20 2497.5. (a) The board may request the administrative law
21 judge, under his or her proposed decision in resolution of a
22 disciplinary proceeding before the board, to direct any licensee
23 found guilty of unprofessional conduct to pay to the board a sum
24 not to exceed the actual and reasonable costs of the investigation
25 and prosecution of the case.

26 (b) The costs to be assessed shall be fixed by the administrative
27 law judge and shall not ~~in any event~~ be increased by the board.
28 ~~When the board does not adopt a proposed decision and remands~~
29 ~~the case to an administrative law judge, the administrative law~~
30 ~~judge shall not increase the amount of any costs assessed in the~~
31 ~~proposed decision unless the board does not adopt a proposed~~
32 ~~decision and in making its own decision finds grounds for~~
33 ~~increasing the costs to be assessed, not to exceed the actual and~~
34 ~~reasonable costs of the investigation and prosecution of the case.~~

35 (c) When the payment directed in the board's order for payment
36 of costs is not made by the licensee, the board may enforce the
37 order for payment by bringing an action in any appropriate court.
38 This right of enforcement shall be in addition to any other rights
39 the board may have as to any licensee directed to pay costs.

1 (d) In any judicial action for the recovery of costs, proof of the
2 board's decision shall be conclusive proof of the validity of the
3 order of payment and the terms for payment.

4 (e) (1) Except as provided in paragraph (2), the board shall not
5 renew or reinstate the license of any licensee who has failed to pay
6 all of the costs ordered under this section.

7 (2) Notwithstanding paragraph (1), the board may, in its
8 discretion, conditionally renew or reinstate for a maximum of one
9 year the license of any licensee who demonstrates financial
10 hardship and who enters into a formal agreement with the board
11 to reimburse the board within that one year period for those unpaid
12 costs.

13 (f) All costs recovered under this section shall be deposited in
14 the Board of Podiatric Medicine Fund as a reimbursement in either
15 the fiscal year in which the costs are actually recovered or the
16 previous fiscal year, as the board may direct.

17 *SEC. 21. Section 3501 of the Business and Professions Code*
18 *is amended to read:*

19 3501. (a) As used in this chapter:

20 (1) "Board" means the ~~Medical Board of California~~ *Physician*
21 *Assistant Board.*

22 (2) "Approved program" means a program for the education of
23 physician assistants that has been formally approved by the
24 committee.

25 (3) "Trainee" means a person who is currently enrolled in an
26 approved program.

27 (4) "Physician assistant" means a person who meets the
28 requirements of this chapter and is licensed by the committee.

29 (5) "Supervising physician" means a physician and surgeon
30 licensed by the ~~board~~ *Medical Board of California* or by the
31 Osteopathic Medical Board of California who supervises one or
32 more physician assistants, who possesses a current valid license
33 to practice medicine, and who is not currently on disciplinary
34 probation for improper use of a physician assistant.

35 (6) "Supervision" means that a licensed physician and surgeon
36 oversees the activities of, and accepts responsibility for, the medical
37 services rendered by a physician assistant.

38 ~~(7) "Committee" or "examining committee" means the Physician~~
39 ~~Assistant Committee.~~

40 (8)

1 (7) “Regulations” means the rules and regulations as set forth
2 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
3 of the California Code of Regulations.

4 ~~(9)~~

5 (8) “Routine visual screening” means uninvasive
6 nonpharmacological simple testing for visual acuity, visual field
7 defects, color blindness, and depth perception.

8 ~~(10)~~

9 (9) “Program manager” means the staff manager of the diversion
10 program, as designated by the executive officer of the ~~board~~
11 *Medical Board of California*. The program manager shall have
12 background experience in dealing with substance abuse issues.

13 ~~(11)~~

14 (10) “Delegation of services agreement” means the writing that
15 delegates to a physician assistant from a supervising physician the
16 medical services the physician assistant is authorized to perform
17 consistent with subdivision (a) of Section 1399.540 of Title 16 of
18 the California Code of Regulations.

19 ~~(12)~~

20 (11) “Other specified medical services” means tests or
21 examinations performed or ordered by a physician assistant
22 practicing in compliance with this chapter or regulations of the
23 ~~board~~ *Medical Board of California* promulgated under this chapter.

24 (b) A physician assistant acts as an agent of the supervising
25 physician when performing any activity authorized by this chapter
26 or regulations promulgated by the board under this chapter.

27 *SEC. 22. Section 3502 of the Business and Professions Code*
28 *is amended to read:*

29 3502. (a) Notwithstanding any other provision of law, a
30 physician assistant may perform those medical services as set forth
31 by the regulations of the ~~board~~ *Medical Board of California* when
32 the services are rendered under the supervision of a licensed
33 physician and surgeon who is not subject to a disciplinary condition
34 imposed by the ~~board~~ *Medical Board of California* prohibiting
35 that supervision or prohibiting the employment of a physician
36 assistant.

37 (b) Notwithstanding any other provision of law, a physician
38 assistant performing medical services under the supervision of a
39 physician and surgeon may assist a doctor of podiatric medicine
40 who is a partner, shareholder, or employee in the same medical

1 group as the supervising physician and surgeon. A physician
2 assistant who assists a doctor of podiatric medicine pursuant to
3 this subdivision shall do so only according to patient-specific orders
4 from the supervising physician and surgeon.

5 The supervising physician and surgeon shall be physically
6 available to the physician assistant for consultation when such
7 assistance is rendered. A physician assistant assisting a doctor of
8 podiatric medicine shall be limited to performing those duties
9 included within the scope of practice of a doctor of podiatric
10 medicine.

11 (c) (1) A physician assistant and his or her supervising physician
12 and surgeon shall establish written guidelines for the adequate
13 supervision of the physician assistant. This requirement may be
14 satisfied by the supervising physician and surgeon adopting
15 protocols for some or all of the tasks performed by the physician
16 assistant. The protocols adopted pursuant to this subdivision shall
17 comply with the following requirements:

18 (A) A protocol governing diagnosis and management shall, at
19 a minimum, include the presence or absence of symptoms, signs,
20 and other data necessary to establish a diagnosis or assessment,
21 any appropriate tests or studies to order, drugs to recommend to
22 the patient, and education to be provided to the patient.

23 (B) A protocol governing procedures shall set forth the
24 information to be provided to the patient, the nature of the consent
25 to be obtained from the patient, the preparation and technique of
26 the procedure, and the followup care.

27 (C) Protocols shall be developed by the supervising physician
28 and surgeon or adopted from, or referenced to, texts or other
29 sources.

30 (D) Protocols shall be signed and dated by the supervising
31 physician and surgeon and the physician assistant.

32 (2) The supervising physician and surgeon shall review,
33 countersign, and date a sample consisting of, at a minimum, 5
34 percent of the medical records of patients treated by the physician
35 assistant functioning under the protocols within 30 days of the date
36 of treatment by the physician assistant. The physician and surgeon
37 shall select for review those cases that by diagnosis, problem,
38 treatment, or procedure represent, in his or her judgment, the most
39 significant risk to the patient.

1 (3) Notwithstanding any other provision of law, the ~~board~~
2 *Medical Board of California* or ~~committee board~~ may establish
3 other alternative mechanisms for the adequate supervision of the
4 physician assistant.

5 (d) No medical services may be performed under this chapter
6 in any of the following areas:

7 (1) The determination of the refractive states of the human eye,
8 or the fitting or adaptation of lenses or frames for the aid thereof.

9 (2) The prescribing or directing the use of, or using, any optical
10 device in connection with ocular exercises, visual training, or
11 orthoptics.

12 (3) The prescribing of contact lenses for, or the fitting or
13 adaptation of contact lenses to, the human eye.

14 (4) The practice of dentistry or dental hygiene or the work of a
15 dental auxiliary as defined in Chapter 4 (commencing with Section
16 1600).

17 (e) This section shall not be construed in a manner that shall
18 preclude the performance of routine visual screening as defined
19 in Section 3501.

20 *SEC. 23. Section 3502.1 of the Business and Professions Code*
21 *is amended to read:*

22 3502.1. (a) In addition to the services authorized in the
23 regulations adopted by the ~~board~~ *Medical Board of California*,
24 and except as prohibited by Section 3502, while under the
25 supervision of a licensed physician and surgeon or physicians and
26 surgeons authorized by law to supervise a physician assistant, a
27 physician assistant may administer or provide medication to a
28 patient, or transmit orally, or in writing on a patient's record or in
29 a drug order, an order to a person who may lawfully furnish the
30 medication or medical device pursuant to subdivisions (c) and (d).

31 (1) A supervising physician and surgeon who delegates authority
32 to issue a drug order to a physician assistant may limit this authority
33 by specifying the manner in which the physician assistant may
34 issue delegated prescriptions.

35 (2) Each supervising physician and surgeon who delegates the
36 authority to issue a drug order to a physician assistant shall first
37 prepare and adopt, or adopt, a written, practice specific, formulary
38 and protocols that specify all criteria for the use of a particular
39 drug or device, and any contraindications for the selection.
40 Protocols for Schedule II controlled substances shall address the

1 diagnosis of illness, injury, or condition for which the Schedule II
2 controlled substance is being administered, provided, or issued.
3 The drugs listed in the protocols shall constitute the formulary and
4 shall include only drugs that are appropriate for use in the type of
5 practice engaged in by the supervising physician and surgeon.
6 When issuing a drug order, the physician assistant is acting on
7 behalf of and as an agent for a supervising physician and surgeon.

8 (b) “Drug order” for purposes of this section means an order
9 for medication that is dispensed to or for a patient, issued and
10 signed by a physician assistant acting as an individual practitioner
11 within the meaning of Section 1306.02 of Title 21 of the Code of
12 Federal Regulations. Notwithstanding any other provision of law,
13 (1) a drug order issued pursuant to this section shall be treated in
14 the same manner as a prescription or order of the supervising
15 physician, (2) all references to “prescription” in this code and the
16 Health and Safety Code shall include drug orders issued by
17 physician assistants pursuant to authority granted by their
18 supervising physicians and surgeons, and (3) the signature of a
19 physician assistant on a drug order shall be deemed to be the
20 signature of a prescriber for purposes of this code and the Health
21 and Safety Code.

