



MEETING NOTICE

August 6, 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 May 7, 2012 Meeting Minutes (Sachs)
4. Public Comment on Items not on the Agenda (Sachs)
5. Reports
 - a. Chairman Report (Sachs)
 - b. Executive Officer Report (Portman)
 - c. Licensing Program Activity Report (Caldwell)
 - 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 (Sachs)
 - 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)
 - d. Consideration of Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines Update (Staff/Freedman)

Agenda – Page 2

8. **CLOSED SESSION:** Pursuant to Section 11126(c) (3) of the Government Code, the Committee will move into closed session to deliberate on disciplinary matters
9. **CLOSED SESSION:** Pursuant to Section 11126(a) (1) of the Government Code, the Committee will move into closed session to evaluate the Executive Officer

RETURN TO OPEN SESSION

10. Discussion and Consideration of Changes in Accreditation Requirements Affecting Two Year Programs (Sachs)
11. Sunset Review Update (Sachs)
 - a. Proposal to Change from Physician Assistant Committee to Physician Assistant Board
 - b. Update on BreEZe Implementation
 - c. Discussion and Consideration of Promoting Workforce Development
12. Consideration of Legislation of Interest to the Physician Assistant Committee (Sachs) - SB 1236 (Sunset), SB 1483, SB 1501, SB 1575, AB 1548, AB 137, AB 1894, AB 1904
13. Review of and Discussion of Updating the Strategic Plan
14. Schedule of 2012 Meeting Dates and Locations (Sachs)
15. Agenda Items for Next Meeting (Sachs)
16. Adjournment (Sachs)

Note: Agenda discussion and report items are subject to action being taken on them during the meeting by the Committee at its discretion. All times when stated are approximate and subject to change without prior notice at the discretion of the Committee. Agenda items may be taken out of order and total time allocated for public comment on particular issues may be limited. While the Committee intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

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.





Meeting Minutes

MAY 7, 2012

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

1. **Call to Order by Chairman**

Chairman Sachs called the meeting to order at 9:05 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
Laura Freedman, Senior Staff Counsel, Dept.
of Consumer Affairs (DCA)
Glenn Mitchell, Regulation/Lead Licensing
Analyst
Dianne Tincher, Enforcement Analyst
Lynn Forsyth, Staff Services Analyst

3. **Approval of February 6, 2012 Meeting Minutes**

The February 6, 2012 minutes were approved as drafted.
(m/Diaz, s/Klompus, 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 briefly introduced the members of the Committee. Chairman Sachs indicated that a quorum was present.

Chairman Sachs reported that the Committee received a letter of resignation from Dr. Low on April 23, 2012. Dr. Low indicated that due to other commitments that he would be unable to continue as a member of the Committee. Chairman Sachs indicated the Committee will miss Dr. Low's participation and valuable input and will regrettably accept his resignation.

Chairman Sachs reported that he attended the Committee's Sunset hearing along with Executive Officer Elberta Portman and that a full report will be discussed under agenda item number ten, the Sunset Review update.

Chairman Sachs also reported that he attended the Medical Board of California meeting on May 3, 2012 to discuss the proposed personal presence regulatory change. This item will be discussed in detail under agenda item 7a.

Chairman Sachs presented Kurt Heppler, legal counsel, with a plaque of appreciation for the all the years of dedicated service to the Committee. Mr. Heppler previously served as the Committee's legal counsel and most recently served temporarily while the Committee's legal counsel was out on a leave of absence.

b. **Executive Officer's Report**

Ms. Portman reported that there is no backlog in processing or issuing PA licenses. Ms. Portman added that licensing technician, Julie Caldwell, has quickly learned the licensing program.

Ms. Portman reported that the Committee has 38.49% of this year's budget remaining as of March 31, 2012. Ms. Portman indicated that this fiscal year we did not have as many interim suspension cases and that some of the older cases that required more hours of investigation have been resolved, thus, reducing the amount of funds needed for investigative and attorney general purposes.

Ms. Portman reported that staff has been participating in meetings for BreEZE testing, configuration and implementation working groups. Ms. Portman reported that weekly meetings will be held until the implementation of BreEZe is completed in September 2012.

c. **Licensing Program Activity Report**

Between January 1, 2012 and April 1, 2012, 173 licenses were issued. As of April 1, 2012, 8,520 licenses are renewed and current. Currently there are a total of 157 approved California training programs

d. Diversion Program Activity Report

As of April 1, 2012, the Diversion Program had 26 total participants; 6 self-referred participants and 20 Committee referrals, for a total of 102 participants since program implementation in 1990.

e. Enforcement Program Activity Report

Between July 1, 2011 and March 31, 2012, 176 complaints were received; 71 complaints are pending; 25 investigations are pending; 45 probationers, and 24 cases awaiting administrative adjudication at the Office of the Attorney General.

6. **Department of Consumer Affairs Director's Update**

The Department of Consumer Affairs did not provide an update at this time.

7. **Regulations**

a. Consideration of Regulatory Proposal Title 16 CCR §1399.545 - Personal Presence

Chairman Sachs reported that this proposed regulatory change has been in the process over the past year that included formation of a sub-committee to address this issue and included Kurt Hepler, Senior Staff Counsel. Chairman Sachs indicated that draft regulation language was developed by members of the subcommittee. Chairman Sachs reported that the Committee adopted the draft regulatory language changes at the last meeting and this was sent to the Medical Board of California (MBC) board members because they have legal authority over physician assistant scope of practice regulations. Chairman Sachs reported that following a presentation to the MBC board members, the board members discussed the proposal and determined that the proposed language was too broad and chose not to set it for hearing. They requested that the Committee review and revise the proposed language to address the MBC's concerns and resubmit the proposal at a future MBC meeting.

Based on the outcome of this proposal, a suggestion was made to give a presentation to the MBC board members regarding the scope of practice of PAs, the delegation of service agreement and the PA education and training.

Tracy Del Nero, licensed physician assistant and educator, recommended and requested that the Committee reconsider continuing this subject.

Chairman Sachs requested that Ms. Freedman, Staff Counsel, review the prior legal opinion regarding this topic and report back to the Committee at the next meeting so that the Committee may determine how to proceed.

b. Consideration of Regulatory Proposal Title 16 CCR §1399.536 - Preceptors in Physician Assistant Training Programs

Mr. Mitchell reported that a regulatory hearing was conducted on February 6, 2012 regarding proposed amendments to Section 199.536 in title 16 of the California Code of Regulations. At that meeting a motion was made to make corrections to the original language and then send out for a fifteen day comment. No negative response has been received regarding the proposed changes.

The Committee reviewed the proposed language and a motion was made to adopt additional language jointly proposed by the California Medical Association and the California Academy of Physician Assistants which stated "(a) to read as follows: Preceptorship shall mean the supervised clinical practice of a physician assistant student's training. A preceptorship shall include licensed physicians as preceptors. Other licenses 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".

Also, under Section (A) change the word "means" to "include but not limited to" in the first sentence.

(m/Stumpf, s/Klompus, motion passes)

A motion was made to direct staff to prepare another fifteen day notice and assuming no adverse comments are received, the Executive Officer is delegated authority to adopt the final rulemaking and to make any non-subsequent changes that would be required by OAL.

(m/Klompus, s/Schasa, motion passes)

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

Laura Freedman, Staff Counsel informed the Committee members that Business and Professions Code Section 901, requires that each health care agency within the Department of Consumer Affairs adopt the provisions of this law.

One aspect of the proposed language was charging an application processing fee. Staff was requested to seek direction from the budget office regarding the fee. The Committee also directed staff to amend the proposed language on page number 5 change the three to six in sub-section D.

Following a discussion related to the proposed language the following motion was made:

Change language on page 4, 1C to say "The applicant has not passed the examination administered by the National Commission of Certification of Physician Assistants" and change the language on page 5 item 2D to read "The applicant has participated in six or more sponsored events during the 12 month period immediately preceding the current application." Also, request staff to work with the budget office to determine how much it would cost to process the

applications and insert the cost on page 3 item 1. Also, to bring back the draft language to the Committee at the next meeting for further discussion.
(m/Diaz, s/Schasa, vote 4-1-0, one opposed, motion passes).

d. Consideration of Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines Update

Ms. Portman reported that the Committee has been directed to incorporate SB 1441 Uniform Standards Regarding Substance Abusing Healing Arts Licensees into the Model Disciplinary Guidelines and incorporate them into the Diversion Program requirements. Ms. Portman also stated that Glenn Mitchell is working with Kurt Heppler to incorporate the changes into the contract with Maximus, the diversion program contractor.

Ms. Portman also reported that staff is working on revising the Committee's disciplinary guidelines and implementing the SB 1441 standards. An interested parties work shop will be held on May 15, 2012 to discuss incorporating the standards of the Committee's Model Disciplinary Guidelines.

8. **CLOSED SESSION:** Pursuant to Section 11126(c) (3) of the Government Code, the Committee will move into closed session to deliberate on disciplinary matters

RETURN TO OPEN SESSION

9. Presentation on Utilization of Telemedicine Subsequent to AB 415 Presented by Steve Barrow, Executive Director, California State Rural Health Association

Mr. Steve Barrow, Executive Director of the California State Rural Health Association, provided the members with an overview of utilization of telemedicine subsequent to AB 415. Mr. Barrow stated that more than 85% of California is rural as 44 of the 58 counties are rural. This means that approximately 5.3 million of the state's population lives in rural areas. Mr. Barrow also stated that their mission is linking rural individuals and organizations together to facilitate information exchange, collaboration and advocacy to promote healthy rural communities.

Mr. Barrow explained that AB 415 and Telehealth helps increase access to care and quality of care to consumers in rural California. Telemedicine also increases access to care, cost efficiency in providing care, and saves lives by earlier and timely detection of critical illnesses. Mr. Barrow added that telemedicine also creates jobs.

10. Sunset Review Update

- a. Proposal to Change from Physician Assistant Committee to Physician Assistant Board

Chairman Sachs reported that he and the Executive Officer Elberta Portman testified before the legislative Sunset Committee on March 17, 2012. Some of the recommendations from the Sunset Committee are to change the Committee's name to Physician Assistant Board; replace the MBC physician

member with a physician assistant; and include physician assistants in the B&P 800 series reporting requirements.

Chairman Sachs indicated that they also requested that the Committee's bill include a retired license status and an exempt license status for active duty military personnel who are deployed.

Chairman Sachs reported that Elberta Portman attended an additional hearing and respectfully requested that the Committee keep the physician member. During this hearing, California Medical Association (CMA) stated that they oppose the removal of the MBC physician member from the Committee.

A motion was made to support the Physician Assistant Committee provisions of the Sunset Bill, SB 1236 and also to support if amended to include an M.D. member.

(m/Klompus, s/Diaz, motion passes)

Upon the passing of the motion, staff was instructed to prepare the letter of support for the Chairman's signature.

A motion was made to respectfully request the provision for the Physician Assistant Committee move to another bill if the issues with the Board of Podiatric Medicine continue to be controversial.

(m/Klompus, s/Stumpf, motion passes)

Staff was instructed to monitor the progress of the bill.

b. Update on Implementation of BreEZe

Ms. Portman provided a brief report on the BreEZe implementation. Currently, staff is attending weekly meetings to verify and validate data to be migrated to BreEZe from CAS and ATS.

c. Discussion and Consideration of Promoting Workforce Development

Ms. Portman indicated that the Sunset Committee recommended that the Committee look at workforce development. Ms. Portman indicated that Glenn Mitchell and Julie Caldwell of our staff would be working the DCA to create a "brochure" to address this issue. It was also recommended in the report that Committee staff meet with the Board of Registered Nursing regarding work force development and their efforts with regard to this topic. Ms. Portman indicated that staff has met with the Board of Registered Nursing regarding the work force development surveys.

11. Discussion and Consideration of Development of a California Laws and Regulations Examination

Chairman Sachs provided the members with a brief overview regarding the California Laws and Regulations. Chairman Sachs indicated that originally a copy of the Laws and Regulations was mailed to all new PA licensees, however,

with the information available on the website along with a cost savings this practice was discontinued many years ago.

During the discussion it was suggested that staff might talk to the NCCPA to determine if the California standards are different from the national standard of PA practice. One area of justification for the exam could be California PAs scope of practice and supervisory issues.

Ms. Portman explained that the initial development process cost would be approximately \$35,000 and did not include actual testing costs or ongoing maintenance costs of an exam. The Committee will review this issue on a periodic basis.

12. **Consideration of Legislation of Interest to the Physician Assistant Committee**

SB 1236, SB 1501, AB 1548, AB 137, AB 1894, AB 1904

The Committee members briefly discussed current legislation of interest. No action was taken at this time related to any of the bills.

13. **Discussion of Title 16, CCR §1399.523 and §1399.523.5 regarding Sexual Misconduct and Disciplinary Actions**

Ms. Portman stated that at the last meeting it was requested that the Committee review the regulations which enhance the enforcement process that became effective November 5, 2011.

Ms. Portman explained that these regulatory changes include delegation of functions, such as the Executive Officer is now able to accept default decisions and to approve settlements for surrender or an Interim Suspension Order (ISO). It also allows the Committee to order a physical or mental examination of applicants when appropriate. It also includes under unprofessional conduct, sexual abuse or misconduct, failing to cooperate and participate in an investigation, failure to report a felony, arrest, conviction, any disciplinary action by another licensing entity, failure to comply with a court order or subpoena regarding release of records to the Committee.

Ms. Portman also indicated that under California Code of Regulations (CCR) Section 1399.523, in reaching a decision on a case, any proposed decision that contains any finding of fact that a licensee engaged in any act of sexual contact, with a patient, in finding that the licensee committed a sex offense or has been convicted of a sex offense, shall contain an order revoking the license.

Lastly, Ms. Portman reported that under CCR section 1399523.5 if an individual is required to register as a sex offender, pursuant to Section 290 of the Penal code, the Committee shall deny an application, revoke the license or deny the petition to reinstate.

Ms. Portman also stated that these will also be incorporated in the Committee's Disciplinary Guidelines.

14. **Schedule of 2012 Meeting Dates and Locations**

A brief discussion was conducted regarding the remaining meeting dates for the year. It was decided that the August 6, 2012th meeting will remain on the Monday and possible change the October Monday meeting date to a different day/date at the next meeting.

15. **Agenda Items for Next Meeting**

- a. Update on the Sunset Report
- b. Current Legislation of interest to the Committee
- c. Personal Presence Regulation change -Possible Creation of Sub-committee
- d. Update on Budget Report – Repayment of loan made to the General Fund
- e. Update on Proposal to Amend Section 1399.536 of Title 16 of California Code of Regulations Relating to the Requirements for Preceptors in Physician Assistant Training Programs
- f. Department of Consumer Affairs update
- g. On-going conversation on Scope of Practice issues with the Medical Board fo California
- h. CAPA conference update

16. **Adjournment**

The meeting adjourned at 2:00 P.M.





MEMORANDUM

DATE July 9, 2012
TO Executive Officers and Bureau Chiefs
FROM Reichel Everhart, Deputy Director for Board Relations
SUBJECT **Board and Bureau Travel and Meeting Locations**

Background: In light of the Governor's Executive Order B-06-11 regarding travel, a meeting was called on Tuesday, May 29, 2012 to discuss travel restrictions and board meeting travel. Below is a summary on the matters discussed.

TRAVEL

Discretionary Travel

Governor's Executive Order B-06-11 prohibits discretionary travel and established criteria for all travel considered "mission critical."

Mission Critical was described as travel directly related to:

- Enforcement responsibilities.
- Auditing.
- A function required by statute, contract or executive directive.
- Job-required training necessary to maintain licensure or similar standards required for holding a position.

Mission Critical does not mean travel to attend the following:

- Conferences (even those that historically have been attended).
- Networking opportunities.
- Professional development courses.
- Continuing education classes and seminars.
- Non-essential meetings that can be conducted by phone or video conference.
- Events for the sole purpose of making a presentation unless approved by the Department Director.

Appearance

In addition to the criteria established for travel requests, Agency Secretary Anna Caballero and DCA Director Denise Brown have requested that the executive officers and bureau chiefs consider locations that are cost-effective and minimize travel requirements on board members. When choosing locations, executive officers and bureau chiefs are to take into account the perception the public might receive from these sites.

Executive officers and bureau chiefs are highly encouraged to look into the following resources when coordinating meeting facilities:

- State buildings and public locations that may be used for free or at a low cost.
- Consider conducting meetings via teleconference when appropriate.
- Avoid locations that are considered resorts, spas, or “destination locations” (example instead of San Francisco consider Burlingame).
- Combining Board meetings with other meetings (i.e. Board Meeting and Strategic Planning Session).

0280 - Physician Assistant Committee Analysis of Fund Condition

Updated 7-18-12

(Dollars in Thousands)

FY 2012-13 GOV BUD (as of FM 12)

| | Actual 2011-12 | CY 2012-13 | Governor's Budget BY 2013-14 | BY + 1 2014-15 | BY + 2 2015-16 |
|--|-------------------|---------------|---------------------------------------|-------------------|-------------------|
| BEGINNING BALANCE | \$ 2,174 | \$ 911 | \$ 926 | \$ 940 | \$ 929 |
| Prior Year Adjustment | \$ - | \$ - | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 2,174 | \$ 911 | \$ 926 | \$ 940 | \$ 929 |
| REVENUES AND TRANSFERS | | | | | |
| Revenues: | | | | | |
| 125600 Other regulatory fees | \$ 10 | \$ 9 | \$ 9 | \$ 9 | \$ 9 |
| 125700 Other regulatory licenses and permits | \$ 155 | \$ 160 | \$ 160 | \$ 160 | \$ 160 |
| 125800 Renewal fees | \$ 1,194 | \$ 1,263 | \$ 1,263 | \$ 1,263 | \$ 1,263 |
| 125900 Delinquent fees | \$ 3 | \$ 3 | \$ 3 | \$ 3 | \$ 3 |
| 141200 Sales of documents | \$ - | \$ - | \$ - | \$ - | \$ - |
| 142500 Miscellaneous services to the public | \$ - | \$ - | \$ - | \$ - | \$ - |
| 150300 Income from surplus money investments | \$ 4 | \$ 4 | \$ 3 | \$ 4 | \$ 2 |
| 160400 Sale of fixed assets | \$ - | \$ - | \$ - | \$ - | \$ - |
| 161000 Escheat of unclaimed checks and warrants | \$ 1 | \$ 1 | \$ 1 | \$ 1 | \$ 1 |
| 161400 Miscellaneous revenues | \$ - | \$ - | \$ - | \$ - | \$ - |
| 164300 Penalty Assessments | \$ - | \$ - | \$ - | \$ - | \$ - |
| Totals, Revenues | \$ 1,367 | \$ 1,440 | \$ 1,439 | \$ 1,440 | \$ 1,438 |
| Transfers from other Funds | | | | | |
| Proposed GF Loan Repay | \$ - | \$ - | \$ - | \$ - | \$ - |
| Transfers to other Funds | | | | | |
| GF Loan per item 1110-011-0280, Budget Act of 2011 | \$ -1,500 | \$ - | \$ - | \$ - | \$ - |
| Totals, Revenues and Transfers | \$ -133 | \$ 1,440 | \$ 1,439 | \$ 1,440 | \$ 1,438 |
| Totals, Resources | \$ 2,041 | \$ 2,351 | \$ 2,365 | \$ 2,380 | \$ 2,367 |
| EXPENDITURES | | | | | |
| Disbursements: | | | | | |
| 0840 State Controllers | \$ 1 | \$ 1 | \$ 1 | \$ - | \$ - |
| 8880 FISCAL (State Operations) | \$ 4 | \$ 1 | \$ 1 | \$ - | \$ - |
| 1110 Program Expenditures (State Operations) | \$ 1,125 | \$ 1,423 | \$ 1,423 | \$ 1,451 | \$ 1,480 |
| Total Disbursements | \$ 1,130 | \$ 1,425 | \$ 1,425 | \$ 1,451 | \$ 1,480 |
| FUND BALANCE | | | | | |
| Reserve for economic uncertainties | \$ 911 | \$ 926 | \$ 940 | \$ 929 | \$ 887 |
| Months in Reserve | 7.7 | 7.8 | 7.8 | 7.5 | 7.0 |

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2012-13 AND ON-GOING.
- B. ASSUMES INTEREST RATE AT 1%
- C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR AFTER BUDGET YEAR.

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT AS OF 6/30/2012

RUN DATE 7/12/2012
PAGE 1

PHYSICIAN ASSISTANT COMMITTEE

FM 12

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 | 15,142 | 178,909 | 0 | 178,909 | 39,065 | |
| 033 04 TEMP HELP (907) | 0 | 4,299 | 34,855 | 0 | 34,855 | (34,855) | |
| 063 00 STATUTORY-EXEMPT | 81,732 | 6,811 | 80,473 | 0 | 80,473 | 1,259 | |
| 063 03 COMM MEMBER (911) | 1,530 | 600 | 2,800 | 0 | 2,800 | (1,270) | |
| TOTAL SALARIES AND WAGES | 301,236 | 26,852 | 297,037 | 0 | 297,037 | 4,200 | 1.39% |
| STAFF BENEFITS | | | | | | | |
| 103 00 OASDI | 17,724 | 1,433 | 16,236 | 0 | 16,236 | 1,488 | |
| 104 00 DENTAL INSURANCE | 1,758 | 131 | 1,299 | 0 | 1,299 | 459 | |
| 105 00 HEALTH/WELFARE INS | 40,267 | 1,366 | 16,104 | 0 | 16,104 | 24,163 | |
| 106 01 RETIREMENT | 52,464 | 4,272 | 48,540 | 0 | 48,540 | 3,924 | |
| 125 00 WORKERS' COMPENSAT | 5,235 | 0 | 0 | 0 | 0 | 5,235 | |
| 125 15 SCIF ALLOCATION CO | 0 | 170 | 1,219 | 0 | 1,219 | (1,219) | |
| 134 00 OTHER-STAFF BENEFI | 0 | 1,184 | 13,065 | 0 | 13,065 | (13,065) | |
| 134 01 TRANSIT DISCOUNT | 0 | 0 | 56 | 0 | 56 | (56) | |
| 135 00 LIFE INSURANCE | 0 | 7 | 99 | 0 | 99 | (99) | |
| 136 00 VISION CARE | 445 | 35 | 354 | 0 | 354 | 91 | |
| 137 00 MEDICARE TAXATION | 195 | 384 | 4,232 | 0 | 4,232 | (4,037) | |
| TOTAL STAFF BENEFITS | 118,088 | 8,981 | 101,204 | 0 | 101,204 | 16,884 | 14.30% |
| 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 | 35,832 | 398,240 | 0 | 398,240 | 15,569 | 3.76% |
| OPERATING EXPENSES & EQUIPMENT | | | | | | | |
| FINGERPRINTS | | | | | | | |
| 213 04 FINGERPRINT REPORT | 24,890 | 1,127 | 9,303 | 0 | 9,303 | 15,587 | |
| TOTAL FINGERPRINTS | 24,890 | 1,127 | 9,303 | 0 | 9,303 | 15,587 | 62.62% |
| GENERAL EXPENSE | | | | | | | |
| 201 00 GENERAL EXPENSE | 4,766 | 0 | 0 | 0 | 0 | 4,766 | |
| 206 00 MISC OFFICE SUPPLI | 0 | 1,988 | 2,783 | 0 | 2,783 | (2,783) | |
| 207 00 FREIGHT & DRAYAGE | 0 | 34 | 505 | 0 | 505 | (505) | |
| 213 02 ADMIN OVERHEAD-OTH | 0 | 163 | 1,355 | 0 | 1,355 | (1,355) | |

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT
AS OF 6/30/2012

PHYSICIAN ASSISTANT COMMITTEE

FM 12

PHYSICIAN ASSISTANT COMMITTEE

| DESCRIPTION | BUDGET | CURR. MONTH | YR-TO-DATE | ENCUMBRANCE | YTD + ENCUMBRANCE | BALANCE | PCNT REMAIN |
|-------------------------------|--------|-------------|------------|-------------|-------------------|----------|-------------|
| 217 00 MTG/CONF/EXHIBIT/S | 0 | 0 | 304 | 416 | 720 | (720) | |
| <u>TOTAL GENERAL EXPENSE</u> | 4,766 | 2,185 | 4,947 | 416 | 5,363 | (597) | -12.53% |
| PRINTING | | | | | | | |
| 241 00 PRINTING | 673 | 0 | 0 | 0 | 0 | 673 | |
| 242 00 PAMPHLT/LEAFLT/BRO | 0 | 0 | 1,670 | 0 | 1,670 | (1,670) | |
| 242 02 REPRODUCTION SVS | 0 | 2 | 41 | 0 | 41 | (41) | |
| 242 04 EDD PRODUCTIONS | 0 | 0 | 677 | 0 | 677 | (677) | |
| 244 00 OFFICE COPIER EXP | 0 | 0 | 2,117 | 7,136 | 9,253 | (9,253) | |
| 245 00 PRINTED FORMS/STATN | 0 | 0 | 13 | 0 | 13 | (13) | |
| <u>TOTAL PRINTING</u> | 673 | 2 | 4,518 | 7,136 | 11,654 | (10,981) | -1631.67% |
| COMMUNICATIONS | | | | | | | |
| 251 00 COMMUNICATIONS | 8,339 | 0 | 0 | 0 | 0 | 8,339 | |
| 252 00 CELL PHONES,PDA,PA | 0 | 61 | 939 | 0 | 939 | (939) | |
| 254 00 FAX | 0 | 0 | 1 | 0 | 1 | (1) | |
| 257 01 TELEPHONE EXCHANGE | 0 | 701 | 5,904 | 0 | 5,904 | (5,904) | |
| <u>TOTAL COMMUNICATIONS</u> | 8,339 | 761 | 6,844 | 0 | 6,844 | 1,495 | 17.93% |
| POSTAGE | | | | | | | |
| 261 00 POSTAGE | 19,230 | 0 | 0 | 0 | 0 | 19,230 | |
| 262 00 STAMPS, STAMP ENVE | 0 | 6 | 1,205 | 0 | 1,205 | (1,205) | |
| 263 00 POSTAGE METER | 0 | 0 | 195 | 0 | 195 | (195) | |
| 263 05 DCA POSTAGE ALLO | 0 | 225 | 2,756 | 0 | 2,756 | (2,756) | |
| 263 06 EDD POSTAGE ALLO | 0 | 181 | 2,013 | 0 | 2,013 | (2,013) | |
| <u>TOTAL POSTAGE</u> | 19,230 | 412 | 6,168 | 0 | 6,168 | 13,062 | 67.92% |
| TRAVEL: IN-STATE | | | | | | | |
| 291 00 TRAVEL: IN-STATE | 28,299 | 0 | 0 | 0 | 0 | 28,299 | |
| 292 00 PER DIEM-I/S | 0 | 606 | 2,788 | 0 | 2,788 | (2,788) | |
| 294 00 COMMERCIAL AIR-I/S | 0 | 109 | 4,647 | 0 | 4,647 | (4,647) | |
| 296 00 PRIVATE CAR-I/S | 0 | 513 | 1,353 | 0 | 1,353 | (1,353) | |
| 297 00 RENTAL CAR-I/S | 0 | 265 | 1,656 | 0 | 1,656 | (1,656) | |
| 301 00 TAXI & SHUTTLE SER | 0 | 0 | 260 | 0 | 260 | (260) | |
| <u>TOTAL TRAVEL: IN-STATE</u> | 28,299 | 1,493 | 10,705 | 0 | 10,705 | 17,594 | 62.17% |
| TRAINING | | | | | | | |
| 331 00 TRAINING | 1,096 | 0 | 0 | 0 | 0 | 1,096 | |
| 332 02 TRAINING-DATA TRAI | 0 | 0 | 50 | 0 | 50 | (50) | |
| <u>TOTAL TRAINING</u> | 1,096 | 0 | 50 | 0 | 50 | 1,046 | 95.44% |

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT AS OF 6/30/2012

RUN DATE 7/12/2012
PAGE 3

PHYSICIAN ASSISTANT COMMITTEE

FM 12

PHYSICIAN ASSISTANT COMMITTEE

| DESCRIPTION | BUDGET | CURR. MONTH | YR-TO-DATE | ENCUMBRANCE | YTD + ENCUMBRANCE | BALANCE | PCNT REMAIN |
|--|----------------|---------------|----------------|---------------|----------------------|-----------------|-----------------|
| FACILITIES OPERATIONS | | | | | | | |
| 341 00 FACILITIES OPERATI | 55,958 | 0 | 0 | 0 | 0 | 55,958 | |
| 343 00 RENT-BLDG/GRND(NON | 0 | 3,584 | 42,777 | 0 | 42,777 | (42,777) | |
| 347 00 FACILITY PLNG-DGS | 0 | 138 | 808 | 0 | 808 | (808) | |
| TOTAL FACILITIES OPERATIONS | 55,958 | 3,722 | 43,585 | 0 | 43,585 | 12,373 | 22.11% |
| C/P SVS - INTERDEPARTMENTAL | | | | | | | |
| 382 00 CONSULT/PROF-INTER | 1,899 | 0 | 0 | 0 | 0 | 1,899 | |
| TOTAL C/P SVS - INTERDEPARTMENTAL | 1,899 | 0 | 0 | 0 | 0 | 1,899 | 100.00% |
| C/P SVS - EXTERNAL | | | | | | | |
| 402 00 CONSULT/PROF SERV- | 28,561 | 0 | 0 | 0 | 0 | 28,561 | |
| 418 02 CONS/PROF SVS-EXTR | 0 | 4,378 | 51,731 | 24,449 | 76,180 | (76,180) | |
| TOTAL C/P SVS - EXTERNAL | 28,561 | 4,378 | 51,731 | 24,449 | 76,180 | (47,619) | -166.73% |
| DEPARTMENTAL SERVICES | | | | | | | |
| 424 03 OIS PRO RATA | 55,257 | 4,189 | 55,918 | 0 | 55,918 | (661) | |
| 427 00 INDIRECT DISTRB CO | 40,880 | 0 | 40,218 | 0 | 40,218 | 662 | |
| 427 01 INTERAGENCY SVRS | 7,717 | 0 | 0 | 0 | 0 | 7,717 | |
| 427 02 SHARED SVS-MBC ONL | 79,802 | 19,950 | 79,802 | 0 | 79,802 | 0 | |
| 427 30 DOI - PRO RATA | 1,654 | 0 | 1,654 | 0 | 1,654 | 0 | |
| 427 34 PUBLIC AFFAIRS PRO | 2,809 | 0 | 2,808 | 0 | 2,808 | 1 | |
| 427 35 CCED PRO RATA | 2,900 | 0 | 2,900 | 0 | 2,900 | 0 | |
| TOTAL DEPARTMENTAL SERVICES | 191,019 | 24,139 | 183,300 | 0 | 183,300 | 7,719 | 4.04% |
| CONSOLIDATED DATA CENTERS | | | | | | | |
| 428 00 CONSOLIDATED DATA | 4,625 | 138 | 2,159 | 0 | 2,159 | 2,466 | |
| TOTAL CONSOLIDATED DATA CENTERS | 4,625 | 138 | 2,159 | 0 | 2,159 | 2,466 | 53.31% |
| DATA PROCESSING | | | | | | | |
| 431 00 INFORMATION TECHNO | 3,086 | 0 | 0 | 0 | 0 | 3,086 | |
| 436 00 SUPPLIES-IT (PAPER | 0 | 1,383 | 1,445 | 0 | 1,445 | (1,445) | |
| 448 00 INTERNET SERV PROV | 0 | 0 | 10 | 0 | 10 | (10) | |
| TOTAL DATA PROCESSING | 3,086 | 1,383 | 1,455 | 0 | 1,455 | 1,631 | 52.86% |
| CENTRAL ADMINISTRATIVE SERVICES | | | | | | | |
| 438 00 PRO RATA | 56,134 | 0 | 56,134 | 0 | 56,134 | 0 | |
| TOTAL CENTRAL ADMINISTRATIVE SERVICES | 56,134 | 0 | 56,134 | 0 | 56,134 | 0 | 0.00% |
| ENFORCEMENT | | | | | | | |
| 396 00 ATTORNEY GENL-INTE | 271,418 | 22,433 | 184,926 | 0 | 184,926 | 86,492 | |