22 (c) A drug order for any patient cared for by the physician
23 assistant that is issued by the physician assistant shall either be
24 based on the protocols described in subdivision (a) or shall be
25 approved by the supervising physician and surgeon before it is
26 filled or carried out.

27 (1) A physician assistant shall not administer or provide a drug
28 or issue a drug order for a drug other than for a drug listed in the
29 formulary without advance approval from a supervising physician
30 and surgeon for the particular patient. At the direction and under
31 the supervision of a physician and surgeon, a physician assistant
32 may hand to a patient of the supervising physician and surgeon a
33 properly labeled prescription drug prepackaged by a physician and
34 surgeon, manufacturer as defined in the Pharmacy Law, or a
35 pharmacist.

36 (2) A physician assistant may not administer, provide, or issue
37 a drug order to a patient for Schedule II through Schedule V
38 controlled substances without advance approval by a supervising
39 physician and surgeon for that particular patient unless the
40 physician assistant has completed an education course that covers

1 controlled substances and that meets standards, including
2 pharmacological content, approved by the committee. The
3 education course shall be provided either by an accredited
4 continuing education provider or by an approved physician assistant
5 training program. If the physician assistant will administer, provide,
6 or issue a drug order for Schedule II controlled substances, the
7 course shall contain a minimum of three hours exclusively on
8 Schedule II controlled substances. Completion of the requirements
9 set forth in this paragraph shall be verified and documented in the
10 manner established by the committee prior to the physician
11 assistant's use of a registration number issued by the United States
12 Drug Enforcement Administration to the physician assistant to
13 administer, provide, or issue a drug order to a patient for a
14 controlled substance without advance approval by a supervising
15 physician and surgeon for that particular patient.

16 (3) Any drug order issued by a physician assistant shall be
17 subject to a reasonable quantitative limitation consistent with
18 customary medical practice in the supervising physician and
19 surgeon's practice.

20 (d) A written drug order issued pursuant to subdivision (a),
21 except a written drug order in a patient's medical record in a health
22 facility or medical practice, shall contain the printed name, address,
23 and phone number of the supervising physician and surgeon, the
24 printed or stamped name and license number of the physician
25 assistant, and the signature of the physician assistant. Further, a
26 written drug order for a controlled substance, except a written drug
27 order in a patient's medical record in a health facility or a medical
28 practice, shall include the federal controlled substances registration
29 number of the physician assistant and shall otherwise comply with
30 the provisions of Section 11162.1 of the Health and Safety Code.
31 Except as otherwise required for written drug orders for controlled
32 substances under Section 11162.1 of the Health and Safety Code,
33 the requirements of this subdivision may be met through stamping
34 or otherwise imprinting on the supervising physician and surgeon's
35 prescription blank to show the name, license number, and if
36 applicable, the federal controlled substances number of the
37 physician assistant, and shall be signed by the physician assistant.
38 When using a drug order, the physician assistant is acting on behalf
39 of and as the agent of a supervising physician and surgeon.

1 (e) The medical record of any patient cared for by a physician
2 assistant for whom the physician assistant's Schedule II drug order
3 has been issued or carried out shall be reviewed and countersigned
4 and dated by a supervising physician and surgeon within seven
5 days.

6 (f) All physician assistants who are authorized by their
7 supervising physicians to issue drug orders for controlled
8 substances shall register with the United States Drug Enforcement
9 Administration (DEA).

10 (g) The ~~committee~~ *board* shall consult with the Medical Board
11 of California and report during its sunset review required by
12 Division 1.2 (commencing with Section 473) the impacts of
13 exempting Schedule III and Schedule IV drug orders from the
14 requirement for a physician and surgeon to review and countersign
15 the affected medical record of a patient.

16 *SEC. 24. Section 3502.3 of the Business and Professions Code*
17 *is amended to read:*

18 3502.3. (a) Notwithstanding any other provision of law, in
19 addition to any other practices that meet the general criteria set
20 forth in this chapter or the ~~board's~~ *Medical Board of California's*
21 regulations for inclusion in a delegation of services agreement, a
22 delegation of services agreement may authorize a physician
23 assistant to do any of the following:

24 (1) Order durable medical equipment, subject to any limitations
25 set forth in Section 3502 or the delegation of services agreement.
26 Notwithstanding that authority, nothing in this paragraph shall
27 operate to limit the ability of a third-party payer to require prior
28 approval.

29 (2) For individuals receiving home health services or personal
30 care services, after consultation with the supervising physician,
31 approve, sign, modify, or add to a plan of treatment or plan of care.

32 (b) Nothing in this section shall be construed to affect the
33 validity of any delegation of services agreement in effect prior to
34 the enactment of this section or those adopted subsequent to
35 enactment.

36 *SEC. 25. Section 3502.5 of the Business and Professions Code*
37 *is amended to read:*

38 3502.5. Notwithstanding any other provision of law, a physician
39 assistant may perform those medical services permitted pursuant
40 to Section 3502 during any state of war emergency, state of

1 emergency, or state of local emergency, as defined in Section 8558
2 of the Government Code, and at the request of a responsible federal,
3 state, or local official or agency, or pursuant to the terms of a
4 mutual aid operation plan established and approved pursuant to
5 the California Emergency Services Act (Chapter 7 (commencing
6 with Section 8550) of Division 1 of Title 2 of the Government
7 Code), regardless of whether the physician assistant's approved
8 supervising physician is available to supervise the physician
9 assistant, so long as a licensed physician is available to render the
10 appropriate supervision. "Appropriate supervision" shall not require
11 the personal or electronic availability of a supervising physician
12 if that availability is not possible or practical due to the emergency.
13 The local health officers and their designees may act as supervising
14 physicians during emergencies without being subject to approval
15 by the ~~board~~ *Medical Board of California*. At all times, the local
16 health officers or their designees supervising the physician
17 assistants shall be licensed physicians and surgeons. Supervising
18 physicians acting pursuant to this section shall not be subject to
19 the limitation on the number of physician assistants supervised
20 under Section 3516.

21 No responsible official or mutual aid operation plan shall invoke
22 this section except in the case of an emergency that endangers the
23 health of individuals. Under no circumstances shall this section
24 be invoked as the result of a labor dispute or other dispute
25 concerning collective bargaining.

26 ~~SEC. 2.~~

27 *SEC. 26.* Section 3504 of the Business and Professions Code
28 is amended to read:

29 3504. There is established a Physician Assistant ~~Committee~~
30 *board within the jurisdiction* of the Medical Board of California.
31 The ~~committee board~~ consists of nine members. This section shall
32 remain in effect only until January 1, 2017, and as of that date is
33 repealed, unless a later enacted statute, that is enacted before
34 January 1, 2017, deletes or extends that date. Notwithstanding
35 any other provision of law, the repeal of this section renders the
36 ~~committee board~~ subject to review by the appropriate policy
37 committees of the Legislature.

38 *SEC. 27.* Section 3504.1 of the Business and Professions Code
39 is amended to read:

1 3504.1. Protection of the public shall be the highest priority
2 for the Physician Assistant ~~Committee of the Medical Board of~~
3 ~~California~~ in exercising its licensing, regulatory, and disciplinary
4 functions. Whenever the protection of the public is inconsistent
5 with other interests sought to be promoted, the protection of the
6 public shall be paramount.

7 *SEC. 28. Section 3505 of the Business and Professions Code*
8 *is amended to read:*

9 3505. The members of the ~~committee board~~ shall include ~~one~~
10 ~~member of the Medical Board of California, a physician~~
11 ~~representative of a California medical school, an educator~~
12 ~~participating in an approved program for the training of physician~~
13 ~~assistants, a physician who is an approved supervising physician~~
14 ~~of a physician assistant and who is not a member of any division~~
15 ~~of the Medical Board of California, three physician assistants, and~~
16 ~~two public members. Upon the first expiration of the term of the~~
17 ~~member who is a member of the Medical Board of California, that~~
18 ~~position shall be filled by a member of the Medical Board of~~
19 ~~California who is a physician member. Upon the first expiration~~
20 ~~of the term of the member who is a physician representative of a~~
21 ~~California medical school, that position shall be filled by a public~~
22 ~~member. Upon the first expiration of the term of the member who~~
23 ~~is an educator participating in an approved program for the training~~
24 ~~of physician assistants, that position shall be filled by a physician~~
25 ~~assistant. Upon the first expiration of the term of the member who~~
26 ~~is an approved supervising physician of a physician assistant and~~
27 ~~not a member of any division of the Medical Board of California,~~
28 ~~that position shall be filled by a public member. Following the~~
29 ~~expiration of the terms of the members described above, the~~
30 ~~committee shall include four physician assistants, one physician~~
31 ~~and surgeon who is also a member of the Medical Board of~~
32 ~~California, and four public members. Upon the expiration of the~~
33 ~~term of the member who is a member of the Medical Board of~~
34 ~~California, that position shall be filled by a physician assistant.~~
35 ~~Following the expiration of the term of the member described~~
36 ~~above, the board shall include five physician assistants and four~~
37 ~~public members.~~

38 Each member of the ~~committee board~~ shall hold office for a
39 term of four years expiring on January 1st, and shall serve until
40 the appointment and qualification of a successor or until one year

1 shall have elapsed since the expiration of the term for which the
2 member was appointed, whichever first occurs. No member shall
3 serve for more than two consecutive terms. Vacancies shall be
4 filled by appointment for the unexpired terms.

5 The Governor shall appoint the licensed members qualified as
6 provided in this section and two public members. The Senate Rules
7 Committee and the Speaker of the Assembly shall each appoint a
8 public member.

9 *SEC. 29. Section 3506 of the Business and Professions Code*
10 *is amended to read:*

11 3506. Each member of the ~~committee board~~ shall receive a
12 per diem and expenses as provided in Section 103.

13 *SEC. 30. Section 3507 of the Business and Professions Code*
14 *is amended to read:*

15 3507. The appointing power has power to remove from office
16 any member of the ~~committee board~~, as provided in Section 106.

17 *SEC. 31. Section 3508 of the Business and Professions Code*
18 *is amended to read:*

19 3508. (a) The ~~committee board~~ may convene from time to
20 time as deemed necessary by the ~~committee board~~.

21 (b) Notice of each meeting of the ~~committee board~~ shall be
22 given at least two weeks in advance to those persons and
23 organizations who express an interest in receiving notification.

24 (c) The ~~committee board~~ shall receive permission of the director
25 to meet more than six times annually. The director shall approve
26 meetings that are necessary for the ~~committee board~~ to fulfill its
27 legal responsibilities.

28 *SEC. 32. Section 3509 of the Business and Professions Code*
29 *is amended to read:*

30 3509. It shall be the duty of the ~~committee board~~ to:

31 (a) Establish standards and issue licenses of approval for
32 programs for the education and training of physician assistants.

33 (b) Make recommendations to the ~~board~~ *Medical Board of*
34 *California* concerning the scope of practice for physician assistants.

35 (c) Make recommendations to the ~~board~~ *Medical Board of*
36 *California* concerning the formulation of guidelines for the
37 consideration of applications by licensed physicians to supervise
38 physician assistants and approval of such applications.

39 (d) Require the examination of applicants for licensure as a
40 physician assistant who meet the requirements of this chapter.

1 *SEC. 33. Section 3509.5 of the Business and Professions Code*
2 *is amended to read:*

3 3509.5. The ~~committee~~ *board* shall elect annually a chairperson
4 and a vice chairperson from among its members.

5 *SEC. 34. Section 3510 of the Business and Professions Code*
6 *is amended to read:*

7 3510. The ~~committee~~ *board* may adopt, amend, and repeal
8 regulations as may be necessary to enable it to carry into effect
9 the provisions of this chapter; provided, however, that the ~~board~~
10 *Medical Board of California* shall adopt, amend, and repeal such
11 regulations as may be necessary to enable it to implement the
12 provisions of this chapter under its jurisdiction. All regulations
13 shall be in accordance with, and not inconsistent with, the
14 provisions of this chapter. Such regulations shall be adopted,
15 amended, or repealed in accordance with the provisions of Chapter
16 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
17 Title 2 of the Government Code.

18 *SEC. 35. Section 3511 of the Business and Professions Code*
19 *is amended to read:*

20 3511. Five members shall constitute a quorum for transacting
21 any business. The affirmative vote of a majority of those present
22 at a meeting of the ~~committee~~ *board* shall be required to carry any
23 motion.

24 ~~SEC. 36.~~

25 *SEC. 36. Section 3512 of the Business and Professions Code*
26 *is amended to read:*

27 3512. (a) Except as provided in Sections 159.5 and 2020, the
28 ~~committee~~ *board* shall employ within the limits of the Physician
29 Assistant Fund all personnel necessary to carry out the provisions
30 of this chapter including an executive officer who shall be exempt
31 from civil service. The ~~board~~ *Medical Board of California* and
32 ~~committee~~ *board* shall make all necessary expenditures to carry
33 out the provisions of this chapter from the funds established by
34 Section 3520. The ~~committee~~ *board* may accept contributions to
35 effect the purposes of this chapter.

36 (b) This section shall remain in effect only until January 1, 2017,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2017, deletes or extends that date.

39 *SEC. 37. Section 3513 of the Business and Professions Code*
40 *is amended to read:*

1 3513. The ~~committee board~~ shall recognize the approval of
2 training programs for physician assistants approved by a national
3 accrediting organization. Physician assistant training programs
4 accredited by a national accrediting agency approved by the
5 ~~committee board~~ shall be deemed approved by the ~~committee~~
6 ~~board~~ under this section. If no national accrediting organization
7 is approved by the ~~committee board~~, the ~~committee board~~ may
8 examine and pass upon the qualification of, and may issue
9 certificates of approval for, programs for the education and training
10 of physician assistants that meet ~~committee board~~ standards.

11 *SEC. 38. Section 3514.1 of the Business and Professions Code*
12 *is amended to read:*

13 3514.1. (a) The ~~committee board~~ shall formulate by regulation
14 guidelines for the consideration of applications for licensure as a
15 physician's assistant.

16 (b) The ~~committee board~~ shall formulate by regulation
17 guidelines for the approval of physician's assistant training
18 programs.

19 ~~(c) This section shall become operative on July 1, 2001.~~

20 *SEC. 39. Section 3516 of the Business and Professions Code*
21 *is amended to read:*

22 3516. (a) Notwithstanding any other provision of law, a
23 physician assistant licensed by the ~~committee board~~ shall be
24 eligible for employment or supervision by any physician and
25 surgeon who is not subject to a disciplinary condition imposed by
26 the ~~board~~ *Medical Board of California* prohibiting that employment
27 or supervision.

28 (b) No physician and surgeon shall supervise more than four
29 physician assistants at any one time, except as provided in Section
30 3502.5.

31 (c) The ~~board~~ *Medical Board of California* may restrict a
32 physician and surgeon to supervising specific types of physician
33 assistants including, but not limited to, restricting a physician and
34 surgeon from supervising physician assistants outside of the field
35 of specialty of the physician and surgeon.

36 *SEC. 40. Section 3516.5 of the Business and Professions Code*
37 *is amended to read:*

38 3516.5. (a) Notwithstanding any other provision of law and
39 in accordance with regulations established by the ~~board~~ *Medical*
40 *Board of California*, the director of emergency care services in a

1 hospital with an approved program for the training of emergency
2 care physician assistants, may apply to the ~~board~~ *Medical Board*
3 *of California* for authorization under which the director may grant
4 approval for emergency care physicians on the staff of the hospital
5 to supervise emergency care physician assistants.

6 (b) The application shall encompass all supervising physicians
7 employed in that service.

8 (c) Nothing in this section shall be construed to authorize any
9 one emergency care physician while on duty to supervise more
10 than four physician assistants at any one time.

11 (d) A violation of this section by the director of emergency care
12 services in a hospital with an approved program for the training
13 of emergency care physician assistants constitutes unprofessional
14 conduct within the meaning of Chapter 5 (commencing with
15 Section 2000).

16 (e) A violation of this section shall be grounds for suspension
17 of the approval of the director or disciplinary action against the
18 director or suspension of the approved program under Section
19 3527.

20 *SEC. 41. Section 3517 of the Business and Professions Code*
21 *is amended to read:*

22 3517. The ~~committee~~ *board* shall require a written examination
23 of physician assistants in the manner and under the rules and
24 regulations as it shall prescribe, but the examination shall be
25 conducted in that manner as to ensure that the identity of each
26 applicant taking the examination will be unknown to all of the
27 examiners until all examination papers have been graded. Except
28 as otherwise provided in this chapter, or by regulation, no physician
29 assistant applicant shall receive approval under this chapter without
30 first successfully passing an examination given under the direction
31 of the ~~committee~~ *board*.

32 Examinations for licensure as a physician assistant may be
33 required by the ~~committee~~ *board* under a uniform examination
34 system, and for that purpose the ~~committee~~ *board* may make those
35 arrangements with organizations furnishing examination material
36 as may, in its discretion, be desirable. The ~~committee~~ *board* shall,
37 however, establish a passing score for each examination. The
38 licensure examination for physician assistants shall be held by the
39 ~~committee~~ *board* at least once a year with such additional

1 examinations as the ~~committee~~ *board* deems necessary. The time
2 and place of examination shall be fixed by the ~~committee~~ *board*.

3 *SEC. 42. Section 3518 of the Business and Professions Code*
4 *is amended to read:*

5 3518. The ~~committee~~ *board* shall keep current, two separate
6 registers, one for approved supervising physicians and one for
7 licensed physician's assistants, by specialty if applicable. These
8 registers shall show the name of each licensee, his or her last
9 known address of record, and the date of his or her licensure or
10 approval. Any interested person is entitled to obtain a copy of the
11 register in accordance with the Information Practices Act of 1977
12 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
13 4 of Division 3 of the Civil Code) upon application to the
14 ~~committee~~ *board* together with a sum as may be fixed by the
15 ~~committee~~ *board*, which amount shall not exceed the cost of this
16 list so furnished.

17 *SEC. 43. Section 3519 of the Business and Professions Code*
18 *is amended to read:*

19 3519. The ~~committee~~ *board* shall issue under the name of the
20 Medical Board of California a license to all physician assistant
21 applicants who meet all of the following requirements:

22 (a) Provide evidence of successful completion of an approved
23 program.

24 (b) Pass any examination required under Section 3517.

25 (c) Not be subject to denial of licensure under Division 1.5
26 (commencing with Section 475) or Section 3527.

27 (d) Pay all fees required under Section 3521.1.

28 *SEC. 44. Section 3519.5 of the Business and Professions Code*
29 *is amended to read:*

30 3519.5. (a) The ~~committee~~ *board* may issue under the name
31 of the ~~board~~ *Medical Board of California* a probationary license
32 to an applicant subject to terms and conditions, including, but not
33 limited to, any of the following conditions of probation:

34 (1) Practice limited to a supervised, structured environment
35 where the applicant's activities shall be supervised by another
36 physician assistant.

37 (2) Total or partial restrictions on issuing a drug order for
38 controlled substances.

39 (3) Continuing medical or psychiatric treatment.

40 (4) Ongoing participation in a specified rehabilitation program.

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

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

4 (7) Restrictions against engaging in certain types of medical
5 services.

6 (8) Compliance with all provisions of this chapter.

7 (b) The ~~committee board~~ and the ~~board~~ *Medical Board of*
8 *California* may modify or terminate the terms and conditions
9 imposed on the probationary license upon receipt of a petition
10 from the licensee.

11 (c) Enforcement and monitoring of the probationary conditions
12 shall be under the jurisdiction of the ~~committee board~~ and the
13 ~~board~~ *Medical Board of California*. These proceedings shall be
14 conducted in accordance with Chapter 5 (commencing with Section
15 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

16 *SEC. 45. Section 3520 of the Business and Professions Code*
17 *is amended to read:*

18 3520. Within 10 days after the beginning of each calendar
19 month the ~~board~~ *Medical Board of California* shall report to the
20 Controller the amount and source of all collections made under
21 this chapter and at the same time pay all those sums into the State
22 Treasury, where they shall be credited to the Physician Assistant
23 Fund, which fund is hereby created. All money in the fund shall
24 be used to carry out the purpose of this chapter.

25 *SEC. 46. Section 3521 of the Business and Professions Code*
26 *is amended to read:*

27 3521. The fees to be paid for approval to supervise physician
28 assistants are to be set by the ~~committee board~~ as follows:

29 (a) An application fee not to exceed fifty dollars (\$50) shall be
30 charged to each physician and surgeon applicant.