DEPARTMENT OF CONSUMER AFFAIRS

PHYSICIAN ASSISTANT COMMITTEE

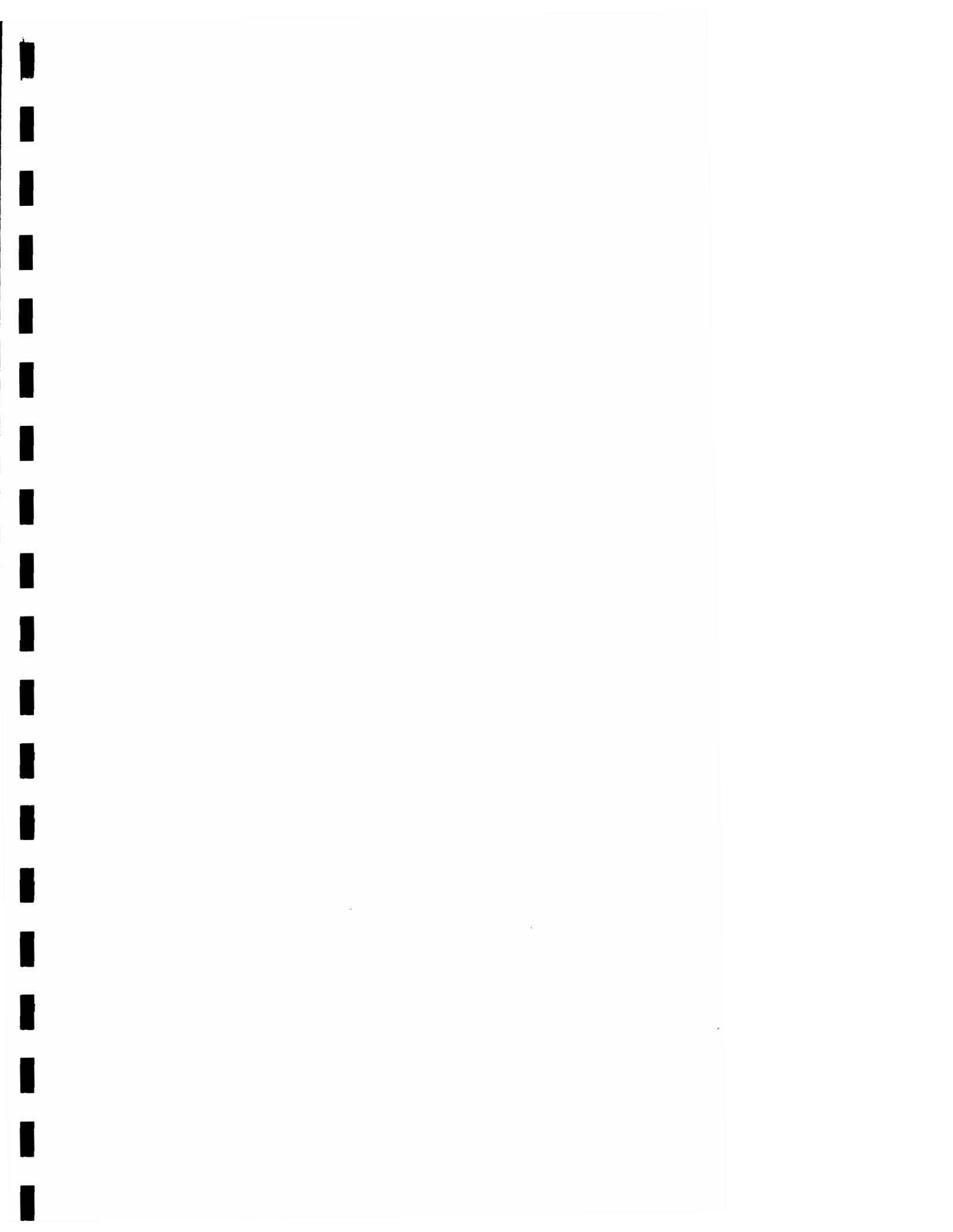
BUDGET REPORT
AS OF 6/30/2012

RUN DATE 7/12/2012
PAGE 4

FM 12

PHYSICIAN ASSISTANT COMMITTEE

| DESCRIPTION | BUDGET | CURR. MONTH | YR-TO-DATE | ENCUMBRANCE | ENCUMBRANCE | YTD + | BALANCE | PCNT |
|--|------------------|----------------|------------------|---------------|---------------|------------------|----------------|---------------|
| | | | | | | ENCUMBRANCE | | REMAIN |
| 397 00 OFC ADMIN HEARNG-I | 75,251 | 10,912 | 45,672 | 0 | 0 | 45,672 | 29,579 | |
| 414 31 EVIDENCE/WITNESS F | 492 | 3,315 | 14,901 | 0 | 0 | 14,901 | (14,409) | |
| 418 97 COURT REPORTER SER | 0 | 770 | 1,730 | 0 | 0 | 1,730 | (1,730) | |
| 427 32 INVEST SVS-MBC ONL | 218,870 | 26,033 | 92,468 | 0 | 0 | 92,468 | 126,402 | |
| TOTAL ENFORCEMENT | 566,031 | 63,463 | 339,697 | 0 | 0 | 339,697 | 226,334 | 39.99% |
| MINOR EQUIPMENT | | | | | | | | |
| 226 00 MINOR EQUIPMENT | 4,000 | 0 | 0 | 0 | 0 | 0 | 4,000 | |
| 226 40 MIN EQPMT-DP-ADD'L | 0 | 367 | 367 | 0 | 0 | 367 | (367) | |
| 226 70 MIN EQPMT-CELL PHO | 0 | 0 | 0 | 259 | 259 | 259 | (259) | |
| 226 75 MIN EQPMT-CELL PHO | 0 | 0 | 0 | 96 | 96 | 96 | (96) | |
| TOTAL MINOR EQUIPMENT | 4,000 | 367 | 367 | 354 | 354 | 721 | 3,279 | 81.97% |
| TOTAL OPERATING EXPENSES & EQUIPMEN | 998,606 | 103,569 | 720,962 | 32,356 | 32,356 | 753,318 | 245,288 | 24.56% |
| PHYSICIAN ASSISTANT COMMITTEE | | | | | | | | |
| | 1,412,415 | 139,402 | 1,119,202 | 32,356 | 32,356 | 1,151,558 | 260,857 | 18.47% |
| PHYSICIAN ASSISTANT COMMITTEE | | | | | | | | |
| | 1,412,415 | 139,402 | 1,119,202 | 32,356 | 32,356 | 1,151,558 | 260,857 | 18.47% |



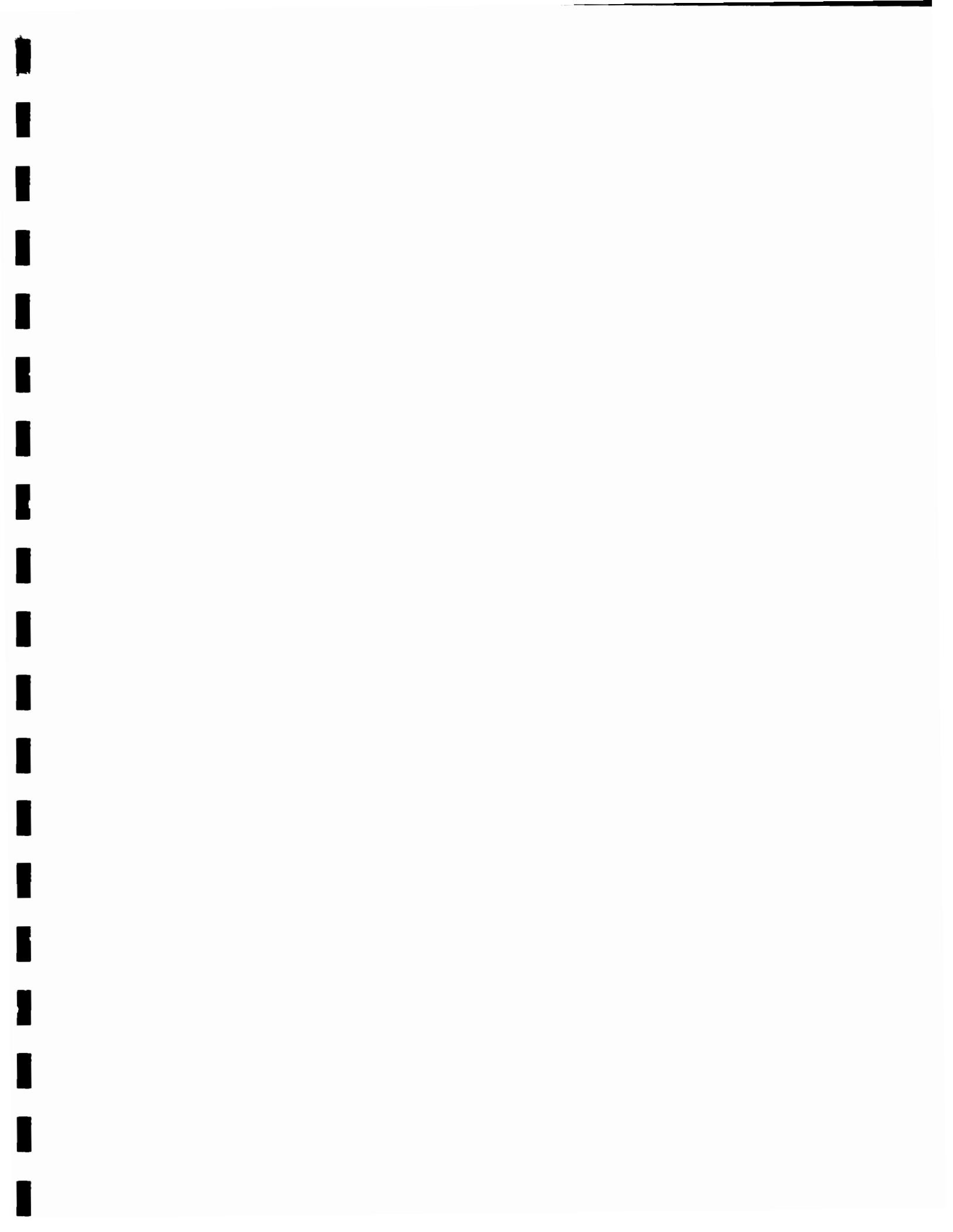
PHYSICIAN ASSISTANT COMMITTEE
LICENSING PROGRAM ACTIVITY REPORT

INITIAL LICENSES ISSUED

| | 1 April 2012 – 1 July 2012 | 1 April 2011 – 1 July 2011 |
|------------------|---------------------------------------|---------------------------------------|
| Initial Licenses | 139 | 153 |

SUMMARY OF RENEWED/CURRENT LICENSES

| | As of 1 July 2012 | As of 1 July 2011 |
|---------------------|------------------------------|------------------------------|
| Physician Assistant | 8,646 | 8,177 |



**PHYSICIAN ASSISTANT COMMITTEE
DIVERSION PROGRAM**

ACTIVITY REPORT

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

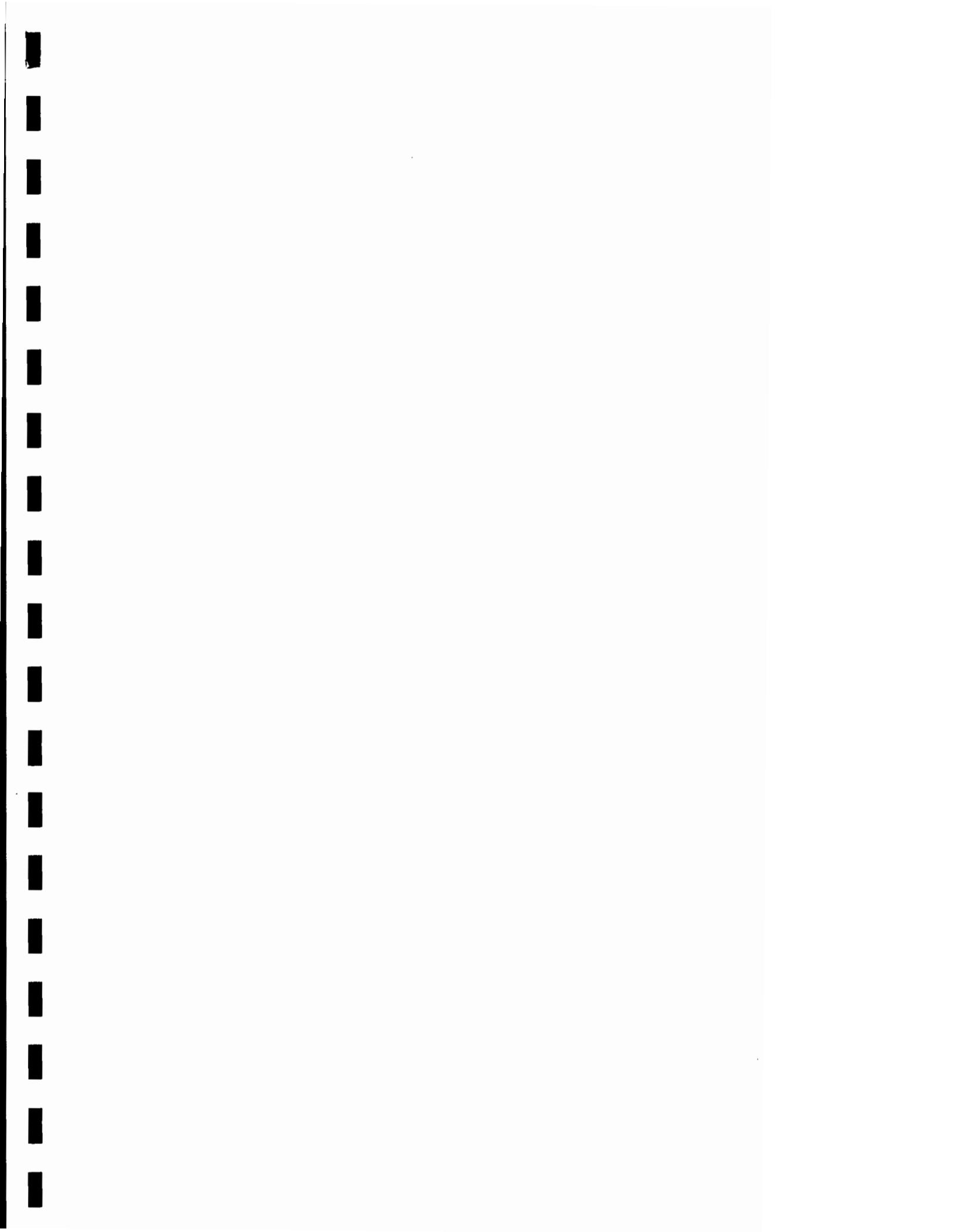
| | As of 1 July 2012 | As of 1 July 2011 | As of 1 July 2010 |
|------------------------------|----------------------|----------------------|----------------------|
| Voluntary referrals | 06 | 06 | 06 |
| Committee referrals | 16 | 20 | 17 |
| Total number of participants | 22 | 26 | 23 |

HISTORICAL STATISTICS
(Since program inception: 1990)

| | |
|---|-----|
| Total intakes into program as of 1 July 2012..... | 102 |
| Closed Cases as of 1 July 2012 | |
| • Participant expired..... | 1 |
| • Successful completion..... | 24 |
| • Dismissed for failure to receive benefit..... | 4 |
| • Dismissed for non-compliance..... | 23 |
| • Voluntary withdrawal..... | 18 |
| • Not eligible..... | 7 |
| Total closed cases..... | 77 |

OTHER DCA BOARD DIVERSION PROGRAM PARTICIPANTS
(As of 30 June 2012)

| | |
|--|-----|
| Dental Board of California..... | 37 |
| Osteopathic Medical Board of California..... | 10 |
| Board of Pharmacy..... | 72 |
| Physical Therapy Board of California..... | 15 |
| Board of Registered Nursing..... | 472 |
| Veterinary Board of California..... | 3 |



**PHYSICIAN ASSISTANT COMMITTEE
ENFORCEMENT ACTIVITY REPORT**

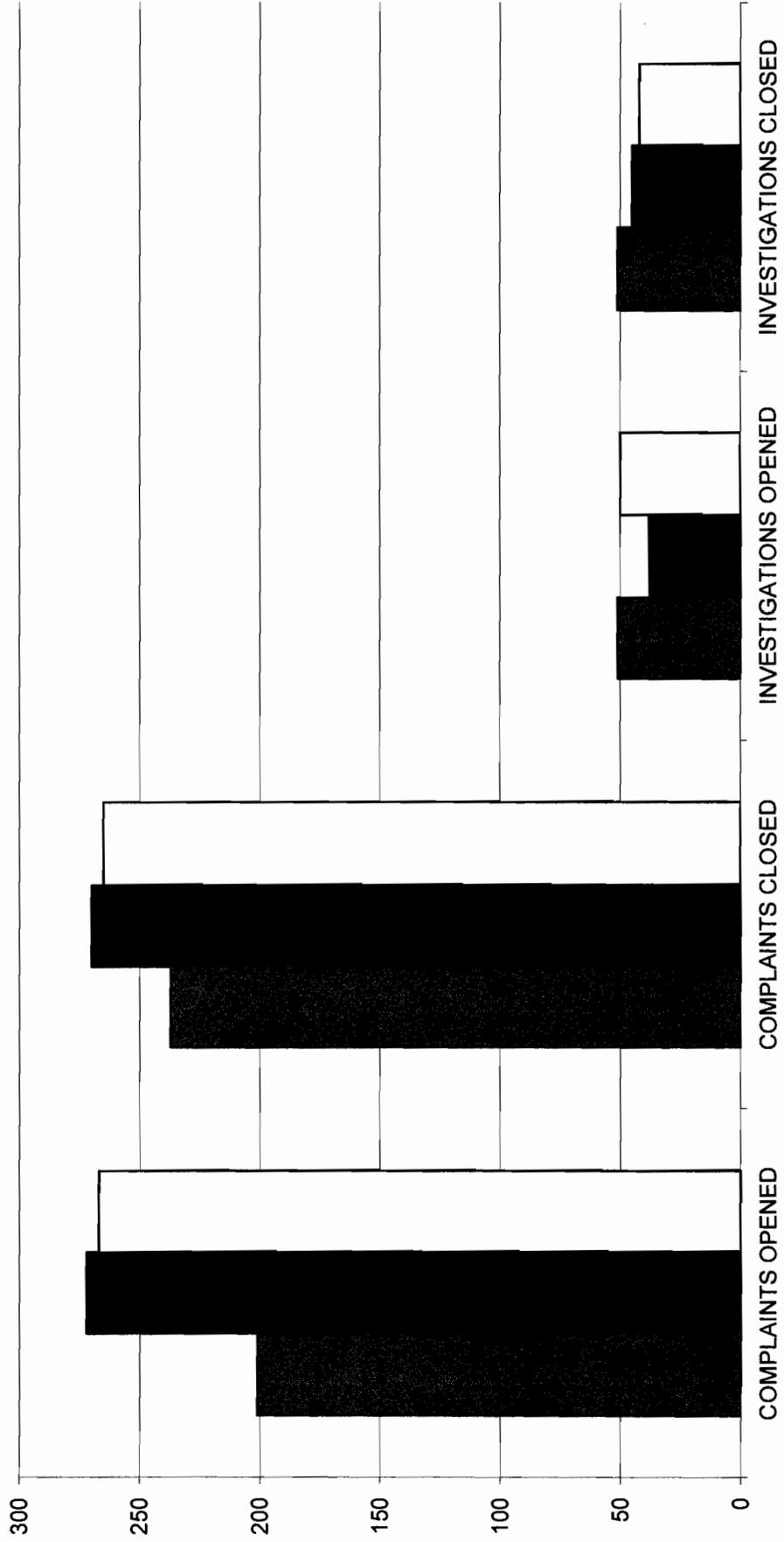
July 1, 2011 through June 30, 2012

Submitted by: Dianne Tincher

| | | | |
|---|-----------|--|--------|
| <u>Complaint Statistics</u> | | <u>Disciplinary Decisions</u> | |
| Pending From Previous FY..... | 85 | License Denied | 0 |
| Received..... | 267 | Nonadopted..... | 0 |
| Closed..... | 265 | Probation..... | 9 |
| Pending..... | 87 | Public Reprimand/Reproval | 0 |
| At Expert Consultant..... | 0 | Revocation | 1 |
| | | Voluntary Surrender | 3 |
| | | Probationary Licenses Issued | 9 |
| <u>Violation Category of Complaints Received</u> | | Petition for Reinstatement Denied | 1 |
| Substance Abuse..... | 5 | Petition for Reinstatement Granted..... | 1 |
| Drug Related..... | 11 | Petition for Termination of Probation Denied | 0 |
| Fraud..... | 1 | Petition for Termination of Probation Granted ... | 1 |
| Non Jurisdictional..... | 53 | Other | 0 |
| Incompetence/Negligence | 98 | Out for Vote..... | 1 |
| Other..... | 0 | | |
| Unprofessional Conduct | 36 | <u>Accusation/Statement of Issues</u> | |
| Sexual Misconduct..... | 10 | Accusation Filed..... | 12 |
| Discipline by Another State..... | 4 | Accusation Withdrawn | 1 |
| Unlicensed | 12 | Statement of Issues Filed | 1 |
| Criminal..... | 37 | Statement of Issues Withdrawn | 0 |
| | | Petition to Revoke Probation Filed..... | 1 |
| <u>Formal Investigations</u> | | Petition to Compel Psychiatric Exam | 0 |
| Pending from Previous FY..... | 29 | Interim Suspension Orders (ISO)/PC23..... | 1 |
| Opened | 50 | | |
| Closed..... | 42 | <u>Pending Cases</u> | |
| Pending..... | 37 | Attorney General..... | 21 |
| | | | |
| <u>Disposition of Closed Complaint</u> | | <u>Citation and Fines</u> | |
| Closed with merit | 125 | Pending from previous FY..... | 3 |
| Closed/Insufficient Evidence..... | 140 | Issued | 1 |
| | | Closed | 4 |
| <u>Criminal Complaint</u> | | Withdrawn | 0 |
| Referred to District Attorney..... | 0 | Sent to AG/noncompliance | 0 |
| | | Pending | 0 |
| <u>Current Probationers</u> | | Initial Fines Issued | \$250 |
| Active | 48 | Modified Amount Due..... | \$0 |
| Tolled | 7 | Fines Received | \$2750 |
| | | | |
| <u>Cost Recovery</u> | | | |
| Amount Ordered | \$166,081 | | |
| Amount Received | \$50,618 | | |