31 (b) An approval fee not to exceed two hundred fifty dollars
32 (\$250) shall be charged to each physician and surgeon upon
33 approval of an application to supervise physician assistants.

34 (c) A biennial renewal fee not to exceed three hundred dollars
35 (\$300) shall be paid for the renewal of an approval.

36 (d) The delinquency fee is twenty-five dollars (\$25).

37 (e) The duplicate approval fee is ten dollars (\$10).

38 (f) The fee for a letter of endorsement, letter of good standing,
39 or letter of verification of approval shall be ten dollars (\$10).

1 *SEC. 47. Section 3521.1 of the Business and Professions Code*
2 *is amended to read:*

3 3521.1. The fees to be paid by physician assistants are to be
4 set by the ~~committee~~ *board* as follows:

5 (a) An application fee not to exceed twenty-five dollars (\$25)
6 shall be charged to each physician assistant applicant.

7 (b) An initial license fee not to exceed two hundred fifty dollars
8 (\$250) shall be charged to each physician assistant to whom a
9 license is issued.

10 (c) A biennial license renewal fee not to exceed three hundred
11 dollars (\$300).

12 (d) The delinquency fee is twenty-five dollars (\$25).

13 (e) The duplicate license fee is ten dollars (\$10).

14 (f) The fee for a letter of endorsement, letter of good standing,
15 or letter of verification of licensure shall be ten dollars (\$10).

16 *SEC. 48. Section 3521.2 of the Business and Professions Code*
17 *is amended to read:*

18 3521.2. The fees to be paid by physician assistant training
19 programs are to be set by the ~~committee~~ *board* as follows:

20 (a) An application fee not to exceed five hundred dollars (\$500)
21 shall be charged to each applicant seeking program approval by
22 the ~~committee~~ *board*.

23 (b) An approval fee not to exceed one hundred dollars (\$100)
24 shall be charged to each program upon its approval by the
25 ~~committee~~ *board*.

26 *SEC. 49. Section 3521.3 is added to the Business and*
27 *Professions Code, to read:*

28 3521.3. *Every licensed physician assistant is exempt from the*
29 *payment of the renewal fee and requirement for continuing medical*
30 *education if the licensee has applied to the board for a retired*
31 *license. The holder of a retired license may not engage in the*
32 *practice of a physician assistant.*

33 *SEC. 50. Section 3521.4 is added to the Business and*
34 *Professions Code, to read:*

35 3521.4. (a) *Every licensed physician assistant is exempt from*
36 *the payment of the renewal fee specified in Section 3521.1 while*
37 *engaged in full-time training or active service in the Army, Navy,*
38 *Air Force, or Marines, or in the United States Public Health*
39 *Service.*

1 (b) Every person exempted from the payment of the renewal fee
2 by this section shall not engage in any private practice and shall
3 become liable for payment of such fee for the current renewal
4 period upon his or her discharge from full-time active service and
5 shall have a period of 60 days after becoming liable within which
6 to pay the renewal fee before the delinquency fee is required. Any
7 person who is discharged from active service within 60 days of
8 the end of a renewal period is exempt from the payment of the
9 renewal fee for that period.

10 (c) The time spent in full-time active service or training shall
11 not be included in the computation of the five-year period for
12 renewal and reinstatement of licensure provided in Sections 3524.

13 (d) Nothing in this section shall exempt a person, exempt from
14 renewal fees under this section, from meeting the continuing
15 education requirements as provided in Section 3524.5.

16 SEC. 51. Section 3521.5 of the Business and Professions Code
17 is amended to read:

18 3521.5. The ~~committee board~~ shall report to the appropriate
19 policy and fiscal committees of each house of the Legislature
20 whenever the ~~board~~ Medical Board of California approves a fee
21 increase pursuant to Sections 3521 and 3521.1. The ~~committee~~
22 board shall specify the reasons for each increase in the report.
23 Reports prepared pursuant to this section shall identify the
24 percentage of funds derived from an increase in fees pursuant to
25 Senate Bill 1077 of the 1991-92 Regular Session (Chapter 917,
26 Statutes of 1991) that will be used for investigational and
27 enforcement activities by the ~~board~~ Medical Board of California
28 and ~~committee board~~.

29 SEC. 52. Section 3522 of the Business and Professions Code
30 is amended to read:

31 3522. An approval to supervise physician assistants shall expire
32 at 12 midnight on the last day of the birth month of the physician
33 and surgeon during the second year of a two-year term if not
34 renewed.

35 The ~~board~~ Medical Board of California shall establish a cyclical
36 renewal program, including, but not limited to, the establishment
37 of a system of staggered expiration dates for approvals and a pro
38 rata formula for the payment of renewal fees by physician and
39 surgeon supervisors.

1 To renew an unexpired approval, the approved supervising
2 physician and surgeon, on or before the date of expiration, shall
3 apply for renewal on a form prescribed by the ~~board~~ *Medical Board*
4 *of California* and pay the prescribed renewal fee.

5 *SEC. 53. Section 3523 of the Business and Professions Code*
6 *is amended to read:*

7 3523. All physician assistant licenses shall expire at 12
8 midnight of the last day of the birth month of the licensee during
9 the second year of a two-year term if not renewed.

10 The ~~committee~~ *board* shall establish by regulation procedures
11 for the administration of a birthdate renewal program, including,
12 but not limited to, the establishment of a system of staggered
13 license expiration dates and a pro rata formula for the payment of
14 renewal fees by physician assistants affected by the implementation
15 of the program.

16 To renew an unexpired license, the licensee shall, on or before
17 the date of expiration of the license, apply for renewal on a form
18 provided by the ~~committee~~ *board*, accompanied by the prescribed
19 renewal fee.

20 *SEC. 54. Section 3524 of the Business and Professions Code*
21 *is amended to read:*

22 3524. A license or approval that has expired may be renewed
23 at any time within five years after its expiration by filing an
24 application for renewal on a form prescribed by the ~~committee~~
25 *board* or ~~board~~ *Medical Board of California*, as the case may be,
26 and payment of all accrued and unpaid renewal fees. If the license
27 or approval is not renewed within 30 days after its expiration, the
28 licensed physician assistant and approved supervising physician,
29 as a condition precedent to renewal, shall also pay the prescribed
30 delinquency fee, if any. Renewal under this section shall be
31 effective on the date on which the application is filed, on the date
32 on which all renewal fees are paid, or on the date on which the
33 delinquency fee, if any, is paid, whichever occurs last. If so
34 renewed, the license shall continue in effect through the expiration
35 date provided in Section 3522 or 3523 which next occurs after the
36 effective date of the renewal, when it shall expire, if it is not again
37 renewed.

38 *SEC. 55. Section 3524.5 of the Business and Professions Code*
39 *is amended to read:*

1 3524.5. The ~~committee board~~ may require a licensee to
2 complete continuing education as a condition of license renewal
3 under Section 3523 or 3524. The ~~committee board~~ shall not require
4 more than 50 hours of continuing education every two years. The
5 ~~committee board~~ shall, as it deems appropriate, accept certification
6 by the National Commission on Certification of Physician
7 Assistants (NCCPA), or another qualified certifying body, as
8 determined by the ~~committee board~~, as evidence of compliance
9 with continuing education requirements.

10 *SEC. 56. Section 3526 of the Business and Professions Code*
11 *is amended to read:*

12 3526. A person who fails to renew his or her license or approval
13 within five years after its expiration may not renew it, and it may
14 not be reissued, reinstated, or restored thereafter, but that person
15 may apply for and obtain a new license or approval if he or she:

16 (a) Has not committed any acts or crimes constituting grounds
17 for denial of licensure under Division 1.5 (commencing with
18 Section 475).

19 (b) Takes and passes the examination, if any, which would be
20 required of him or her if application for licensure was being made
21 for the first time, or otherwise establishes to the satisfaction of the
22 ~~committee board~~ that, with due regard for the public interest, he
23 or she is qualified to practice as a physician assistant.

24 (c) Pays all of the fees that would be required as if application
25 for licensure was being made for the first time.

26 *SEC. 57. Section 3527 of the Business and Professions Code*
27 *is amended to read:*

28 3527. (a) The ~~committee board~~ may order the denial of an
29 application for, or the issuance subject to terms and conditions of,
30 or the suspension or revocation of, or the imposition of
31 probationary conditions upon a physician assistant license after a
32 hearing as required in Section 3528 for unprofessional conduct
33 that includes, but is not limited to, a violation of this chapter, a
34 violation of the Medical Practice Act, or a violation of the
35 regulations adopted by the ~~committee board~~ or the ~~board~~ *Medical*
36 *Board of California.*

37 (b) The ~~committee board~~ may order the denial of an application
38 for, or the suspension or revocation of, or the imposition of
39 probationary conditions upon, an approved program after a hearing

1 as required in Section 3528 for a violation of this chapter or the
2 regulations adopted pursuant thereto.

3 (c) ~~The board~~ *Medical Board of California* may order the denial
4 of an application for, or the issuance subject to terms and conditions
5 of, or the suspension or revocation of, or the imposition of
6 probationary conditions upon, an approval to supervise a physician
7 assistant, after a hearing as required in Section 3528, for
8 unprofessional conduct, which includes, but is not limited to, a
9 violation of this chapter, a violation of the Medical Practice Act,
10 or a violation of the regulations adopted by the ~~committee board~~
11 or the ~~board~~ *Medical Board of California*.

12 (d) Notwithstanding subdivision (c), the Division of Medical
13 Quality of the Medical Board of California, in conjunction with
14 an action it has commenced against a physician and surgeon, may,
15 in its own discretion and without the concurrence of the ~~board~~
16 *Medical Board of California*, order the suspension or revocation
17 of, or the imposition of probationary conditions upon, an approval
18 to supervise a physician assistant, after a hearing as required in
19 Section 3528, for unprofessional conduct, which includes, but is
20 not limited to, a violation of this chapter, a violation of the Medical
21 Practice Act, or a violation of the regulations adopted by the
22 ~~committee or the board or the~~ *Medical Board of California*.

23 (e) ~~The committee board~~ may order the denial of an application
24 for, or the suspension or revocation of, or the imposition of
25 probationary conditions upon, a physician assistant license, after
26 a hearing as required in Section 3528 for unprofessional conduct
27 that includes, except for good cause, the knowing failure of a
28 licensee to protect patients by failing to follow infection control
29 guidelines of the ~~committee board~~, thereby risking transmission
30 of blood-borne infectious diseases from licensee to patient, from
31 patient to patient, and from patient to licensee. In administering
32 this subdivision, the ~~committee board~~ shall consider referencing
33 the standards, regulations, and guidelines of the State Department
34 of Public Health developed pursuant to Section 1250.11 of the
35 Health and Safety Code and the standards, regulations, and
36 guidelines pursuant to the California Occupational Safety and
37 Health Act of 1973 (Part 1 (commencing with Section 6300) of
38 Division 5 of the Labor Code) for preventing the transmission of
39 HIV, hepatitis B, and other blood-borne pathogens in health care
40 settings. As necessary, the ~~committee board~~ shall consult with the

1 California Medical Board, the Board of Podiatric Medicine, the
2 Board of Dental Examiners, the Board of Registered Nursing, and
3 the Board of Vocational Nursing and Psychiatric Technicians, to
4 encourage appropriate consistency in the implementation of this
5 subdivision.

6 The ~~committee~~ *board* shall seek to ensure that licensees are
7 informed of the responsibility of licensees and others to follow
8 infection control guidelines, and of the most recent scientifically
9 recognized safeguards for minimizing the risk of transmission of
10 blood-borne infectious diseases.

11 (f) The ~~committee~~ *board* may order the licensee to pay the costs
12 of monitoring the probationary conditions imposed on the license.

13 *SEC. 58. Section 3529 of the Business and Professions Code*
14 *is amended to read:*

15 3529. The ~~committee~~ *board* may hear any matters filed pursuant
16 to subdivisions (a) and (b) of Section 3527, or may assign ~~any such~~
17 *the matter* to a hearing officer. The ~~board~~ *Medical Board of*
18 *California* may hear any matters filed pursuant to subdivision (c)
19 of Section 3527, or may assign ~~any such~~ *the matter* to a hearing
20 officer. If a matter is heard by the ~~committee~~ *board* or the ~~board~~
21 *Medical Board of California*, the hearing officer who presided at
22 the hearing shall be present during the ~~committee's or board's~~ *or*
23 *the Medical Board of California's* consideration of the case, and,
24 if requested assist and advise the ~~committee or the board~~ *or the*
25 *Medical Board of California*.

26 *SEC. 59. Section 3530 of the Business and Professions Code*
27 *is amended to read:*

28 3530. (a) A person whose license or approval has been revoked
29 or suspended, or who has been placed on probation, may petition
30 the ~~committee~~ *board* for reinstatement or modification of penalty,
31 including modification or termination of probation, after a period
32 of not less than the following minimum periods has elapsed from
33 the effective date of the decision ordering that disciplinary action:

34 (1) At least three years for reinstatement of a license or approval
35 revoked for unprofessional conduct, except that the committee
36 may, for good cause shown, specify in a revocation order that a
37 petition for reinstatement may be filed after two years.

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

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

4 (b) The petition shall state any facts as may be required by the
5 ~~board~~ *Medical Board of California*. The petition shall be
6 accompanied by at least two verified recommendations from
7 physicians licensed either by the Medical Board of California or
8 the Osteopathic Medical Board who have personal knowledge of
9 the activities of the petitioner since the disciplinary penalty was
10 imposed.

11 (c) The petition may be heard by the ~~committee board~~. The
12 ~~committee board~~ may assign the petition to an administrative law
13 judge designated in Section 11371 of the Government Code. After
14 a hearing on the petition, the administrative law judge shall provide
15 a proposed decision to the ~~committee board~~ that shall be acted
16 upon in accordance with the Administrative Procedure Act.

17 (d) The ~~committee board~~ or the administrative law judge hearing
18 the petition, may consider all activities of the petitioner since the
19 disciplinary action was taken, the offense for which the petitioner
20 was disciplined, the petitioner's activities during the time the
21 license was in good standing, and the petitioner's rehabilitative
22 efforts, general reputation for truth, and professional ability. The
23 hearing may be continued, as the committee or administrative law
24 judge finds necessary.

25 (e) The ~~committee board~~ or administrative law judge, when
26 hearing a petition for reinstating a license or approval or modifying
27 a penalty, may recommend the imposition of any terms and
28 conditions deemed necessary.

29 (f) No petition shall be considered while the petitioner is under
30 sentence for any criminal offense, including any period during
31 which the petitioner is on court-imposed probation or parole. No
32 petition shall be considered while there is an accusation or petition
33 to revoke probation pending against the person. The ~~committee~~
34 ~~board~~ may deny, without a hearing or argument, any petition filed
35 pursuant to this section within a period of two years from the
36 effective date of the prior decision following a hearing under this
37 section.

38 (g) Nothing in this section shall be deemed to alter Sections 822
39 and 823.

1 *SEC. 60. Section 3531 of the Business and Professions Code*
2 *is amended to read:*

3 3531. A plea or verdict of guilty or a conviction following a
4 plea of nolo contendere made to a charge of a felony or of any
5 offense which is substantially related to the qualifications,
6 functions, or duties of the business or profession to which the
7 license was issued is deemed to be a conviction within the meaning
8 of this chapter. ~~The committee~~ *board* may order the license
9 suspended or revoked, or shall decline to issue a license when the
10 time for appeal has elapsed, or the judgment of conviction has
11 been affirmed on appeal or when an order granting probation is
12 made suspending the imposition of sentence, irrespective of a
13 subsequent order under the provisions of Section 1203.4 of the
14 Penal Code allowing such person to withdraw his plea of guilty
15 and to enter a plea of not guilty, or setting aside the verdict of
16 guilty, or dismissing the accusation, information or indictment.

17 *SEC. 61. Section 3533 of the Business and Professions Code*
18 *is amended to read:*

19 3533. Whenever any person has engaged in any act or practice
20 which constitutes an offense against this chapter, the superior court
21 of any county, on application of the ~~board~~ *Medical Board of*
22 *California*, may issue an injunction or other appropriate order
23 restraining such conduct. Proceedings under this section shall be
24 governed by Chapter 3 (commencing with Section 525) of Title 7
25 of Part 2 of the Code of Civil Procedure. ~~The board or the~~
26 ~~committee~~ *Medical Board of California or the board* may
27 commence action in the superior court under the provisions of this
28 section.

29 *SEC. 62. Section 3534 of the Business and Professions Code*
30 *is amended to read:*

31 3534. (a) It is the intent of the Legislature that the ~~examining~~
32 ~~committee~~ *board* shall seek ways and means to identify and
33 rehabilitate physician assistants whose competency is impaired
34 due to abuse of dangerous drugs or alcohol so that they may be
35 treated and returned to the practice of medicine in a manner which
36 will not endanger the public health and safety.

37 *SEC. 63. Section 3534.1 of the Business and Professions Code*
38 *is amended to read:*

39 3534.1. ~~The examining committee~~ *board* shall establish and
40 administer a diversion program for the rehabilitation of physician

1 assistants whose competency is impaired due to the abuse of drugs
2 or alcohol. The ~~examining committee board~~ may contract with
3 any other state agency or a private organization to perform its
4 duties under this article. The ~~examining committee board~~ may
5 establish one or more diversion evaluation committees to assist it
6 in carrying out its duties under this article. As used in this article,
7 “committee” means a diversion evaluation committee. A committee
8 created under this article operates under the direction of the
9 diversion program manager, as designated by the executive officer
10 of the ~~examining committee board~~. The program manager has the
11 primary responsibility to review and evaluate recommendations
12 of the committee.

13 *SEC. 64. Section 3534.2 of the Business and Professions Code*
14 *is amended to read:*

15 3534.2. (a) Any committee established by the ~~examining~~
16 ~~committee board~~ shall have at least three members. In making
17 appointments to a committee the ~~examining committee board~~ shall
18 consider the appointments of persons who are either recovering
19 of substance abuse and have been free from abuse for at least three
20 years immediately prior to their appointment or who are
21 knowledgeable in the treatment and recovery of substance abuse.
22 The ~~examining committee board~~ also shall consider the
23 appointment of a physician and surgeon who is board certified in
24 psychiatry.

25 (b) Appointments to a committee shall be by the affirmative
26 vote of a majority of members appointed to the ~~examining~~
27 ~~committee board~~. Each appointment shall be at the pleasure of the
28 ~~examining committee board~~ for a term not to exceed four years.
29 In its discretion, the ~~examining committee board~~ may stagger the
30 terms of the initial members so appointed.

31 (c) A majority of the members of a committee shall constitute
32 a quorum for the transaction of business. Any action requires an
33 affirmative vote of a majority of those members present at a
34 meeting constituting at least a quorum. Each committee shall elect
35 from its membership a chairperson and a vice chairperson.
36 Notwithstanding Article 9 (commencing with Section 11120) of
37 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
38 Code, relating to public meetings, a committee may convene in
39 closed session to consider matters relating to any physician
40 assistant applying for or participating in a diversion program, and

1 a meeting which will be convened entirely in closed session need
2 not comply with Section 11125 of the Government Code. A
3 committee shall only convene in closed session to the extent it is
4 necessary to protect the privacy of an applicant or participant. Each
5 member of a committee shall receive a per diem and shall be
6 reimbursed for expenses as provided in Section 103.

7 *SEC. 65. Section 3534.3 of the Business and Professions Code*
8 *is amended to read:*

9 3534.3. Each committee has the following duties and
10 responsibilities:

11 (a) To evaluate physician assistants who request participation
12 in the program and to make recommendations to the program
13 manager. In making recommendations, a committee shall consider
14 any recommendations from professional consultants on the
15 admission of applicants to the diversion program.

16 (b) To review and designate treatment facilities to which
17 physician assistants in the diversion program may be referred, and
18 to make recommendations to the program manager.

19 (c) The receipt and review of information concerning physician
20 assistants participating in the program.

21 (d) To call meetings as necessary to consider the requests of
22 physician assistants to participate in the diversion program, to
23 consider reports regarding participants in the program, and to
24 consider any other matters referred to it by the ~~examining~~
25 ~~committee board~~.

26 (e) To consider whether each participant in the diversion
27 program may with safety continue or resume the practice of
28 medicine.

29 (f) To set forth in writing the terms and conditions of the
30 diversion agreement that is approved by the program manager for
31 each physician assistant participating in the program, including
32 treatment, supervision, and monitoring requirements.