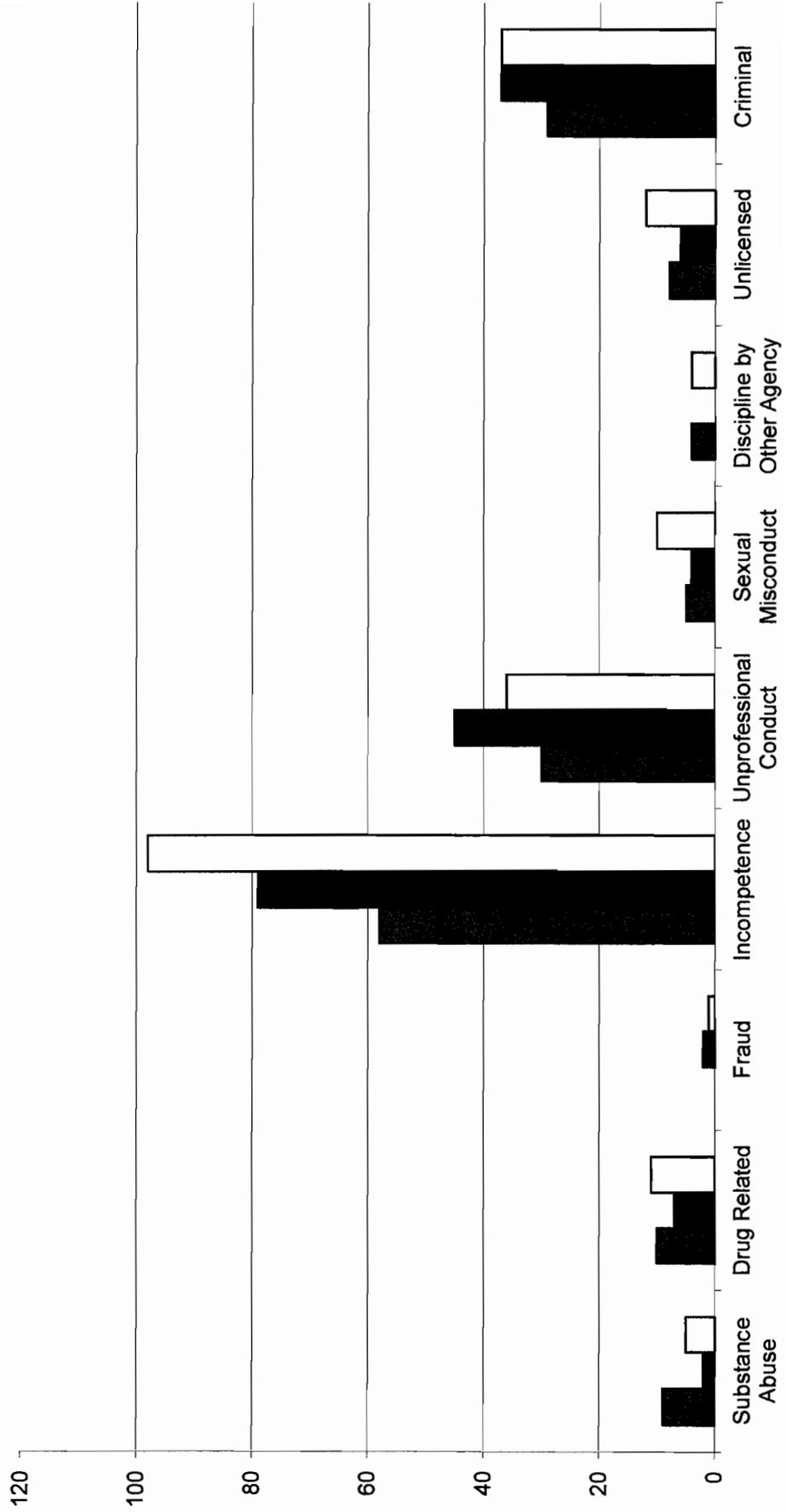
**PHYSICIAN ASSISTANT COMMITTEE
COMPLAINTS AND INVESTIGATION
JULY 1 THROUGH JUNE 30**

■ FY 09/10 ■ FY 10/11 □ FY 11/12



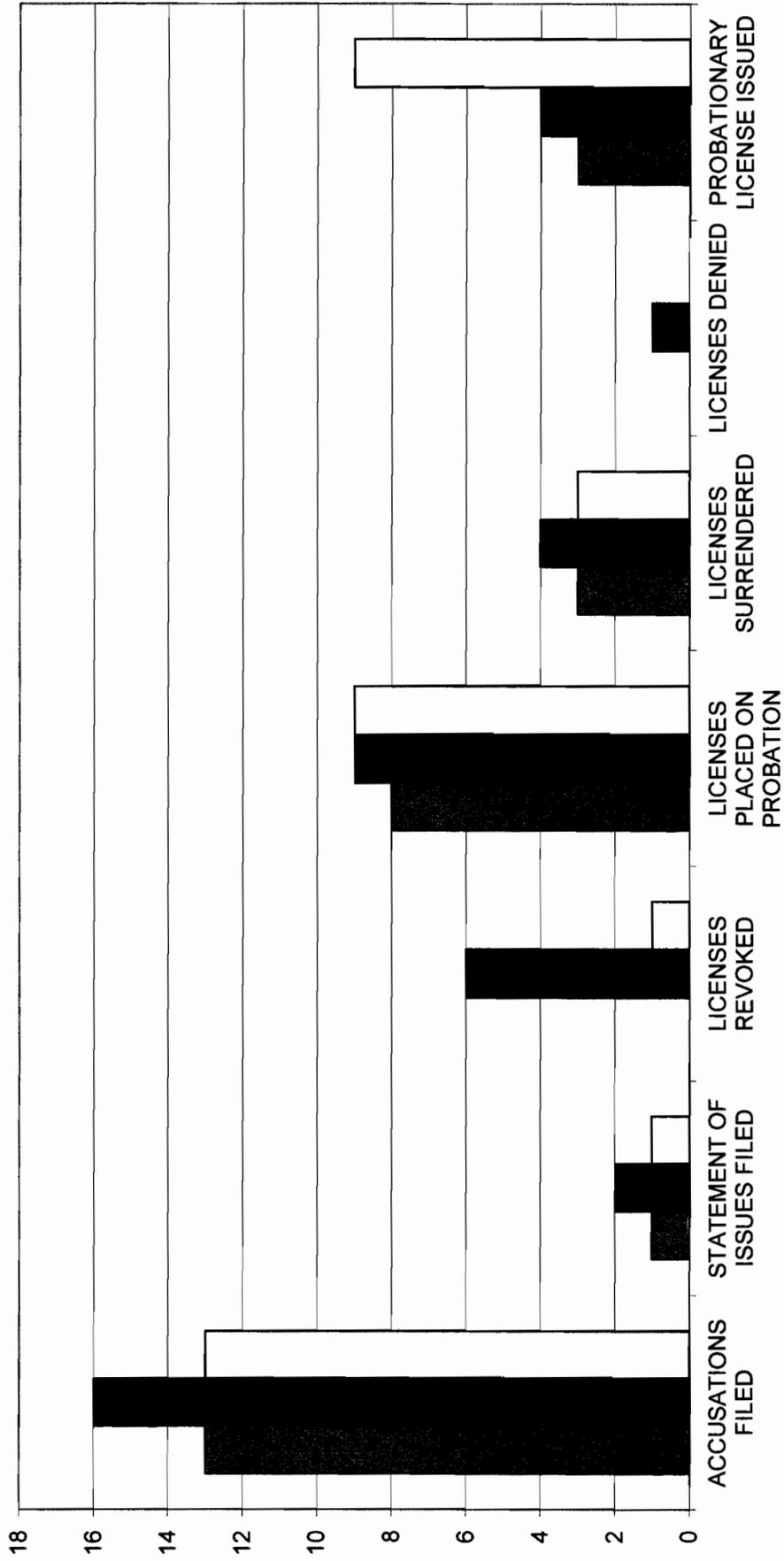
PHYSICIAN ASSISTANT COMMITTEE
Category of Complaints Received
JULY 1 THROUGH JUNE 30

■ FY 09/10 ■ FY 10/11 □ FY 11/12



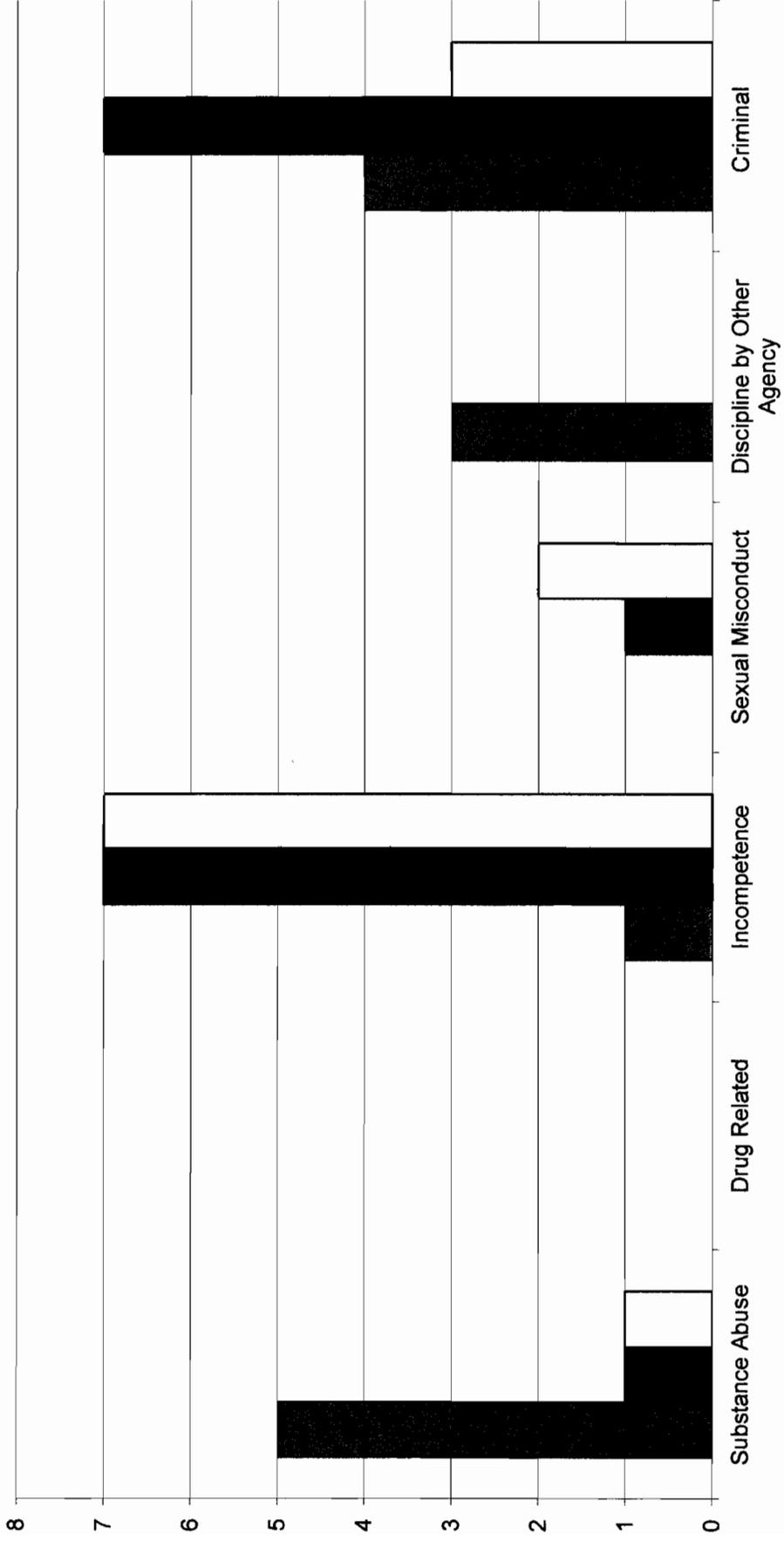
**PHYSICIAN ASSISTANT COMMITTEE
DISCIPLINARY ACTIONS
JUNE 1 THROUGH JULY 30**

■ FY 09/10 ■ FY 10/11 □ FY 11/12



**Physician Assistant Committee
Category of Accusations Filed
July 1 through June 30**

■ FY 09/10 ■ FY 10/11 □ FY 11/12



**Physician Assistant Committee
Cases Over 8 Months Old
As of June 30, 2012**

Formal Investigations

Total Number of Formal Investigations pending: 37

Number of Investigations over 8 months old: 7

Status of Cases over 8 months old:

| <u># of cases</u> | <u>Status</u> |
|-------------------|---|
| 1 | Scheduling/subpoena for interview/records |
| 2 | Record/interview review |
| 1 | At Expert |
| 3 | Working with other law enforcement agencies |

Disciplinary Actions

Total Number of Disciplinary Cases pending: 21

Number of Disciplinary Cases over 8 months old: 9

Status of Cases over 8 months old:

| <u># of cases</u> | <u>Status</u> |
|-------------------|--|
| 1 | Remanded back to OAH |
| 4 | Waiting for hearing |
| 1 | Waiting for criminal case – PC 23 in place |
| 1 | Held for meeting |
| 2 | Waiting for effective date of decision |

**Physician Assistant Committee
Cost Recovery
As of June 20, 2012**

| <u>Cost Recovery</u> | <u>Amount</u> | <u># of Licensee</u> |
|---|---------------|----------------------|
| Ordered over last 5 years | \$435,117 | 50 |
| Received over last 5 years | \$ 111,253 | 39 |
| Outstanding balance (Current Probationers) | \$ 128,519 | 21 |
| Uncollectable amount* | \$209,176 | 12 |

*The uncollectable amount is from licenses that surrendered the license, were revoked, and/or sent to FTB over the last 5 years. The cost recovery from would be required to be paid in full if they apply for a reinstatement of the license.

**PHYSICIAN ASSISTANT COMMITTEE
SECOND 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 (second modified text) |
| <u>Double underline</u> | Indicates additional amendments to the originally proposed language. (first modified text) |
| <u>Dash underline</u> | Indicates proposed additional amendments to the originally proposed language (second modified text) |

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

§ 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:~~

~~(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" includes, but is not limited to, 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.

AUGUST 2012 Final Draft
Physician Assistant Committee
Specific Language of Proposed Changes
Sponsored Free Health Care Events

Adopt Article 9, Sponsored Free Health Care Events to Division 13.8 of Title 16 of the California Code of Regulations as follows:

Article 9
Sponsored Free Health Care Events – Requirements for Exemption

Section 1399.620 of Title 16 of the California Code of Regulations to read:

1399.620. Definitions.

For the purposes of section 901 of the code and this article:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice as a physician assistant but who holds a current valid license or certificate in good standing in another state, district, or territory of the United States as a physician assistant.

NOTE: Authority cited: Business and Professions Code Sections 901, 3510.
Reference: Business and Professions Code Section 901.

Section 1399.621 of Title 16 of the California Code of Regulations to read:

1399.621. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the committee not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the committee by submitting to the committee a completed "Registration of Sponsoring Entity under Business & Professions Code Section 901" Form 901-A (DCA/2011), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The committee may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and

process the "Registration of Sponsoring Entity under Business & Professions Code Section 901" Form 901-A (DCA/2011) on behalf of the committee. The committee or its delegatee shall inform the sponsoring entity in writing within 15 calendar days of receipt of the form that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The committee or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the committee to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the committee at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the committee. In addition, the sponsoring entity shall provide copies of any record required to be maintained by section 901 of the Code to any representative of the committee within 15 calendar days of the request.

(d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by a physician assistant. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information:

NOTICE

Physician Assistants providing health care services at this health fair are either licensed and regulated by the Physician Assistant Committee or hold a current valid license from another state and have been authorized to provide health care services in California only at this specified event.

For questions or complaints, please contact:

Physician Assistant Committee

(916) 561-8780

www.pac.ca.gov

(e) Requirement for Prior Committee Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval of such practitioner from the committee.

(f) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the committee summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner and the state in which that license is held.

NOTE: Authority cited: Business and Professions Code Sections 901, 3510.
Reference: Business and Professions Code Section 901.

Section 1399.622 of Title 16 of the California Code of Regulations to read:

Section 1399.622. Out-of-State Practitioner Authorization to Participate in Sponsored Event

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the committee to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the committee to provide those services. Authorization must be obtained for each sponsored event in which the applicant seeks to participate. To act pursuant to any authorization, a physician supervising the physician assistant must be licensed in California or hold an authorization to provide health care services at the same health care event by the licensing entity with jurisdiction over the supervising physician.

(1) An applicant shall request authorization by submitting to the committee a completed "Request for Authorization to Practice without a California License at a Registered Free Health Care Event" Form 901-B (PAC/2012), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferrable processing fee of \$25.

(2) The applicant shall also furnish a completed Delegation of Services Agreement signed and dated by the applicant and each supervising physician.

(3) The applicant also shall furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the committee

to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. This requirement shall apply only to the first application for authorization that is submitted by the applicant.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the committee shall notify the sponsoring entity or local government entity whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The committee shall deny a request for authorization to participate if:

(A) The submitted form is incomplete and the applicant has not responded within 7 calendar days to the committee's request for additional information; or

(B) The applicant has not graduated from a physician assistant training program approved or recognized by the committee;

(C) The applicant has not passed any examination administered by the National Commission on Certification of Physician Assistants required under Section 3517 of the code; or

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the committee; or

(E) The applicant does not possess a current valid active license in good standing. The term "good standing" means the applicant:

(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license;

(iii) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the committee determines constitutes evidence of a pattern or negligence or incompetence.

(F) The committee has been unable to obtain a timely report of the results of the criminal history check.

(2) The committee may deny a request for authorization to participate if:

(A) The request is received less than 20 calendars days before the date on which the sponsored event will begin; or

(B) The applicant has been previously denied a request for authorization by the committee to participate in a sponsored event; or

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the committee.

(D) The applicant has participated in six or more sponsored events during the 12-month period immediately preceding the current application.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in subdivision (d) of section 1399.703.

(e) An out-of-state practitioner who receives authorization to practice as a physician assistant at an event sponsored by a local government entity shall place a notice visible to patients at every station at which that person will be seeing patients. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information:

NOTICE

I hold a current valid license to practice as a physician assistant in a state other than California. I have been authorized by the Physician Assistant Committee to provide health care services in California only at this specific event.

For questions or complaints, please contact:
Physician Assistant Committee
(916) 561-8780
www.pac.ca.gov

NOTE: Authority cited: Business and Professions Code Sections 144, 901, 3510.
Reference: Business and Professions Code Section 901

Section 1399.623 of Title 16 of the California Code of Regulations to read:

1399.623. Termination of Authorization and Appeal.

(a) Grounds for Termination. The committee may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the committee.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the committee.

(3) The committee has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The committee shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the committee may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the committee shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the committee's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer or his/her designee may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Business and Professions Code Sections 901, 3510.
Reference: Business and Professions Code Section 901.

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100. - 472.5.]

(Heading of Division 1 amended by Stats. 1973, Ch. 77.)

CHAPTER 4. Consumer Affairs [300. - 337.]

(Chapter 4 added by Stats. 1970, Ch. 1394.)

ARTICLE 3.6. Uniform Standards Regarding Substance-Abusing Healing Arts Licensees [315. - 315.4.]

(Article 3.6 added by Stats. 2008, Ch. 548, Sec. 3.)

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.

(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.

(Amended by Stats. 2009, Ch. 140, Sec. 1. Effective January 1, 2010.)

315.2.

(a) A board, as described in Section 315, shall order a licensee of the board 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.

(b) An order to cease practice under this section shall not be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A cease practice order under this section shall not constitute disciplinary action.

(d) This section shall have no effect on the Board of Registered Nursing pursuant to Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2.

(Added by Stats. 2010, Ch. 517, Sec. 2. Effective January 1, 2011.)

315.4.

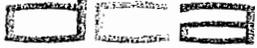
(a) A board, as described in Section 315, may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315.

(b) An order to cease practice under this section shall not be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A cease practice order under this section shall not constitute disciplinary action.

(d) This section shall have no effect on the Board of Registered Nursing pursuant to Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2.

(Added by Stats. 2010, Ch. 517, Sec. 3. Effective January 1, 2011.)



DIVISION OF LEGAL AFFAIRS

1625 N. Market Blvd., Suite S 309, Sacramento, CA 95834

P (916) 574-8220 F (916) 574-8623



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

A DIVISION OF THE OFFICE OF THE
GOVERNMENT OVERSIGHT

LEGISLATIVE COUNSEL BUREAU

1500 S. STANISLAUS AVENUE

SACRAMENTO, CALIFORNIA 95833

TEL: (916) 227-3300

FAX: (916) 227-3301

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,⁴ the State Board of Chiropractic Examiners, and the

⁴The 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 2011.¹ 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:

¹ See http://www.dea.ca.gov/about_dea/sac/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. (e), 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 (*Lumber 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 (*DuBus 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

State of California

Department of Justice

1300 I Street, Suite 125

P.O. Box 94255

Sacramento, CA 94244-2550

Memorandum

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

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)

Date: February 29, 2012

Telephone: (916) 445-7480

FACSIMILE: (916) 324-8835

E-mail: Kathleen.Lynch@doj.ca.gov

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.)

Legislative Counsel's conclusion that section 315.4 did not make the uniform standards optional. (Oct. 27, 2011, Letter, p. 9.)

Section 315.4 was enacted two years after section 315, and provides that 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).) If a board adopts such regulations, there is nothing to indicate that use of uniform standards created under section 315 is optional. Such an interpretation would be contrary to the legislative intent. Section 314.5 was enacted for the limited purpose to give boards the authority to order a licensee to cease practice, as this was not provided for in section 315. (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.) By no means was the intent to transform the mandatory uniform standards of section 315 into optional suggestions. As 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.

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

In addition, some specific uniform standards themselves recognize a board's discretion whether to order a particular action in the first place. (See e.g. Uniform Standard # 1 ["If a healing arts board orders a licensee . . . to undergo a clinical diagnosis evaluation, the following applies: . . ."].) The standards must be applied, however, if a board undertakes a particular practice or orders an action covered by the standards. A determination regarding a board's specific application (or not) of certain uniform standards would have to be based on a fact specific, case-by-case review of each board and its regulatory scheme. However, once a board implements a procedure covered by the uniform standards, it cannot disregard the applicable uniform standard because it disagrees with the standard's substance.

Conclusion

For the reasons stated above, in our view, section 315 can be read to preclude the necessity to adopt regulations when the uniform standards are issued initially. And even if regulations were required under section 315, SACC would not be tasked with this responsibility. We also

Doreathea Johnson
February 29, 2012
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believe that the healing arts boards must use the uniform standards where an agency undertakes an action covered by the standards.

Please feel free to contact me if you have any questions or would like to discuss the above.

:KAL

cc: Peter K. Southworth, Supervising Deputy Attorney General

Uniform Standards Regarding Substance-Abusing Healing Arts Licensees

Senate Bill 1441 (Ridley-Thomas)

Implementation by
Department of Consumer Affairs,
Substance Abuse Coordination Committee



Brian J. Stiger, Director
April 2011

STATE OF CALIFORNIA

DEPARTMENT OF CONSUMER AFFAIRS

Substance Abuse Coordination Committee

Brian Stiger, Chair
Director, Department of Consumer Affairs

Elinore F. McCance-Katz, M.D., Ph. D.
CA Department of Alcohol & Drug Programs

Janelle Wedge
Acupuncture Board

Kim Madsen
California Board of Behavioral Sciences

Robert Puleo
Board of Chiropractic Examiners

Lori Hubble
Dental Hygiene Committee of California

Richard De Cuir
Dental Board of California

Linda Whitney
Medical Board of California

Heather Martin
California Board of Occupational Therapy

Mona Maggio
California State Board of Optometry

Teresa Bello-Jones
Board of Vocational Nursing and
Psychiatric Technicians

Donald Krpan, D.O.
Osteopathic Medical Board of California

Francine Davies
Naturopathic Medicine Committee

Virginia Herold
California State Board of Pharmacy

Steve Hartzell
Physical Therapy Board of California

Elberta Portman
Physician Assistant Committee

Jim Rathlesberger
Board of Podiatric Medicine

Robert Kahane
Board of Psychology

Louise Bailey
Board of Registered Nursing

Stephanie Nunez
Respiratory Care Board of California

Annemarie Del Mugnaio
Speech-Language Pathology & Audiology &
Hearing Aid Dispenser Board

Susan Geranen
Veterinary Medical Board

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#1 SENATE BILL 1441 REQUIREMENT

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

#1 Uniform Standard

If a healing arts board orders a licensee who is either in a diversion program or whose license is on probation due to a substance abuse problem to undergo a clinical diagnosis evaluation, the following applies:

1. The clinical diagnostic evaluation shall be conducted by a licensed practitioner who:
 - holds a valid, unrestricted license, which includes scope of practice to conduct a clinical diagnostic evaluation;
 - has three (3) years experience in providing evaluations of health professionals with substance abuse disorders; and,
 - is approved by the board.
2. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.
3. The clinical diagnostic evaluation report shall:
 - set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem;
 - set forth, in the evaluator's opinion, whether the licensee is a threat to himself/herself or others; and,
 - set forth, in the evaluator's opinion, recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial relationship, personal relationship, or business relationship with the licensee within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself/herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

#2 SENATE BILL 1441 REQUIREMENT

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 subdivision (a) and any treatment recommended by the evaluator described in subdivision (a) 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.

#2 Uniform Standard

The following practice restrictions apply to each licensee who undergoes a clinical diagnostic evaluation:

1. The Board shall order the licensee to cease practice during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the diversion program/board staff.
2. While awaiting the results of the clinical diagnostic evaluation required in Uniform Standard #1, the licensee shall be randomly drug tested at least two (2) times per week.

After reviewing the results of the clinical diagnostic evaluation, and the criteria below, a diversion or probation manager shall determine, whether or not the licensee is safe to return to either part-time or fulltime practice. However, no licensee shall be returned to practice until he or she has at least 30 days of negative drug tests.

- the license type;
- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use
- the scope and pattern of use;
- the treatment history;
- the licensee's medical history and current medical condition;
- the nature, duration and severity of substance abuse, and
- whether the licensee is a threat to himself/herself or the public.

#3 SENATE BILL 1441 REQUIREMENT

Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status or condition.

#3 Uniform Standard

If the licensee who is either in a board diversion program or whose license is on probation has an employer, the licensee shall provide to the board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent that the licensee authorizes the board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

#4 SENATE BILL 1441 REQUIREMENT

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.

#4 Uniform Standard

The following standards shall govern all aspects of testing required to determine abstinence from alcohol and drugs for any person whose license is placed on probation or in a diversion program due to substance use:

TESTING FREQUENCY SCHEDULE

A board may order a licensee to drug test at any time. Additionally, each licensee shall be tested RANDOMLY in accordance with the schedule below:

| Level | Segments of Probation/Diversion | Minimum Range of Number of Random Tests |
|--------------|--|--|
| I | Year 1 | 52-104 per year |
| II* | Year 2+ | 36-104 per year |

*The minimum range of 36-104 tests identified in level II, is for the second year of probation or diversion, and each year thereafter, up to five (5) years. Thereafter, administration of one (1) time per month if there have been no positive drug tests in the previous five (5) consecutive years of probation or diversion.

Nothing precludes a board from increasing the number of random tests for any reason. Any board who finds or has suspicion that a licensee has committed a violation of a board's testing program or who has committed a Major Violation, as identified in Uniform Standard 10, may reestablish the testing cycle by placing that licensee at the beginning of level I, in addition to any other disciplinary action that may be pursued.

EXCEPTIONS TO TESTING FREQUENCY SCHEDULE**I. PREVIOUS TESTING/SOBRIETY**

In cases where a board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing, prior to being subject to testing by the board, the board may give consideration to that testing in altering the testing

frequency schedule so that it is equivalent to this standard.

II. VIOLATION(S) OUTSIDE OF EMPLOYMENT

An individual whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass level I and participate in level II of the testing frequency schedule.

III. NOT EMPLOYED IN HEALTH CARE FIELD

A board may reduce testing frequency to a minimum of 12 times per year for any person who is not practicing OR working in any health care field. If a reduced testing frequency schedule is established for this reason, and if a licensee wants to return to practice or work in a health care field, the licensee shall notify and secure the approval of the licensee's board. Prior to returning to any health care employment, the licensee shall be subject to level I testing frequency for at least 60 days. At such time the person returns to employment (in a health care field), if the licensee has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

IV. TOLLING

A board may postpone all testing for any person whose probation or diversion is placed in a tolling status if the overall length of the probationary or diversion period is also tolled. A licensee shall notify the board upon the licensee's return to California and shall be subject to testing as provided in this standard. If the licensee returns to employment in a health care field, and has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

V. SUBSTANCE USE DISORDER NOT DIAGNOSED

In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the board, but not to be less than 24 times per year.

OTHER DRUG STANDARDS

Drug testing may be required on any day, including weekends and holidays.

The scheduling of drug tests shall be done on a random basis, preferably by a computer program, so that a licensee can make no reasonable assumption of when he/she will be tested again. Boards should be prepared to report data to support back-to-back testing as well as, numerous different intervals of testing.

Licensees shall be required to make daily contact to determine if drug testing is required.

Licensees shall be drug tested on the date of notification as directed by the board.

Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

Collection of specimens shall be observed.

Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

A board may use other testing methods in place of, or to supplement biological fluid testing, if the alternate testing method is appropriate.

PETITIONS FOR REINSTATEMENT

Nothing herein shall limit a board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522 or statutes applicable to the board that contains different provisions for reinstatement or reduction of penalty.

OUTCOMES AND AMENDMENTS

For purposes of measuring outcomes and effectiveness, each board shall collect and report historical and post implementation data as follows:

Historical Data - Two Years Prior to Implementation of Standard

Each board should collect the following historical data (as available), for a period of two years, prior to implementation of this standard, for each person subject to testing for banned substances, who has 1) tested positive for a banned substance, 2) failed to

appear or call in, for testing on more than three occasions, 3) failed to pay testing costs, or 4) a person who has given a dilute or invalid specimen.

Post Implementation Data- Three Years

Each board should collect the following data annually, for a period of three years, for every probationer and diversion participant subject to testing for banned substances, following the implementation of this standard.

Data Collection

The data to be collected shall be reported to the Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:

Probationer/Diversion Participant Unique Identifier
License Type
Probation/Diversion Effective Date
General Range of Testing Frequency by/for Each Probationer/Diversion Participant
Dates Testing Requested
Dates Tested
Identify the Entity that Performed Each Test
Dates Tested Positive
Dates Contractor (if applicable) was informed of Positive Test
Dates Board was informed of Positive Test
Dates of Questionable Tests (e.g. dilute, high levels)
Date Contractor Notified Board of Questionable Test
Identify Substances Detected or Questionably Detected
Dates Failed to Appear
Date Contractor Notified Board of Failed to Appear
Dates Failed to Call In for Testing
Date Contractor Notified Board of Failed to Call In for Testing
Dates Failed to Pay for Testing
Date(s) Removed/Suspended from Practice (identify which)
Final Outcome and Effective Date (if applicable)

#5 SENATE BILL 1441 REQUIREMENT

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.

#5 Uniform Standard

If a board requires a licensee to participate in group support meetings, the following shall apply:

When determining the frequency of required group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

#6 SENATE BILL 1441 REQUIREMENT

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

#6 Uniform Standard

In determining whether inpatient, outpatient, or other type of treatment is necessary, the board shall consider the following criteria:

- recommendation of the clinical diagnostic evaluation pursuant to Uniform Standard #1;
- license type;
- licensee's history;
- documented length of sobriety/time that has elapsed since substance abuse;
- scope and pattern of substance use;
- licensee's treatment history;
- licensee's medical history and current medical condition;
- nature, duration, and severity of substance abuse, and
- threat to himself/herself or the public.

#7 SENATE BILL 1441 REQUIREMENT

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.

#7 Uniform Standard

A board may require the use of worksite monitors. If a board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor shall meet the following requirements to be considered for approval by the board.

1. The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
2. The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.
3. If the worksite monitor is a licensed healthcare professional he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
5. The worksite monitor must adhere to the following required methods of monitoring the licensee:
 - a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
 - b) Interview other staff in the office regarding the licensee's behavior, if applicable.
 - c) Review the licensee's work attendance.

Reporting by the worksite monitor to the board shall be as follows:

1. Any suspected substance abuse must be verbally reported to the board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within 48 hours of occurrence.
2. The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include:
 - the licensee's name;
 - license number;
 - worksite monitor's name and signature;
 - worksite monitor's license number;
 - worksite location(s);
 - dates licensee had face-to-face contact with monitor;
 - staff interviewed, if applicable;
 - attendance report;
 - any change in behavior and/or personal habits;
 - any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the board to allow the board to communicate with the worksite monitor.

#8 SENATE BILL 1441 REQUIREMENT

Procedures to be followed when a licensee tests positive for a banned substance.

#8 Uniform Standard

When a licensee tests positive for a banned substance:

1. The board shall order the licensee to cease practice;
2. The board shall contact the licensee and instruct the licensee to leave work; and
3. The board shall notify the licensee's employer, if any, and worksite monitor, if any, that the licensee may not work.

Thereafter, the board should determine whether the positive drug test is in fact evidence of prohibited use. If so, proceed to Standard #9. If not, the board shall immediately lift the cease practice order.