33 (g) To hold a general meeting at least twice a year, which shall
34 be open and public, to evaluate the diversion program's progress,
35 to prepare reports to be submitted to the ~~examining committee~~
36 ~~board~~, and to suggest proposals for changes in the diversion
37 program.

38 (h) For the purposes of Division 3.6 (commencing with Section
39 810) of Title 1 of the Government Code, any member of a
40 committee shall be considered a public employee. No ~~examining~~

1 ~~committee board~~ or committee member, contractor, or agent
2 thereof, shall be liable for any civil damage because of acts or
3 omissions which may occur while acting in good faith in a program
4 established pursuant to this article.

5 *SEC. 66. Section 3534.4 of the Business and Professions Code*
6 *is amended to read:*

7 3534.4. Criteria for acceptance into the diversion program shall
8 include all of the following: (a) the applicant shall be licensed as
9 a physician assistant by the ~~examining committee board~~ and shall
10 be a resident of California; (b) the applicant shall be found to abuse
11 dangerous drugs or alcoholic beverages in a manner which may
12 affect his or her ability to practice medicine safely or competently;
13 (c) the applicant shall have voluntarily requested admission to the
14 program or shall be accepted into the program in accordance with
15 terms and conditions resulting from a disciplinary action; (d) the
16 applicant shall agree to undertake any medical or psychiatric
17 examination ordered to evaluate the applicant for participation in
18 the program; (e) the applicant shall cooperate with the program
19 by providing medical information, disclosure authorizations, and
20 releases of liability as may be necessary for participation in the
21 program; and (f) the applicant shall agree in writing to cooperate
22 with all elements of the treatment program designed for him or
23 her.

24 An applicant may be denied participation in the program if the
25 ~~examining committee board~~, the program manager, or a committee
26 determines that the applicant will not substantially benefit from
27 participation in the program or that the applicant's participation
28 in the program creates too great a risk to the public health, safety,
29 or welfare.

30 *SEC. 67. Section 3534.5 of the Business and Professions Code*
31 *is amended to read:*

32 3534.5. A participant may be terminated from the program for
33 any of the following reasons: (a) the participant has successfully
34 completed the treatment program; (b) the participant has failed to
35 comply with the treatment program designated for him or her; (c)
36 the participant fails to meet any of the criteria set forth in
37 subdivision (d); or (d) it is determined that the participant has not
38 substantially benefited from participation in the program or that
39 his or her continued participation in the program creates too great
40 a risk to the public health, safety, or welfare. Whenever an

1 applicant is denied participation in the program or a participant is
2 terminated from the program for any reason other than the
3 successful completion of the program, and it is determined that
4 the continued practice of medicine by that individual creates too
5 great a risk to the public health and safety, that fact shall be
6 reported to the executive officer of the ~~examining committee~~ board
7 and all documents and information pertaining to and supporting
8 that conclusion shall be provided to the executive officer. The
9 matter may be referred for investigation and disciplinary action
10 by the ~~examining committee~~ board. Each physician assistant who
11 requests participation in a diversion program shall agree to
12 cooperate with the recovery program designed for him or her. Any
13 failure to comply with that program may result in termination of
14 participation in the program.

15 The ~~examination committee~~ board shall inform each participant
16 in the program of the procedures followed in the program, of the
17 rights and responsibilities of a physician assistant in the program,
18 and the possible results of noncompliance with the program.

19 *SEC. 68. Section 3534.6 of the Business and Professions Code*
20 *is amended to read:*

21 3534.6. In addition to the criteria and causes set forth in Section
22 3534.4, the ~~examining committee~~ board may set forth in its
23 regulations additional criteria for admission to the program or
24 causes for termination from the program.

25 *SEC. 69. Section 3534.7 of the Business and Professions Code*
26 *is amended to read:*

27 3534.7. All ~~examining committee~~ board and committee records
28 and records of proceedings and participation of a physician
29 assistant in a program shall be confidential and are not subject to
30 discovery or subpoena.

31 *SEC. 70. Section 3534.9 of the Business and Professions Code*
32 *is amended to read:*

33 3534.9. If the ~~examining committee~~ board contracts with any
34 other entity to carry out this section, the executive officer of the
35 ~~examining committee~~ board or the program manager shall review
36 the activities and performance of the contractor on a biennial basis.
37 As part of this review, the ~~examining committee~~ board shall review
38 files of participants in the program. However, the names of
39 participants who entered the program voluntarily shall remain

1 confidential, except when the review reveals misdiagnosis, case
2 mismanagement, or noncompliance by the participant.

3 *SEC. 71. Section 3534.10 of the Business and Professions Code*
4 *is amended to read:*

5 3534.10. Participation in a diversion program shall not be a
6 defense to any disciplinary action which may be taken by the
7 ~~examining committee~~ board. This section does not preclude the
8 ~~examining committee~~ board from commencing disciplinary action
9 against a physician assistant who is terminated unsuccessfully
10 from the program under this section. That disciplinary action may
11 not include as evidence any confidential information.

12 *SEC. 72. Section 3535 of the Business and Professions Code*
13 *is amended to read:*

14 3535. (a) Notwithstanding any other provision of law,
15 physicians and surgeons licensed by the Osteopathic Medical Board
16 of California may use or employ physician assistants provided (1)
17 each physician assistant so used or employed is a graduate of an
18 approved program and is licensed by the ~~committee~~ board, and
19 (2) the scope of practice of the physician assistant is the same as
20 that which is approved by the Division of Licensing of the Medical
21 Board of California for physicians and surgeons supervising
22 physician assistants in the same or similar specialty.

23 (b) Any person who violates subdivision (a) shall be guilty of
24 a misdemeanor punishable by imprisonment in a county jail not
25 exceeding six months, or by a fine not exceeding one thousand
26 dollars (\$1,000), or by both that imprisonment and fine.

27 (c) This section shall become operative on July 1, 2001.

28 *SEC. 73. Section 3537.10 of the Business and Professions Code*
29 *is amended to read:*

30 3537.10. (a) Subject to the other provisions of this article, the
31 Office of Statewide Health Planning and Development, hereafter
32 in this article referred to as the office, shall coordinate the
33 establishment of an international medical graduate physician
34 assistant training program, to be conducted at an appropriate
35 educational institution or institutions. The goal of the program
36 shall be to place as many international medical graduate physician
37 assistants in medically underserved areas as possible in order to
38 provide greater access to care for the growing population of
39 medically indigent and underserved. The method for accomplishing
40 this goal shall be to train foreign medical graduates to become

1 licensed as physician assistants at no cost to the participants in
2 return for a commitment from the participants to serve full-time
3 in underserved areas for a four-year period.

4 (b) By February 1, 1994, or one month after federal funds to
5 implement this article become available, whichever occurs later,
6 the office shall establish a training program advisory task force.
7 The task force shall be comprised of representatives from all of
8 the following groups:

- 9 (1) Physician assistant program directors.
- 10 (2) Foreign medical graduates.
- 11 (3) The California Academy of Physician Assistants.
- 12 (4) Nonprofit community health center directors.
- 13 (5) Physicians.
- 14 (6) ~~The committee board~~, at the ~~committee's board's~~ option.

15 The office may, instead, serve solely as a consultant to the task
16 force.

17 (c) The task force shall do all of the following:

18 (1) Develop a recommended curriculum for the training program
19 that shall be from 12 to 15 months in duration and shall, at a
20 minimum, meet curriculum standards consistent with the
21 ~~committee's board's~~ regulations. The program shall be subject to
22 ~~the committee's board's~~ approval. By April 1, 1994, or three
23 months after federal funds to implement this article become
24 available, whichever occurs later, the curriculum shall be presented
25 by the office to the Committee on Allied Health Education and
26 Accreditation of the American Medical Association, or its
27 successor organization, for approval.

28 (2) Develop recommended admission criteria for participation
29 in the pilot and ongoing program.

30 (3) Assist in development of linkages with academic institutions
31 for the purpose of monitoring and evaluating the pilot program.

32 *SEC. 74. Section 3537.20 of the Business and Professions Code*
33 *is amended to read:*

34 3537.20. Any person who has satisfactorily completed the
35 program established by this article shall be eligible for licensure
36 by the ~~committee board~~ as a "physician assistant" if the person
37 has complied with all of the following requirements:

38 (a) Has successfully completed the written examination required
39 under Section 3517.

1 (b) Has successfully completed the Test of English as a Foreign
2 Language (TOEFL).

3 *SEC. 75. Section 3537.30 of the Business and Professions Code*
4 *is amended to read:*

5 3537.30. (a) The Legislature recognizes that the goal of this
6 program would be compromised if participants do not observe
7 their commitments under this program to provide the required
8 service in a medically underserved area. The goal of this program
9 would not be met if all that it accomplished was merely to license
10 physician assistants that served populations that are not medically
11 underserved.

12 (b) Since damages would be difficult or impossible to ascertain
13 in the event of default by the participant, this section shall set forth
14 the extent of liquidated damages that shall be recoverable by the
15 program in the case of default.

16 (c) In the case of default by a participant who has successfully
17 completed the program and has obtained licensure under this
18 article, the program shall collect the following damages from the
19 participant:

20 (1) The total cost expended by the program for the training of
21 the applicant, and interest thereon from the date of default.

22 (2) The total amount needed for the program to seek cover as
23 set forth in subdivision (b) of Section 3537.35.

24 (3) The costs of enforcement, including, but not limited to, the
25 costs of collecting the liquidated damages, the costs of litigation,
26 and attorney's fees.

27 (d) The Attorney General may represent the office, or the
28 ~~committee board~~, or both in any litigation necessitated by this
29 article, or, if the Attorney General declines, the office, or the
30 ~~committee board~~, or both may hire other counsel for this purpose.

31 (e) Funds collected pursuant to subdivision (c) shall be allocated
32 as follows:

33 (1) Costs of training recovered pursuant to paragraph (1) of
34 subdivision (c) shall be allocated to the office to be used upon
35 appropriation for the continuing training program pursuant to this
36 article.

37 (2) Costs of seeking cover recovered pursuant to paragraph (2)
38 of subdivision (c) shall be deposited in the Physician Assistant
39 Training Fund established pursuant to Section 3537.40 for the

1 purposes of providing grants pursuant to subdivision (c) of Section
2 3537.35.