In determining whether the positive test is evidence of prohibited use, the board should, as applicable:

1. Consult the specimen collector and the laboratory;
2. Communicate with the licensee and/or any physician who is treating the licensee; and
3. Communicate with any treatment provider, including group facilitator/s.

#9 SENATE BILL 1441 REQUIREMENT

Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

#9 Uniform Standard

When a board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation, as defined in Uniform Standard #10 and the board shall impose the consequences set forth in Uniform Standard #10.

#10 SENATE BILL 1441 REQUIREMENT

Specific consequences for major and minor violations. In particular, the committee shall consider the use of a “deferred prosecution” 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 until or unless licensee commits a major violation, in which case it is revived and license is surrendered.

#10 Uniform Standard

Major Violations include, but are not limited to:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Multiple minor violations;
4. Treating patients while under the influence of drugs/alcohol;
5. Any drug/alcohol related act which would constitute a violation of the practice act or state/federal laws;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive and confirmation for substance abuse pursuant to Uniform Standard #9;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Consequences for a major violation include, but are not limited to:

1. Licensee will be ordered to cease practice.
 - a) the licensee must undergo a new clinical diagnostic evaluation, and
 - b) the licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
2. Termination of a contract/agreement.
3. Referral for disciplinary action, such as suspension, revocation, or other action as determined by the board.

Minor Violations include, but are not limited to:

1. Untimely receipt of required documentation;
2. Unexcused non-attendance at group meetings;
3. Failure to contact a monitor when required;
4. Any other violations that do not present an immediate threat to the violator or to the public.

Consequences for minor violations include, but are not limited to:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation/testing;
7. Other action as determined by the board.

#11 SENATE BILL 1441 REQUIREMENT

Criteria that a licensee must meet in order to petition for return to practice on a full time basis.

#11 Uniform Standard

“Petition” as used in this standard is an informal request as opposed to a “Petition for Modification” under the Administrative Procedure Act.

The licensee shall meet the following criteria before submitting a request (petition) to return to full time practice:

1. Demonstrated sustained compliance with current recovery program.
2. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee’s substance abuse.
3. Negative drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

#12 SENATE BILL 1441 REQUIREMENT

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

#12 Uniform Standard

“Petition for Reinstatement” as used in this standard is an informal request (petition) as opposed to a “Petition for Reinstatement” under the Administrative Procedure Act.

The licensee must meet the following criteria to request (petition) for a full and unrestricted license.

1. Demonstrated sustained compliance with the terms of the disciplinary order, if applicable.
2. Demonstrated successful completion of recovery program, if required.
3. Demonstrated a consistent and sustained participation in activities that promote and support their recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities.
4. Demonstrated that he or she is able to practice safely.
5. Continuous sobriety for three (3) to five (5) years.

#13 SENATE BILL 1441 REQUIREMENT

If a board uses a private-sector vendor that provides diversion services, (1) standards for immediate reporting by the vendor to the board of any and all noncompliance with process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; (3) standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and (4) standards for a licensee's termination from the program and referral to enforcement.

#13 Uniform Standard

1. A vendor must report to the board any major violation, as defined in Uniform Standard #10, within one (1) business day. A vendor must report to the board any minor violation, as defined in Uniform Standard #10, within five (5) business days.
2. A 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 is as follows:

(a) Specimen Collectors:

- (1) The provider or subcontractor shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which he or she is responsible on any day of the week.
- (2) The provider or subcontractor shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol, illegal, and controlled substances.
- (3) The provider or subcontractor must provide collection sites that are located in areas throughout California.
- (4) The provider or subcontractor must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the participant to check in daily for drug testing.
- (5) The provider or subcontractor must have or be subcontracted with operating collection sites that are engaged in the business of collecting urine, blood, and hair follicle specimens for the testing of drugs and alcohol within the State of California.
- (6) The provider or subcontractor must have a secure, HIPAA compliant, website or computer system to allow staff access to drug test results and compliance reporting information that is available 24 hours a day.

- (7) The provider or subcontractor shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory drug test results, medical histories, and any other information relevant to biomedical information.
- (8) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.
- (9) Must undergo training as specified in Uniform Standard #4 (6).

(b) Group Meeting Facilitators:

A group meeting facilitator for any support group meeting:

- (1) must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
- (2) must be licensed or certified by the state or other nationally certified organization;
- (3) must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year;
- (4) shall report any unexcused absence within 24 hours to the board, and,
- (5) shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.

(c) Work Site Monitors:

The worksite monitor must meet the following qualifications:

- (1) Shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
- (2) The monitor's licensure scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no

monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.

- (3) Shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
 - (4) Shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
2. The worksite monitor must adhere to the following required methods of monitoring the licensee:
 - a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
 - b) Interview other staff in the office regarding the licensee's behavior, if applicable.
 - c) Review the licensee's work attendance.
 3. Any suspected substance abuse must be verbally reported to the contractor, the board, and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within 48 hours of occurrence.
 4. The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include:
 - the licensee's name;
 - license number;
 - worksite monitor's name and signature;
 - worksite monitor's license number;
 - worksite location(s);
 - dates licensee had face-to-face contact with monitor;
 - staff interviewed, if applicable;
 - attendance report;
 - any change in behavior and/or personal habits;

- any indicators that can lead to suspected substance abuse.

(d) Treatment Providers

Treatment facility staff and services must have:

- (1) Licensure and/or accreditation by appropriate regulatory agencies;
- (2) Sufficient resources available to adequately evaluate the physical and mental needs of the client, provide for safe detoxification, and manage any medical emergency;
- (3) Professional staff who are competent and experienced members of the clinical staff;
- (4) Treatment planning involving a multidisciplinary approach and specific aftercare plans;
- (5) Means to provide treatment/progress documentation to the provider.

(e) General Vendor Requirements

The vendor shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows:

- (1) The vendor is fully responsible for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.
- (2) If a subcontractor fails to provide effective or timely services as listed above, but not limited to any other subcontracted services, the vendor will terminate services of said contractor within 30 business days of notification of failure to provide adequate services.
- (3) The vendor shall notify the appropriate board within five (5) business days of termination of said subcontractor.

#14 SENATE BILL 1441 REQUIREMENT

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.

#14 Uniform Standard

The board shall disclose the following information to the public for licensees who are participating in a board monitoring/diversion program regardless of whether the licensee is a self-referral or a board referral. However, the disclosure shall not contain information that the restrictions are a result of the licensee's participation in a diversion program.

- Licensee's name;
- Whether the licensee's practice is restricted, or the license is on inactive status;
- A detailed description of any restriction imposed.

#15 SENATE BILL 1441 REQUIREMENT

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.

#15 Uniform Standard

1. If a board uses a private-sector vendor to provide monitoring services for its licensees, an external independent audit must be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the department with no real or apparent conflict of interest with the vendor providing the monitoring services. In addition, the reviewer shall not be a part of or under the control of the board. The independent reviewer or review team must consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs.
2. The audit must assess the vendor's performance in adhering to the uniform standards established by the board. The reviewer must provide a report of their findings to the board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the board's mandate of public protection.
3. The board and the department shall respond to the findings in the audit report.

#16 SENATE BILL 1441 Requirement

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.

#16 Uniform Standard

Each board shall report the following information on a yearly basis to the Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are either in a board probation and/or diversion program.

- Number of intakes into a diversion program
- Number of probationers whose conduct was related to a substance abuse problem
- Number of referrals for treatment programs
- Number of relapses (break in sobriety)
- Number of cease practice orders/license in-activations
- Number of suspensions
- Number terminated from program for noncompliance
- Number of successful completions based on uniform standards
- Number of major violations; nature of violation and action taken
- Number of licensees who successfully returned to practice
- Number of patients harmed while in diversion

The above information shall be further broken down for each licensing category, specific substance abuse problem (i.e. cocaine, alcohol, Demerol etc.), whether the licensee is in a diversion program and/or probation program.

If the data indicates that licensees in specific licensing categories or with specific substance abuse problems have either a higher or lower probability of success, that information shall be taken into account when determining the success of a program. It may also be used to determine the risk factor when a board is determining whether a license should be revoked or placed on probation.

The board shall use the following criteria to determine if its program protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

- At least 100 percent of licensees who either entered a diversion program or whose license was placed on probation as a result of a substance abuse problem successfully completed either the program or the probation, or had their license to practice revoked or surrendered on a timely basis based on noncompliance of those programs.
- At least 75 percent of licensees who successfully completed a diversion program or probation did not have any substantiated complaints related to substance abuse for at least five (5) years after completion.

Legislative Bills:

SB 1236 – Price - Sunset bill

This bill recommends that the PAC:

Be extended until 2017

Change the name from Committee to Board

Adds PAC to Section 800 series

Adds military and retired status

Currently in ASM Appropriations

SB 1438 – Steinberg – This bill would create the Physician Health Program, administered by the Physician Health, Recovery and Monitoring Oversight Committee within the department with 14 members to be appointed as specified. Currently referred to Committee on Appropriations

SB 1501 – Kehoe – Was the previous bill about abortion.

Now it has been changed to: Open space easements

This bill would require an easement accepted or approved by the Open Space to be recorded consistent with the indexing system maintained by the county records. This bill contains other existing laws.

Bill does not relate to PA's - will remove from next agenda

SB 1575 – Committee on Business, Professions and Economic Development are the Authors

This bill would require dental hygienists upon initial licensure and renewal to report their employment status to the committee and would require that information to be posted on the committee's internet website.

Currently in Appropriations

AB 1548 – A business that offers outpatient cosmetic medical procedures that is owned in violation of law, and contracts or employs a P&S is guilty of violating PC 550. The business org would be guilty of a violation of the prohibition against making or causing any false claim for payment of a health care benefit.

Chaptered by Secretary of State Chapter 140, Statutes of 2012.

AB 137 – Portantino – Mammographies. This bill determines that health care plans issued, amended, delivered or renewed after 7/1/13 are deemed to provide coverage for mammograms upon referrals by health care professionals which include Pas.

Currently has been referred to Committee on Health

AB 1894 – Logue – PA – Amends 3519, this bill is a placeholder at this time.

No change

AB 1904 – Block, Butler and Cook – Military – This bill would require boards to expedite processes for issuing temporary licenses for someone who holds an equivalent license in another jurisdiction and is married to an active duty member of the armed forces assigned to active duty in CA.

Currently in Senate Appropriations



MEDICAL BOARD OF CALIFORNIA
Executive Office



July 25, 2012

The Honorable Curren D. Price, Jr., Chair
California State Senate
State Capitol, Room 2057
Sacramento, CA 95814

Re.: SB 1236 (Price) – Support Position

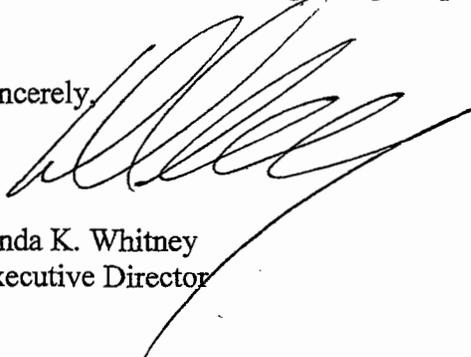
Dear Senator Price:

The Medical Board of California (Board) considered your SB 1236 at its meeting on July 20, 2012. The Board has taken a support position on the provisions of this bill related to the Physician Assistant Committee. This bill would rename this committee the Physician Assistant Board (PAB), and would make it its own Board, not a committee of the Medical Board of California (Board). This bill would extend the sunset date of the PAB to January 1, 2017. This bill would also revise the makeup of the members of the PAB. Upon expiration of the current Medical Board Member, this bill would require a member to be appointed to the PAB that is also a member of the Board, but that member shall serve as an ex officio, nonvoting member whose functions will include reporting to the Board on the actions or discussion of the PAB.

The Board is supportive of this bill because it would maintain close ties between the Board and PAB, by continuing the requirement to have a Medical Board Member to sit on the PAB and provide reports to the Board. This bill would also continue the cooperative working relationship that the Board and the PAC currently maintain.

Please contact my Chief of Legislation, Jennifer Simoes, or me at (916) 263-2389 if you need additional information regarding our position on this bill.

Sincerely,



Linda K. Whitney
Executive Director

CURRENT BILL STATUS

MEASURE : S.B. No. 1236
AUTHOR(S) : Price.
TOPIC : Healing arts boards.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/18/2012

TYPE OF BILL :

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

LAST HIST. ACT. DATE: 06/26/2012

LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR.
(Ayes 9. Noes 0.) (June 26). Re-referred to Com. on
APPR.

COMM. LOCATION : ASM APPROPRIATIONS

TITLE : 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, 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 Section 3521.3 to, the Business and
Professions Code, relating to healing arts.

BILL NUMBER: SB 1236 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 18, 2012
AMENDED IN SENATE APRIL 17, 2012

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, 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~~ Section 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.

(1) Existing law provides for the certification and regulation of podiatrists by the California Board of Podiatric Medicine within the jurisdiction of the Medical Board of California. Under existing law, the California Board of Podiatric Medicine 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 until January 1, 2017. The bill would specify that the board 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. *The bill would allow the board to establish, by regulation, a system for placement of a licensee on retired status, as specified.*

(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: yes.

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

SECTION 1. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licensee pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file.

For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

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

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

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

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

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

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

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

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

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

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

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

(1) A settlement over thirty thousand dollars (\$30,000) or arbitration award of any amount or a civil judgment of any amount,

whether or not vacated by a settlement after entry of the judgment, that was not reversed on appeal, of a claim or action for damages for death or personal injury caused by the licensee's alleged negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Any other information the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board may, by regulation, require.

(3) Every professional liability insurer, self-insured governmental agency, or licensee or his or her counsel that makes a report under this section and has received a copy of any written or electronic patient medical or hospital records prepared by the treating physician and surgeon, podiatrist, or physician assistant, or the staff of the treating physician and surgeon, podiatrist, or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the report, or a copy of any deposition in the matter that discusses the care, treatment, or medical condition of the person, shall include with the report, copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If confidentiality is required by court order and, as a result, the reporter is unable to provide the records and depositions, documentation to that effect shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer, self-insured governmental

writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

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

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

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

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

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

803. (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Sciences or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

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

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

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

- (1) Temporary restraining orders issued.
- (2) Interim suspension orders issued.

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

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

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

(1) Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars (\$30,000) or more.

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

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

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

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

(3) Current American Board of Medical ~~Specialty~~ *Specialties* certification or board equivalent as certified by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine.

(4) Approved postgraduate training.

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

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

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

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

"Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor's specialty and the doctor's history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather than questions

of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the doctor's specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for

high-quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

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

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

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

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

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

(e) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall not use the terms "enforcement," "discipline," or similar language implying a sanction unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(f) The Medical Board of California shall adopt regulations no later than July 1, 2003, designating each specialty and subspecialty practice area as either high risk or low risk. In promulgating these regulations, the board shall consult with commercial underwriters of medical malpractice insurance companies, health care systems that self-insure physicians and surgeons, and representatives of the California medical specialty societies. The board shall utilize the carriers' statewide data to establish the two risk categories and the averages required by subparagraph (B) of paragraph (2) of subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

(g) The Medical Board of California, the Osteopathic Medical Board

of California, the California Board of Podiatric Medicine, the Physician Assistant Board shall provide each licensee, including a former licensee under subdivision (a), with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

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

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

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

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

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

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

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

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

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

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

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

either or both of the following:

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

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

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

(B) "Peer review body" includes:

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

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

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

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

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

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

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

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

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

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

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of

any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

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

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

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

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

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

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

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

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

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

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

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

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

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report

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

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

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

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

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

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

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

whole, provision shall be made for that discussion before the 100-day period specified in paragraph (3) expires, but in no event shall that 100-day period be extended.

(3) If a majority of the board or of the panel, or a majority of the California Board of Podiatric Medicine vote to do so, the board or the panel or the California Board of Podiatric Medicine shall issue an order of nonadoption of a proposed decision within 100 calendar days of the date it is received by the board. If the board or the panel or the California Board of Podiatric Medicine does not refer the case back to the administrative law judge for the taking of additional evidence or issue an order of nonadoption within 100 calendar days, the decision shall be final and subject to review under Section 2337. Members of the board or of any panel or of the California Board of Podiatric Medicine who review a proposed decision or other matter and vote by mail as provided in paragraph (2) shall return their votes by mail to the board within 30 days from receipt of the proposed decision or other matter.

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

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

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

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

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

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

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

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

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

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

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

approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is issued a resident's license, which may be renewed annually for this purpose by the division upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program and may receive compensation for that practice under the following conditions:

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

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

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

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

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

2484. In addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the board, submitted directly to the board by the sponsoring institution, that he or she has satisfactorily completed at least two years of postgraduate podiatric medical and podiatric surgical training in a general acute care hospital approved by the Council on Podiatric Medical Education.

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

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

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

2496. In order to ensure the continuing competence of persons licensed to practice podiatric medicine, the board shall adopt and administer regulations requiring continuing education of those licensees. The board shall require those licensees to demonstrate satisfaction of the continuing education requirements and one of the following requirements at each license renewal:

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

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

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

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

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

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

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

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

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

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

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

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

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

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

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

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

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

3501. (a) As used in this chapter:

(1) "Board" means the Physician Assistant Board.

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

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

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

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

(6) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

(7) "Regulations" means the rules and regulations as set forth in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(8) "Routine visual screening" means uninvaseive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

(9) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the ~~Medical Board of California~~ board . The program manager shall have background experience in dealing with substance abuse issues.

(10) "Delegation of services agreement" means the writing that delegates to a physician assistant from a supervising physician the medical services the physician assistant is authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the California Code of Regulations.