3 (3) Costs of enforcement recovered pursuant to paragraph (3)
4 of subdivision (c) shall be allocated between the office, and the
5 Attorney General, or other counsel, according to actual costs.

6 *SEC. 76. Section 3537.50 of the Business and Professions Code*
7 *is amended to read:*

8 3537.50. No General Fund revenues shall be expended to carry
9 out this article. The implementation of the pilot program and, if
10 applicable, the permanent program established by this article shall
11 be contingent upon the availability of federal funds, which do not
12 divert or detract from funds currently utilized to underwrite existing
13 physician assistant training programs or to fund existing functions
14 of the ~~committee board~~. The new funding shall be sufficient to
15 cover the full additional cost to the educational institution or
16 institutions that establish the program or programs, the cost of
17 tuition and attendance for the students in the program or programs,
18 and any additional costs, including enforcement costs, that the
19 office or the ~~committee board~~ incurs as a result of implementing
20 this article. Nothing in this article shall be construed as imposing
21 any obligations upon the office, the ~~committee board~~, or any
22 physician assistant training program in the absence of adequate
23 funding as described in this section. Nothing in this article shall
24 be construed either as precluding applicants for the program
25 established by this article from seeking state or federal scholarship
26 funds, or state and federal loan repayment funds available to
27 physician assistant students, or as requiring that any applicants be
28 granted preference in the award of those funds. Nothing in this
29 article shall be construed as impairing the autonomy of any
30 institution that offers a physician assistant training program.

31 *SEC. 77. Section 3540 of the Business and Professions Code*
32 *is amended to read:*

33 3540. A physician assistants corporation is a corporation which
34 is authorized to render professional services, as defined in Section
35 13401 of the Corporations Code, so long as that corporation and
36 its shareholders, officers, directors, and employees rendering
37 professional services who are certified physician assistants are in
38 compliance with the Moscone-Knox Professional Corporation Act,
39 the provisions of this article, and all other statutes and regulations

1 now or hereafter enacted or adopted pertaining to the corporation
2 and the conduct of its affairs.

3 With respect to a physician assistants corporation, the
4 governmental agency referred to in the Moscone-Knox Professional
5 Corporation Act (commencing with Section 13400) of Division 3
6 of Title 1 of the Corporations Code) is the ~~committee~~ board.

7 *SEC. 78. Section 3546 of the Business and Professions Code*
8 *is amended to read:*

9 3546. The ~~board~~ *Medical Board of California* may adopt and
10 enforce regulations to carry out the purposes and objectives of this
11 article, including regulations requiring (a) that the bylaws of a
12 physician assistant corporation shall include a provision whereby
13 the capital stock of the corporation owned by a disqualified person
14 (as defined in Section 13401 of the Corporations Code), or a
15 deceased person, shall be sold to the corporation or to the remaining
16 shareholders of the corporation within the time as the regulations
17 may provide, and (b) that a physician assistant corporation shall
18 provide adequate security by insurance or otherwise for claims
19 against it by its patients arising out of the rendering of professional
20 services.

21 *SEC. 79. No reimbursement is required by this act pursuant*
22 *to Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*

O

The following two Assembly Bills are not on the Agenda and are for discussion only:

AB 1932

AB 1976

CURRENT BILL STATUS

MEASURE : A.B. No. 1976
AUTHOR(S) : Logue (Principal coauthor: Pan) (Coauthors: Bill
Berryhill and Jeffries).
TOPIC : Professions and vocations: licensure and certification
requirements: military experience.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 04/11/2012

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/18/2012
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on V.A.
(Ayes 8. Noes 0.) (April 17). Re-referred to Com. on
V.A.
COMM. LOCATION : ASM VETERANS AFFAIRS
HEARING DATE : 04/24/2012

TITLE : An act to add Section 712 to the Business and
Professions Code, and to add Section 131136 to the
Health and Safety Code, relating to professions and
vocations.

AMENDED IN ASSEMBLY APRIL 11, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1976

**Introduced by Assembly Member Logue
(Principal coauthor: Assembly Member Pan)
(Coauthors: Assembly Members Bill Berryhill and Jeffries)**

February 23, 2012

An act to add Section 712 to the Business and Professions Code, and to add Section 131136 to the Health and Safety Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1976, as amended, Logue. Professions and vocations: licensure and certification requirements: military experience.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the rules and regulations of these healing arts boards to provide for methods of evaluating education, training, and experience obtained in military service if such training is applicable to the requirements of the particular profession or vocation regulated by the board. Under existing law, specified other healing arts professions are licensed or certified and regulated by the State Department of Public Health. In some instances, a board with the Department of Consumer Affairs or the State Department of Public Health approves schools offering educational course credit for meeting licensing or certification qualifications and requirements.

This bill would require a healing arts board within the Department of Consumer Affairs and the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to, *except as specified*, accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate. If a board or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than July 1, 2014, ~~require a board or the State Department of Public Health to accredit or otherwise approve only those schools that seeking accreditation or approval to have procedures in place to accept an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification.~~ *The bill would require each board and the State Department of Public Health to determine whether it is necessary to adopt regulations to implement these provisions and if so, would require those regulations to be adopted not later than January 1, 2014. If a board or the State Department of Public Health determines that such regulations are not necessary, the bill would require a report with an explanation regarding that determination to be submitted to the Governor and the Legislature not later than January 1, 2014.* The bill would require the Director of Consumer Affairs and the State Department of Public Health, by January 1, 2016, to submit to the Governor and the Legislature a written report on the progress of the boards and the department in complying with these provisions.

~~Existing law, the Administrative Procedure Act, sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The act may not be superseded or modified by any subsequent legislation except to the extent that the legislation does so expressly.~~

~~This bill would require each healing arts board within the Department of Consumer Affairs and the State Department of Public Health to adopt emergency regulations pursuant to specified procedures to carry out these provisions.~~

Under existing law, the Department of Veterans Affairs has specified powers and duties relating to various programs serving veterans.

With respect to complying with the bill's requirements *and obtaining specified funds to support compliance with these provisions*, this bill would require the Department of Veterans Affairs to provide technical

assistance to the healing arts boards within the Department of Consumer Affairs, the Director of Consumer Affairs, and the State Department of Public Health.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Veterans Health Care Workforce Act of 2012.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) Lack of health care providers continues to be a significant
6 barrier to access to health care services in medically underserved
7 urban and rural areas of California.

8 (2) Veterans of the United States Armed Forces and the
9 California National Guard gain invaluable education, training, and
10 practical experience through their military service.

11 (3) According to the federal Department of Defense, as of June
12 2011, one million veterans were unemployed nationally and the
13 jobless rate for post-9/11 veterans was 13.3 percent, with young
14 male veterans 18 to 24 years of age experiencing an unemployment
15 rate of 21.9 percent.

16 (4) According to the federal Department of Defense, during the
17 2011 federal fiscal year, 8,854 enlisted service members with
18 medical classifications separated from active duty.

19 (5) According to the federal Department of Defense, during the
20 2011 federal fiscal year, 16,777 service members who separated
21 from active duty listed California as their state of residence.

22 (6) It is critical, both to veterans seeking to transition to civilian
23 health care professions and to patients living in underserved urban
24 and rural areas of California, that the Legislature ensures that
25 veteran applicants to boards within the Department of Consumer
26 Affairs or the State Department of Public Health for licensure are
27 expedited through the qualifications and requirements process.

28 (b) It is the intent of the Legislature to ensure that boards within
29 the Department of Consumer Affairs ~~or~~ and the State Department
30 of Public Health and schools offering educational course credit
31 for meeting licensing qualifications and requirements fully and

1 expeditiously recognize and provide credit for an applicant's
2 military education, training, and practical experience.

3 SEC. 3. Section 712 is added to the Business and Professions
4 Code, to read:

5 712. (a) Notwithstanding any other provision of law, a board
6 described in this division shall, upon the presentation of satisfactory
7 evidence by an applicant for licensure, accept the education,
8 training, and practical experience completed by an applicant as a
9 member of the United States Armed Forces or Military Reserves
10 of the United States, the national guard of any state, the military
11 reserves of any state, or the naval militia of any state, toward the
12 qualifications and requirements to receive a license issued by that
13 board *unless the board determines that the education, training, or*
14 *practical experience is not substantially equivalent to the standards*
15 *of the board.*

16 (b) Not later than July 1, 2014, if a board described in this
17 division accredits or otherwise approves schools offering
18 educational course credit for meeting licensing qualifications and
19 requirements, the board shall ~~only accredit or otherwise approve~~
20 *require* those schools ~~that seeking accreditation or approval to~~
21 have procedures in place to fully accept an applicant's military
22 education, training, and practical experience toward the completion
23 of an educational program that would qualify a person to apply
24 for licensure.

25 (c) (1) Each board described in this division shall *determine*
26 *whether it is necessary to* adopt regulations to implement this
27 section. ~~The adoption, amendment, repeal, or readoption of a~~
28 ~~regulation authorized by this section is deemed to address an~~
29 ~~emergency, for purposes of Sections 11346.1 and 11349.6 of the~~
30 ~~Government Code, and each board is hereby exempted for this~~
31 ~~purpose from the requirements of subdivision (b) of Section~~
32 ~~11346.1 of the Government Code.~~

33 (2) *If a board determines it is necessary to adopt regulations,*
34 *the board shall adopt those regulations not later than January 1,*
35 *2014.*

36 (3) *If a board determines it is not necessary to adopt regulations,*
37 *the board shall, not later than January 1, 2014, submit to the*
38 *Governor and the Legislature a written report explaining why such*
39 *regulations are not necessary. This paragraph shall become*
40 *inoperative on January 1, 2017.*

1 (d) With respect to complying with the requirements of this
2 section *including the determination of substantial equivalency*
3 *between the education, training, or practical experience of an*
4 *applicant and the board's standards, and obtaining state, federal,*
5 *or private funds to support compliance with this section, the*
6 Department of Veterans Affairs shall provide technical assistance
7 to the boards described in this division and to the director.

8 (e) (1) On or before January 1, 2016, the director shall submit
9 to the Governor and the Legislature a written report on the progress
10 of the boards described in this division toward compliance with
11 this section.

12 (2) *This subdivision shall become inoperative on January 1,*
13 *2017.*

14 (f) A report to the Legislature pursuant to this section shall be
15 submitted in compliance with Section 9795 of the Government
16 Code.

17 ~~(g) This section shall become inoperative on January 1, 2017.~~

18 SEC. 4. Section 131136 is added to the Health and Safety Code,
19 to read:

20 131136. (a) Notwithstanding any other provision of law, the
21 department shall, upon the presentation of satisfactory evidence
22 by an applicant for licensure or certification in one of the
23 professions described in subdivision (b), accept the education,
24 training, and practical experience completed by an applicant as a
25 member of the United States Armed Forces or Military Reserves
26 of the United States, the national guard of any state, the military
27 reserves of any state, or the naval militia of any state, toward the
28 qualifications and requirements to receive a license issued by the
29 department *unless the department determines that the education,*
30 *training, or practical experience is not substantially equivalent to*
31 *the standards of the department.*

32 (b) The following professions are applicable to this section:

33 (1) Medical laboratory technician as described in Section 1260.3
34 of the Business and Professions Code.

35 (2) Clinical laboratory scientist as described in Section 1262 of
36 the Business and Professions Code.

37 (3) Radiologic technologist as described in Chapter 6
38 (commencing with Section 114840) of Part 9 of Division 104.

39 (4) Nuclear medicine technologist as described in Chapter 4
40 (commencing with Section 107150) of Part 1 of Division 104.

1 (5) Certified nurse assistant as described in Article 9
2 (commencing with Section 1337) of Chapter 2 of Division 2.

3 (6) Certified home health aide as described in Section 1736.1.

4 (7) Certified hemodialysis technician as described in Article
5 3.5 (commencing with Section 1247) of Chapter 3 of Division 2
6 of the Business and Professions Code.

7 (8) Nursing home administrator as described in Chapter 2.35
8 (commencing with Section 1416) of Division 2.

9 (c) Not later than July 1, 2014, if the department accredits or
10 otherwise approves schools offering educational course credit for
11 meeting licensing and certification qualifications and requirements,
12 the department shall ~~only accredit or otherwise approve~~ *require*
13 those schools ~~that seeking accreditation or approval to~~ have
14 procedures in place to fully accept an applicant's military
15 education, training, and practical experience toward the completion
16 of an educational program that would qualify a person to apply
17 for licensure or certification.

18 (d) ~~With respect to complying with the requirements of this~~
19 ~~section, the~~ *(1) Not later than January 1, 2014, the department*
20 *shall determine whether it is necessary to adopt regulations to*
21 *implement this section. The adoption, amendment, repeal, or*
22 *readoption of a regulation authorized by this section is deemed to*
23 *address an emergency, for purposes of Sections 11346.1 and*
24 *11349.6 of the Government Code, and the department is hereby*
25 *exempted for this purpose from the requirements of subdivision*
26 *(b) of Section 11346.1 of the Government Code.*

27 *(2) If the department determines it is necessary to adopt*
28 *regulations, the department shall adopt those regulations not later*
29 *than January 1, 2014.*

30 *(3) If the department determines it is not necessary to adopt*
31 *regulations, the department shall, not later than January 1, 2014,*
32 *submit to the Governor and the Legislature a written report*
33 *explaining why such regulations are not necessary. This paragraph*
34 *shall become inoperative on January 1, 2017.*

35 (e) With respect to complying with the requirements of this
36 section *including the determination of substantial equivalency*
37 *between the education, training, or practical experience of an*
38 *applicant and the department's standards, and obtaining state,*
39 *federal, or private funds to support compliance with this section,*

1 the Department of Veterans Affairs shall provide technical
2 assistance to the department and to the State Public Health Officer.

3 (f) (1) On or before January 1, 2016, the department shall
4 submit to the Governor and the Legislature a written report on the
5 department's progress toward compliance with this section.

6 (2) *This subdivision shall become inoperative on January 1,*
7 *2017.*

8 (g) A report to the Legislature pursuant to this section shall be
9 submitted in compliance with Section 9795 of the Government
10 Code.

11 ~~(h) This section shall become inoperative on January 1, 2017.~~

CURRENT BILL STATUS

MEASURE : A.B. No. 1932
AUTHOR(S) : Gorell (Coauthor: Cook).
TOPIC : United States armed services: healing arts boards.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 04/17/2012

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/18/2012
LAST HIST. ACTION : Re-referred to Com. on V.A.
COMM. LOCATION : ASM VETERANS AFFAIRS
HEARING DATE : 04/24/2012

TITLE : An act to add Section 710.2 to the Business and Professions Code, relating to healing arts.

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1932

Introduced by Assembly Member ~~Cook~~ *Gorell*
(Coauthor: Assembly Member *Cook*)

February 22, 2012

An act to add Section 710.2 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1932, as amended, ~~Cook~~ *Gorell*. United States armed services: healing arts boards.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the rules and regulations of these healing arts boards to provide for methods of evaluating education, training, and experience obtained in military service if such training is applicable to the requirements of the particular profession or vocation regulated by the board. Under existing law, the Department of Veterans Affairs has specified powers and duties relating to various programs serving veterans.

This bill would require, by January 1, 2014, and annually thereafter, every healing arts board to issue a specified written report to the Department of Veterans Affairs *and the Legislature, as specified*, that clearly details the methods of evaluating the education, training, and experience obtained in military service and whether that education, training, and experience is applicable to the board's requirements for licensure. The bill would declare the intent of the Legislature in this regard.

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

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

1 SECTION 1. Section 710 of the Business and Professions Code
2 was enacted in 1969 and because healing arts boards have not
3 demonstrated significant compliance with that section, it is the
4 intent of the Legislature to establish an annual reporting
5 requirement to compel these boards to provide information about
6 the methods of evaluating education, training, and experience
7 obtained in military service in order to meet the needs of the
8 upcoming wave of armed service members returning to civilian
9 life.

10 SEC. 2. Section 710.2 is added to the Business and Professions
11 Code, to read:

12 710.2. (a) By January 1, 2014, and annually thereafter, every
13 healing arts board described in this division shall issue a written
14 report to the Department of Veterans Affairs *and to the Legislature*
15 that clearly details the methods of evaluating the education,
16 training, and experience obtained in military service and whether
17 that education, training, and experience is applicable to the board's
18 requirements for licensure. This written report shall include, but
19 not be limited to, quantitative information about the number of
20 service members who have applied for and have used their military
21 education, training, and experience to fulfill the board's
22 requirements for licensure.

23 (b) (1) *The requirement to submit a report to the Legislature*
24 *under subdivision (a) shall be inoperative on January 1, 2018,*
25 *pursuant to Section 10231.5 of the Government Code.*

26 (2) *A report to the Legislature shall be submitted in compliance*
27 *with Section 9795 of the Government Code.*

The following regulatory changes became effective 11/5/2011

§ 1399.503. Delegation of Functions.

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act, Section 11500, et seq. of the Government Code, the division or the committee, as the case may be, delegates and confers upon the executive officer of the Committee, or in his or her absence, the designee of the executive officer, all functions necessary to the dispatch of business of the division and Committee in connection with investigative and administrative proceedings under their jurisdiction, including, the ability to accept default decisions and to approve settlement agreements for the surrender or interim suspension of a license.

Note: Authority cited: Sections 2018 and 3510, Business and Professions Code.
Reference: Sections 3528 and 3529, Business and Professions Code; and Section 11415.60, Government Code.

§ 1399.507.5. Physical or Mental Examination of Applicants.

In addition to any other requirements for licensure, whenever it reasonably appears that an applicant for a license may be unable to perform as a physician assistant safely because the applicant's ability to perform may be impaired due to mental illness or physical illness affecting competency, the Committee may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the Committee. The applicant shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available to the applicant. If after receiving the evaluation report the Committee determines that the applicant is unable to safely practice, the Committee may deny the application.

Note: Authority cited: Sections 3504.1 and 3510, Business and Professions Code.
Reference: Sections 3514.1 and 3519.5, Business and Professions Code.

§ 1399.521.5. Unprofessional Conduct.

In addition to the conduct described in Section 3527 of the Code, "unprofessional conduct" also includes the following:

(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice to which the licensee is or expects to be named as a party, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the Committee.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the Committee.

(b) Failure to provide to the Committee, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(c) The commission of any act of sexual abuse or misconduct.

(d) Failure to cooperate and participate in any Committee investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(e) Failure to report to the Committee within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(f) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the Committee.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3504.1 and 3510, Business and Professions Code.

§ 1399.523. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the Physician Assistant Committee shall consider the disciplinary guidelines entitled "Physician Assistant Committee Manual of Model Disciplinary Guidelines and Model Disciplinary Orders" 3rd Edition 2007, which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Physician Assistant Committee, in its sole discretion, determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Note: Authority cited: Sections 3510, 3527, 3528, 3529, 3530, 3531, 3532 and 3533, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 11400.20 and 11425.50(e), Government Code; and Sections 729, 3527, 3528, 3529, 3530, 3531, 3532 and 3533, Business and Professions Code.

§ 1399.523.5. Required Actions Against Registered Sex Offenders.

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the Committee shall:

(1) Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

(3) Deny any petition to reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration; provided, however, that nothing in this paragraph shall prohibit the Committee from exercising its discretion to deny or discipline a licensee under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the Committee from exercising its discretion to deny or discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3504.1, 3510, 3527, 3528, 3530 and 3531, Business and Professions Code.

PHYSICIAN ASSISTANT COMMITTEE
MEETING DATES FOR 2012

<u>DATE</u>	<u>LOCATION</u>
Monday, May 7 th	Sacramento
Monday, August 6 th	Sacramento
Monday, October 29 th	Sacramento

State Pay Period Calendar for 2012

JANUARY 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY 2012

21 Days 168 Hours

SU	M	TU	W	TH	F	SA
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

MARCH 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL 2012

21 Days 168 Hours

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

JUNE 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
				31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

JULY 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

SEPTEMBER 2012

21 Days 168 Hours

SU	M	TU	W	TH	F	SA
					31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

OCTOBER 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

NOVEMBER 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
			31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

DECEMBER 2012

22 Days 176 Hours

SU	M	TU	W	TH	F	SA
					30	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOTE: Holidays and pay periods after July 1, 2010 are subject to any collective bargaining agreements negotiated in Fiscal Year 2010-2011 or thereafter.