(11) "Other specified medical services" means tests or examinations performed or ordered by a physician assistant practicing in compliance with this chapter or regulations of the Medical Board of California promulgated under this chapter.

(b) A physician assistant acts as an agent of the supervising physician when performing any activity authorized by this chapter or regulations ~~promulgated by the board~~ adopted under this chapter.

SEC. 22. Section 3502 of the Business and Professions Code is amended to read:

3502. (a) Notwithstanding any other provision of law, a physician assistant may perform those medical services as set forth by the regulations ~~of the Medical Board of California~~ adopted under this chapter when the services are rendered under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that supervision or prohibiting the employment of a physician assistant.

(b) Notwithstanding any other provision of law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall do so only according to patient-specific orders from the supervising physician and surgeon.

The supervising physician and surgeon shall be physically available to the physician assistant for consultation when such assistance is rendered. A physician assistant assisting a doctor of podiatric medicine shall be limited to performing those duties

included within the scope of practice of a doctor of podiatric medicine.

(c) (1) A physician assistant and his or her supervising physician and surgeon shall establish written guidelines for the adequate supervision of the physician assistant. This requirement may be satisfied by the supervising physician and surgeon adopting protocols for some or all of the tasks performed by the physician assistant. The protocols adopted pursuant to this subdivision shall comply with the following requirements:

(A) A protocol governing diagnosis and management shall, at a minimum, include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be provided to the patient.

(B) A protocol governing procedures shall set forth the information to be provided to the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the followup care.

(C) Protocols shall be developed by the supervising physician and surgeon or adopted from, or referenced to, texts or other sources.

(D) Protocols shall be signed and dated by the supervising physician and surgeon and the physician assistant.

(2) The supervising physician and surgeon shall review, countersign, and date a sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the physician assistant functioning under the protocols within 30 days of the date of treatment by the physician assistant. The physician and surgeon shall select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient.

(3) Notwithstanding any other provision of law, the Medical Board of California or board may establish other alternative mechanisms for the adequate supervision of the physician assistant.

(d) No medical services may be performed under this chapter in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(e) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

SEC. 23. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the Medical Board of California, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. Protocols for Schedule II controlled substances shall address the diagnosis of illness, injury, or condition for which the Schedule II controlled substance is being administered, provided, or issued. The drugs listed in the protocols shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "~~Drug order~~ order, " for purposes of this section , means an order for medication that is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians and surgeons, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in subdivision (a) or shall be approved by the supervising physician and surgeon before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide, or issue a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets standards, including pharmacological content, approved by the ~~committee~~ board . The education course shall be provided either by an accredited continuing education provider or by an approved physician assistant training program. If the physician assistant will administer, provide, or issue a drug order for Schedule II controlled substances, the course shall contain a minimum of three hours exclusively on Schedule II controlled substances. Completion of the requirements set forth in this paragraph shall be verified and documented in the manner established by the ~~committee~~ board prior to the physician assistant's use of a registration number

issued by the United States Drug Enforcement Administration to the physician assistant to administer, provide, or issue a drug order to a patient for a controlled substance without advance approval by a supervising physician and surgeon for that particular patient.

(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and ~~phone~~ telephone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant and shall otherwise comply with the provisions of Section 11162.1 of the Health and Safety Code. Except as otherwise required for written drug orders for controlled substances under Section 11162.1 of the Health and Safety Code, the requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances registration number of the physician assistant, and shall be signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The medical record of any patient cared for by a physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

(g) The board shall consult with the Medical Board of California and report during its sunset review required by Division 1.2 (commencing with Section 473) the impacts of exempting Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to review and countersign the affected medical record of a patient.

SEC. 24. Section 3502.3 of the Business and Professions Code is amended to read:

3502.3. (a) Notwithstanding any other provision of law, in addition to any other practices that meet the general criteria set forth in this chapter or the Medical Board of California's regulations for inclusion in a delegation of services agreement, a delegation of services agreement may authorize a physician assistant to do any of the following:

(1) Order durable medical equipment, subject to any limitations set forth in Section 3502 or the delegation of services agreement. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payer to require prior approval.

(2) For individuals receiving home health services or personal care services, after consultation with the supervising physician, approve, sign, modify, or add to a plan of treatment or plan of care.

(b) Nothing in this section shall be construed to affect the validity of any delegation of services agreement in effect prior to the enactment of this section or those adopted subsequent to enactment.

SEC. 25. Section 3502.5 of the Business and Professions Code is amended to read:

3502.5. Notwithstanding any other provision of law, a physician assistant may perform those medical services permitted pursuant to Section 3502 during any state of war emergency, state of emergency, or state of local emergency, as defined in Section 8558 of the Government Code, and at the request of a responsible federal, state, or local official or agency, or pursuant to the terms of a mutual aid operation plan established and approved pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), regardless of whether the physician assistant's approved supervising physician is available to supervise the physician assistant, so long as a licensed physician is available to render the appropriate supervision. "Appropriate supervision" shall not require the personal or electronic availability of a supervising physician if that availability is not possible or practical due to the emergency. The local health officers and their designees may act as supervising physicians during emergencies without being subject to approval by the Medical Board of California. At all times, the local health officers or their designees supervising the physician assistants shall be licensed physicians and surgeons. Supervising physicians acting pursuant to this section shall not be subject to the limitation on the number of physician assistants supervised under Section 3516.

No responsible official or mutual aid operation plan shall invoke this section except in the case of an emergency that endangers the health of individuals. Under no circumstances shall this section be invoked as the result of a labor dispute or other dispute concerning collective bargaining.

SEC. 26. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant ~~board~~ Board within the jurisdiction of the Medical Board of California. The board consists of nine members. This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 27. Section 3504.1 of the Business and Professions Code is amended to read:

3504.1. Protection of the public shall be the highest priority for the Physician Assistant Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 28. Section 3505 of the Business and Professions Code is amended to read:

3505. The members of the board shall include four physician assistants, one physician and surgeon who is also a member of the Medical Board of California, and four public members. Upon the expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a physician assistant. *Upon the*

expiration of the term of the member who is a member of the Medical Board of California, above, there shall be appointed to the board a physician and surgeon who is also a member of the Medical Board of California who shall serve as an ex officio, nonvoting member and whose functions shall include reporting to the Medical Board of California on the actions or discussions of the board. Following the expiration of the term of the member described above, the board shall include five physician assistants , one physician and surgeon, and four public members.

Each member of the board shall hold office for a term of four years expiring on January 1st, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms.

The Governor shall appoint the licensed members qualified as provided in this section and two public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 29. Section 3506 of the Business and Professions Code is amended to read:

3506. Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 30. Section 3507 of the Business and Professions Code is amended to read:

3507. The appointing power has power to remove from office any member of the board, as provided in Section 106.

SEC. 31. Section 3508 of the Business and Professions Code is amended to read:

3508. (a) The board may convene from time to time as deemed necessary by the board.

(b) Notice of each meeting of the board shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving notification.

(c) The board shall receive permission of the director to meet more than six times annually. The director shall approve meetings that are necessary for the board to fulfill its legal responsibilities.

SEC. 32. Section 3509 of the Business and Professions Code is amended to read:

3509. It shall be the duty of the board to:

(a) Establish standards and issue licenses of approval for programs for the education and training of physician assistants.

(b) Make recommendations to the Medical Board of California concerning the scope of practice for physician assistants.

(c) Make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration of applications by licensed physicians to supervise physician assistants and approval of such applications.

(d) Require the examination of applicants for licensure as a physician assistant who meet the requirements of this chapter.

SEC. 33. Section 3509.5 of the Business and Professions Code is amended to read:

3509.5. The board shall elect annually a chairperson and a vice chairperson from among its members.

SEC. 34. Section 3510 of the Business and Professions Code is amended to read:

3510. The board may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect the provisions of this

chapter; provided, however, that the Medical Board of California shall adopt, amend, and repeal such regulations as may be necessary to enable ~~it~~ *the board* to implement the provisions of this chapter under its jurisdiction. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 35. Section 3511 of the Business and Professions Code is amended to read:

3511. Five members shall constitute a quorum for transacting any business. The affirmative vote of a majority of those present at a meeting of the board shall be required to carry any motion. *The physician and surgeon who serves as an ex officio member shall not be counted for purposes of a quorum.*

SEC. 36. Section 3512 of the Business and Professions Code is amended to read:

3512. (a) Except as provided in Sections 159.5 and 2020, the board shall employ within the limits of the Physician Assistant Fund all personnel necessary to carry out the provisions of this chapter including an executive officer who shall be exempt from civil service. The Medical Board of California and board shall make all necessary expenditures to carry out the provisions of this chapter from the funds established by Section 3520. The board may accept contributions to effect the purposes of this chapter.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 37. Section 3513 of the Business and Professions Code is amended to read:

3513. The board shall recognize the approval of training programs for physician assistants approved by a national accrediting organization. Physician assistant training programs accredited by a national accrediting agency approved by the board shall be deemed approved by the board under this section. If no national accrediting organization is approved by the board, the board may examine and pass upon the qualification of, and may issue certificates of approval for, programs for the education and training of physician assistants that meet board standards.

SEC. 38. Section 3514.1 of the Business and Professions Code is amended to read:

3514.1. (a) The board shall formulate by regulation guidelines for the consideration of applications for licensure as a ~~physician's~~ *physician* assistant.

(b) The board shall formulate by regulation guidelines for the approval of ~~physician's~~ *physician* assistant training programs.

SEC. 39. Section 3516 of the Business and Professions Code is amended to read:

3516. (a) Notwithstanding any other provision of law, a physician assistant licensed by the board shall be eligible for employment or supervision by any physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that employment or supervision.

(b) No physician and surgeon shall supervise more than four physician assistants at any one time, except as provided in Section 3502.5.

(c) The Medical Board of California may restrict a physician and

surgeon to supervising specific types of physician assistants including, but not limited to, restricting a physician and surgeon from supervising physician assistants outside of the field of specialty of the physician and surgeon.

SEC. 40. Section 3516.5 of the Business and Professions Code is amended to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the Medical Board of California, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the Medical Board of California for authorization under which the director may grant approval for emergency care physicians on the staff of the hospital to supervise emergency care physician assistants.

(b) The application shall encompass all supervising physicians employed in that service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than four physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000).

(e) A violation of this section shall be grounds for suspension of the approval of the director or disciplinary action against the director or suspension of the approved program under Section 3527.

SEC. 41. Section 3517 of the Business and Professions Code is amended to read:

3517. The board shall require a written examination of physician assistants in the manner and under the rules and regulations as it shall prescribe, but the examination shall be conducted in that manner as to ensure that the identity of each applicant taking the examination will be unknown to all of the examiners until all examination papers have been graded. Except as otherwise provided in this chapter, or by regulation, no physician assistant applicant shall receive approval under this chapter without first successfully passing an examination given under the direction of the board.

Examinations for licensure as a physician assistant may be required by the board under a uniform examination system, and for that purpose the board may make those arrangements with organizations furnishing examination material as may, in its discretion, be desirable. The board shall, however, establish a passing score for each examination. The licensure examination for physician assistants shall be held by the board at least once a year with such additional examinations as the board deems necessary. The time and place of examination shall be fixed by the board.

SEC. 42. Section 3518 of the Business and Professions Code is amended to read:

3518. The board shall keep current, two separate registers, one for approved supervising physicians and one for licensed ~~physician's~~ physician assistants, by specialty if applicable. These registers shall show the name of each licensee, his or her last known address of record, and the date of his or her licensure or approval. Any interested person is entitled to obtain a copy of the register in accordance with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) upon application to the board together with a sum as may be fixed by the board, which amount shall not exceed the cost of this list so furnished.

SEC. 43. Section 3519 of the Business and Professions Code is amended to read:

3519. The board shall issue under the name of the Medical Board of California a license to all physician assistant applicants who meet all of the following requirements:

(a) Provide evidence of successful completion of an approved program.

(b) Pass any examination required under Section 3517.

(c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.

(d) Pay all fees required under Section 3521.1.

SEC. 44. Section 3519.5 of the Business and Professions Code is amended to read:

3519.5. (a) The board may issue under the name of the Medical Board of California a probationary license to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the applicant's activities shall be supervised by another physician assistant.

(2) Total or partial restrictions on issuing a drug order for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical services.

(8) Compliance with all provisions of this chapter.

(b) The board and the Medical Board of California may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the board and the Medical Board of California. These proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 45. Section 3520 of the Business and Professions Code is amended to read:

3520. Within 10 days after the beginning of each calendar month the Medical Board of California shall report to the Controller the amount and source of all collections made under this chapter and at the same time pay all those sums into the State Treasury, where they shall be credited to the Physician Assistant Fund, which fund is hereby created. All money in the fund shall be used to carry out the purpose of this chapter.

SEC. 46. Section 3521 of the Business and Professions Code is amended to read:

3521. The fees to be paid for approval to supervise physician assistants are to be set by the board as follows:

(a) An application fee not to exceed fifty dollars (\$50) shall be charged to each physician and surgeon applicant.

(b) An approval fee not to exceed two hundred fifty dollars (\$250) shall be charged to each physician and surgeon upon approval of an application to supervise physician assistants.

(c) A biennial renewal fee not to exceed three hundred dollars (\$300) shall be paid for the renewal of an approval.

(d) The delinquency fee is twenty-five dollars (\$25).

(e) The duplicate approval fee is ten dollars (\$10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of approval shall be ten dollars (\$10).

SEC. 47. Section 3521.1 of the Business and Professions Code is amended to read:

3521.1. The fees to be paid by physician assistants are to be set by the board as follows:

(a) An application fee not to exceed twenty-five dollars (\$25) shall be charged to each physician assistant applicant.

(b) An initial license fee not to exceed two hundred fifty dollars (\$250) shall be charged to each physician assistant to whom a license is issued.

(c) A biennial license renewal fee not to exceed three hundred dollars (\$300).

(d) The delinquency fee is twenty-five dollars (\$25).

(e) The duplicate license fee is ten dollars (\$10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of licensure shall be ten dollars (\$10).

SEC. 48. Section 3521.2 of the Business and Professions Code is amended to read:

3521.2. The fees to be paid by physician assistant training programs are to be set by the board as follows:

(a) An application fee not to exceed five hundred dollars (\$500) shall be charged to each applicant seeking program approval by the board.

(b) An approval fee not to exceed one hundred dollars (\$100) shall be charged to each program upon its approval by the board.

SEC. 49. Section 3521.3 is added to the Business and Professions Code, to read:

~~3521.3. Every licensed physician assistant is exempt from the payment of the renewal fee and requirement for continuing medical education if the licensee has applied to the board for a retired license. The holder of a retired license may not engage in the practice of a physician assistant.~~

3521.3. (a) The board may establish, by regulation, a system for the placement of a license on a retired status, upon application, for a physician assistant who is not actively engaged in practice as a physician assistant or any activity that requires them to be licensed by the board.

(b) No licensee with a license on a retired status shall engage in any activity for which a license is required.

(c) The board shall deny an applicant's application for a retired status license if the license is canceled or if the license is suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(d) Beginning one year from the effective date of the regulations adopted pursuant to subdivision (a), if an applicant's license is delinquent, the board shall deny an applicant's application for a retired status license.

(e) The board shall establish minimum qualifications for a retired status license.

(f) The board may exempt the holder of a retired status license from the renewal requirements described in Section 3524.5.

(g) The board shall establish minimum qualifications for the restoration of a license in a retired status to an active status. These minimum qualifications shall include, but are not limited to, continuing education and payment of a fee as provided in subdivision (c) of Section 3521.1.

~~SEC. 50. Section 3521.4 is added to the Business and Professions Code, to read:~~

~~3521.4. (a) Every licensed physician assistant is exempt from the~~

~~payment of the renewal fee specified in Section 3521.1 while engaged in full time training or active service in the Army, Navy, Air Force, or Marines, or in the United States Public Health Service.~~

~~(b) Every person exempted from the payment of the renewal fee by this section shall not engage in any private practice and shall become liable for payment of such fee for the current renewal period upon his or her discharge from full-time active service and shall have a period of 60 days after becoming liable within which to pay the renewal fee before the delinquency fee is required. Any person who is discharged from active service within 60 days of the end of a renewal period is exempt from the payment of the renewal fee for that period.~~

~~(c) The time spent in full time active service or training shall not be included in the computation of the five year period for renewal and reinstatement of licensure provided in Sections 3524.~~

~~(d) Nothing in this section shall exempt a person, exempt from renewal fees under this section, from meeting the continuing education requirements as provided in Section 3524.5.~~

~~SEC. 51.~~ SEC. 50. Section 3521.5 of the Business and Professions Code is amended to read:

3521.5. The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the Medical Board of California approves a fee increase pursuant to Sections 3521 and 3521.1. The board shall specify the reasons for each increase in the report. Reports prepared pursuant to this section shall identify the percentage of funds derived from an increase in fees pursuant to Senate Bill 1077 of the 1991-92 Regular Session (Chapter 917, Statutes of 1991) that will be used for investigational and enforcement activities by the Medical Board of California and board.

~~SEC. 52.~~ SEC. 51. Section 3522 of the Business and Professions Code is amended to read:

3522. An approval to supervise physician assistants shall expire at 12 midnight on the last day of the birth month of the physician and surgeon during the second year of a two-year term if not renewed.

The Medical Board of California shall establish a cyclical renewal program, including, but not limited to, the establishment of a system of staggered expiration dates for approvals and a pro rata formula for the payment of renewal fees by physician and surgeon supervisors.

To renew an unexpired approval, the approved supervising physician and surgeon, on or before the date of expiration, shall apply for renewal on a form prescribed by the Medical Board of California and pay the prescribed renewal fee.

~~SEC. 53.~~ SEC. 52. Section 3523 of the Business and Professions Code is amended to read:

3523. All physician assistant licenses shall expire at 12 midnight of the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

The board shall establish by regulation procedures for the administration of a birthdate renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates and a pro rata formula for the payment of renewal fees by physician assistants affected by the implementation of the program.

To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.

~~SEC. 54.~~ SEC. 53. Section 3524 of

the Business and Professions Code is amended to read:

3524. A license or approval that has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the board or Medical Board of California, as the case may be, and payment of all accrued and unpaid renewal fees. If the license or approval is not renewed within 30 days after its expiration, the licensed physician assistant and approved supervising physician, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 3522 or 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

~~SEC. 55.~~ SEC. 54. Section 3524.5 of the Business and Professions Code is amended to read:

3524.5. The board may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The board shall not require more than 50 hours of continuing education every two years. The board shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the board, as evidence of compliance with continuing education requirements.

~~SEC. 56.~~ SEC. 55. Section 3526 of the Business and Professions Code is amended to read:

3526. A person who fails to renew his or her license or approval within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but that person may apply for and obtain a new license or approval if he or she:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to practice as a physician assistant.

(c) Pays all of the fees that would be required as if application for licensure was being made for the first time.

~~SEC. 57.~~ SEC. 56. Section 3527 of the Business and Professions Code is amended to read:

3527. (a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(b) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The Medical Board of California may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary

conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(d) Notwithstanding subdivision (c), the Division of Medical Quality of the Medical Board of California, in conjunction with an action it has commenced against a physician and surgeon, may, in its own discretion and without the concurrence of the Medical Board of California, order the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(e) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, a physician assistant license, after a hearing as required in Section 3528 for unprofessional conduct that includes, except for good cause, the knowing failure of a licensee to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the ~~California~~ Medical Board of California, the Board of Podiatric Medicine, the Board of Dental Examiners, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(f) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

(g) *The expiration, cancelation, forfeiture, or suspension of a physician assistant license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.*

~~SEC. 58.~~ SEC. 57. Section 3529 of the Business and Professions Code is amended to read:

3529. The board may hear any matters filed pursuant to subdivisions (a) and (b) of Section 3527, or may assign the matter to a hearing officer. The Medical Board of California may hear any

matters filed pursuant to subdivision (c) of Section 3527, or may assign the matter to a hearing officer. If a matter is heard by the board or the Medical Board of California, the hearing officer who presided at the hearing shall be present during the board's or the Medical Board of California's consideration of the case, and, if requested, assist and advise the board or the Medical Board of California.

~~SEC. 59.~~ SEC. 58. Section 3530 of the Business and Professions Code is amended to read:

3530. (a) A person whose license or approval has been revoked or suspended, or who has been placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or approval revoked for unprofessional conduct, except that the ~~committee~~ board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

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

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

(b) The petition shall state any facts as may be required by the Medical Board of California. The petition shall be accompanied by at least two verified recommendations from physicians licensed either by the Medical Board of California or the Osteopathic Medical Board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(c) The petition may be heard by the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The board or the administrative law judge hearing the petition, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the ~~committee~~ board or administrative law judge finds necessary.

(e) The board or administrative law judge, when hearing a petition for reinstating a license or approval or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

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

~~SEC. 60.~~ SEC. 59. Section 3531 of

the Business and Professions Code is amended to read:

3531. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which is substantially related to the qualifications, functions, or duties of the business or profession to which the license was issued is deemed to be a conviction within the meaning of this chapter. The board may order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

~~SEC. 61.~~ SEC. 60. Section 3533 of the Business and Professions Code is amended to read:

3533. Whenever any person has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the Medical Board of California, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The Medical Board of California or the board may commence action in the superior court under the provisions of this section.

~~SEC. 62.~~ SEC. 61. Section 3534 of the Business and Professions Code is amended to read:

3534. ~~(a)~~ - It is the intent of the Legislature that the board shall seek ways and means to identify and rehabilitate physician assistants whose competency is impaired due to abuse of dangerous drugs or alcohol so that they may be treated and returned to the practice of medicine in a manner which will not endanger the public health and safety.

~~SEC. 63.~~ SEC. 62. Section 3534.1 of the Business and Professions Code is amended to read:

3534.1. The board shall establish and administer a diversion program for the rehabilitation of physician assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article. As used in this article, "committee" means a diversion evaluation committee. A committee created under this article operates under the direction of the diversion program manager, as designated by the executive officer of the board. The program manager has the primary responsibility to review and evaluate recommendations of the committee.

~~SEC. 64.~~ SEC. 63. Section 3534.2 of the Business and Professions Code is amended to read:

3534.2. (a) Any committee established by the board shall have at least three members. In making appointments to a committee the board shall consider the appointments of persons who are either recovering of substance abuse and have been free from abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.

(b) Appointments to a committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment

shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider matters relating to any physician assistant applying for or participating in a diversion program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

~~SEC. 65.~~ SEC. 64. Section 3534.3 of the Business and Professions Code is amended to read:

3534.3. Each committee has the following duties and responsibilities:

(a) To evaluate physician assistants who request participation in the program and to make recommendations to the program manager. In making recommendations, a committee shall consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) To review and designate treatment facilities to which physician assistants in the diversion program may be referred, and to make recommendations to the program manager.

(c) The receipt and review of information concerning physician assistants participating in the program.

(d) To call meetings as necessary to consider the requests of physician assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(e) To consider whether each participant in the diversion program may with safety continue or resume the practice of medicine.

(f) To set forth in writing the terms and conditions of the diversion agreement that is approved by the program manager for each physician assistant participating in the program, including treatment, supervision, and monitoring requirements.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the diversion program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a committee shall be considered a public employee. No board or committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

~~SEC. 66.~~ SEC. 65. Section 3534.4 of the Business and Professions Code is amended to read:

3534.4. Criteria for acceptance into the diversion program shall include all of the following: (a) the applicant shall be licensed as a physician assistant by the board and shall be a resident of California; (b) the applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her

ability to practice medicine safely or competently; (c) the applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action; (d) the applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program; (e) the applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program; and (f) the applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

An applicant may be denied participation in the program if the board, the program manager, or a committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

~~SEC. 67.~~ SEC. 66. Section 3534.5 of the Business and Professions Code is amended to read:

3534.5. A participant may be terminated from the program for any of the following reasons: (a) the participant has successfully completed the treatment program; (b) the participant has failed to comply with the treatment program designated for him or her; (c) the participant fails to meet any of the criteria set forth in subdivision (d); or (d) it is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of medicine by that individual creates too great a risk to the public health and safety, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physician assistant who requests participation in a diversion program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.

The board shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physician assistant in the program, and the possible results of noncompliance with the program.

~~SEC. 68.~~ SEC. 67. Section 3534.6 of the Business and Professions Code is amended to read:

3534.6. In addition to the criteria and causes set forth in Section 3534.4, the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

~~SEC. 69.~~ SEC. 68. Section 3534.7 of the Business and Professions Code is amended to read:

3534.7. All board and committee records and records of proceedings and participation of a physician assistant in a program shall be confidential and are not subject to discovery or subpoena.

~~SEC. 70.~~ SEC. 69. Section 3534.9 of the Business and Professions Code is amended to read:

3534.9. If the board contracts with any other entity to carry out this section, the executive officer of the board or the program manager shall review the activities and performance of the contractor

on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

~~SEC. 71.~~ SEC. 70. Section 3534.10 of the Business and Professions Code is amended to read:

3534.10. Participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physician assistant who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

~~SEC. 72.~~ SEC. 71. Section 3535 of the Business and Professions Code is amended to read:

3535. (a) Notwithstanding any other provision of law, physicians and surgeons licensed by the Osteopathic Medical Board of California may use or employ physician assistants provided (1) each physician assistant so used or employed is a graduate of an approved program and is licensed by the board, and (2) the scope of practice of the physician assistant is the same as that which is approved by the Division of Licensing of the Medical Board of California for physicians and surgeons supervising physician assistants in the same or similar specialty.

(b) Any person who violates subdivision (a) shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) This section shall become operative on July 1, 2001.

~~SEC. 73.~~ SEC. 72. Section 3537.10 of the Business and Professions Code is amended to read:

3537.10. (a) Subject to the other provisions of this article, the Office of Statewide Health Planning and Development, hereafter in this article referred to as the office, shall coordinate the establishment of an international medical graduate physician assistant training program, to be conducted at an appropriate educational institution or institutions. The goal of the program shall be to place as many international medical graduate physician assistants in medically underserved areas as possible in order to provide greater access to care for the growing population of medically indigent and underserved. The method for accomplishing this goal shall be to train foreign medical graduates to become licensed as physician assistants at no cost to the participants in return for a commitment from the participants to serve full-time in underserved areas for a four-year period.

(b) By February 1, 1994, or one month after federal funds to implement this article become available, whichever occurs later, the office shall establish a training program advisory task force. The task force shall be comprised of representatives from all of the following groups:

- (1) Physician assistant program directors.
- (2) Foreign medical graduates.
- (3) The California Academy of Physician Assistants.
- (4) Nonprofit community health center directors.
- (5) Physicians.
- (6) The board, at the board's option.

The office may, instead, serve solely as a consultant to the task force.

(c) The task force shall do all of the following:

- (1) Develop a recommended curriculum for the training program that

shall be from 12 to 15 months in duration and shall, at a minimum, meet curriculum standards consistent with the board's regulations. The program shall be subject to the board's approval. By April 1, 1994, or three months after federal funds to implement this article become available, whichever occurs later, the curriculum shall be presented by the office to the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor organization, for approval.

(2) Develop recommended admission criteria for participation in the pilot and ongoing program.

(3) Assist in development of linkages with academic institutions for the purpose of monitoring and evaluating the pilot program.

~~SEC. 74.~~ SEC. 73. Section 3537.20 of the Business and Professions Code is amended to read:

3537.20. Any person who has satisfactorily completed the program established by this article shall be eligible for licensure by the board as a "physician assistant" if the person has complied with all of the following requirements:

(a) Has successfully completed the written examination required under Section 3517.

(b) Has successfully completed the Test of English as a Foreign Language (TOEFL).

~~SEC. 75.~~ SEC. 74. Section 3537.30 of the Business and Professions Code is amended to read:

3537.30. (a) The Legislature recognizes that the goal of this program would be compromised if participants do not observe their commitments under this program to provide the required service in a medically underserved area. The goal of this program would not be met if all that it accomplished was merely to license physician assistants that served populations that are not medically underserved.

(b) Since damages would be difficult or impossible to ascertain in the event of default by the participant, this section shall set forth the extent of liquidated damages that shall be recoverable by the program in the case of default.

(c) In the case of default by a participant who has successfully completed the program and has obtained licensure under this article, the program shall collect the following damages from the participant:

(1) The total cost expended by the program for the training of the applicant, and interest thereon from the date of default.

(2) The total amount needed for the program to seek cover as set forth in subdivision (b) of Section 3537.35.

(3) The costs of enforcement, including, but not limited to, the costs of collecting the liquidated damages, the costs of litigation, and attorney's fees.

(d) The Attorney General may represent the office, or the board, or both in any litigation necessitated by this article, or, if the Attorney General declines, the office, or the board, or both may hire other counsel for this purpose.

(e) Funds collected pursuant to subdivision (c) shall be allocated as follows:

(1) Costs of training recovered pursuant to paragraph (1) of subdivision (c) shall be allocated to the office to be used upon appropriation for the continuing training program pursuant to this article.

(2) Costs of seeking cover recovered pursuant to paragraph (2) of subdivision (c) shall be deposited in the Physician Assistant Training Fund established pursuant to Section 3537.40 for the purposes of providing grants pursuant to subdivision (c) of Section

3537.35.

(3) Costs of enforcement recovered pursuant to paragraph (3) of subdivision (c) shall be allocated between the office, and the Attorney General, or other counsel, according to actual costs.

~~SEC. 76.~~ SEC. 75. Section 3537.50 of the Business and Professions Code is amended to read:

3537.50. No General Fund revenues shall be expended to carry out this article. The implementation of the pilot program and, if applicable, the permanent program established by this article shall be contingent upon the availability of federal funds, which do not divert or detract from funds currently utilized to underwrite existing physician assistant training programs or to fund existing functions of the board. The new funding shall be sufficient to cover the full additional cost to the educational institution or institutions that establish the program or programs, the cost of tuition and attendance for the students in the program or programs, and any additional costs, including enforcement costs, that the office or the board incurs as a result of implementing this article. Nothing in this article shall be construed as imposing any obligations upon the office, the board, or any physician assistant training program in the absence of adequate funding as described in this section. Nothing in this article shall be construed either as precluding applicants for the program established by this article from seeking state or federal scholarship funds, or state and federal loan repayment funds available to physician assistant students, or as requiring that any applicants be granted preference in the award of those funds. Nothing in this article shall be construed as impairing the autonomy of any institution that offers a physician assistant training program.

~~SEC. 77.~~ SEC. 76. Section 3540 of the Business and Professions Code is amended to read:

3540. A physician assistants corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are certified physician assistants are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a physician assistants corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code ~~is~~ the board.

~~SEC. 78.~~ SEC. 77. Section 3546 of the Business and Professions Code is amended to read:

3546. The Medical Board of California may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a physician assistant corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that a physician assistant corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

~~SEC. 79.~~ SEC. 78. 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.

CURRENT BILL STATUS

MEASURE : S.B. No. 1483
AUTHOR(S) : Steinberg.
TOPIC : Physicians and surgeons.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 07/02/2012

TYPE OF BILL :

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

LAST HIST. ACT. DATE: 07/02/2012

LAST HIST. ACTION : Read second time and amended. Re-referred to Com. on
APPR.

COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to add Article 12.7 (commencing with Section 830)
to Chapter 1 of Division 2 of the Business and
Professions Code, relating to healing arts.

SB 1483 Senate Bill - AMENDED
BILL NUMBER: SB 1483 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JULY 2, 2012
AMENDED IN SENATE MAY 29, 2012
AMENDED IN SENATE APRIL 30, 2012
AMENDED IN SENATE APRIL 17, 2012

INTRODUCED BY Senator Steinberg

FEBRUARY 24, 2012

An act to add Article 12.7 (commencing with Section 830) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1483, as amended, Steinberg. Physicians and surgeons.

Existing law provides for the ~~licensing~~ licensure and regulation of physicians and surgeons by the Medical Board of California (board) within the Department of Consumer Affairs (department). Under existing law, the biennial license renewal fee for physicians and surgeons is required to be fixed by the board and may not exceed \$790.

This bill would create the Physician Health Program, administered by the Physician Health, Recovery, and Monitoring Oversight Committee within the department, with 14 members to be appointed as specified. The purpose of the program would be, among other things, to promote awareness and education relative to physician and surgeon health issues, including impairment due to alcohol or substance abuse, mental disorders, or other health conditions that could affect the safe practice of medicine, and to make treatment available to all physicians and surgeons subject to a written agreement with the program that includes agreement by the physician and surgeon to pay for expenses associated with the treatment. The bill would also provide for referral by the program of physicians and surgeons, as defined, to certified monitoring programs on a voluntary basis, governed by a written agreement between the participant and the program. The bill would require the department to select a contractor to implement the program, with the committee serving as the evaluation body for submitted proposals. The bill would require the program to report the name of a participant to the board and the committee when it learns of the participant's failure to meet the requirements of the program. The bill would require the committee to report to the department certain statistics received from the program, would require the department to report to the Legislature on the outcomes of the program, and would require regular audits of the program.

This bill would increase the biennial license renewal fee by \$39.50 for purposes of these provisions, except as specified. The bill would direct the board to transfer this revenue on a monthly basis to the Physician Health, Awareness, and Monitoring Quality Trust Fund, which the bill would create, and would specify that the use of these funds is subject to appropriation by the Legislature.

The bill would enact other related provisions and make other conforming changes.

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

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

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

- (a) (1) It is in every patient's interest to have physicians and surgeons who are healthy and well.
- (2) Physicians and surgeons may have health conditions that interfere with their ability to practice medicine safely.
- (3) In such cases, the most effective long-term protection for patients is early intervention to address health issues that have the potential to interfere with the safe practice of physicians and surgeons.
- (b) While the Legislature recognizes that physicians and surgeons have a number of options for obtaining treatment, it is the intent of the Legislature in enacting this act to promote awareness among members of the medical community about health issues that could interfere with safe practice, to promote awareness that private early intervention options are available, to provide resources and referrals to ensure physicians and surgeons are better able to choose high-quality private interventions that meet their specific needs, and to provide a separate mechanism for monitoring treatment.

SEC. 2. Article 12.7 (commencing with Section 830) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 12.7. Physician Health, Awareness, and Monitoring Quality

830. This article shall be known and may be cited as the Physician Health, Awareness, and Monitoring Quality Act of 2012.

830.2. For purposes of this article, the following terms shall have the following meanings:

- (a) "Board" means the Medical Board of California.
- (b) "Committee" means the Physician Health, Awareness, and Monitoring Quality Oversight Committee established pursuant to Section 830.6.
- (c) "Department" means the Department of Consumer Affairs.
- (d) "Impairment" means the inability to practice medicine with reasonable skill and safety to patients by reason of alcohol or substance abuse, a mental disorder, or another health condition as determined by a clinical evaluation in individual circumstances.
- (e) "Participant" means a physician and surgeon enrolled in the program pursuant to an agreement entered into as provided in Section 830.10.
- (f) "Physician Health Program" or "program" means the program defined in Section 830.4 and includes vendors, providers, or entities that contract with the committee pursuant to this article. The program itself shall not offer or provide treatment services to physicians and surgeons.
- (g) "Physician and surgeon" means a holder of a valid physician and surgeon's certificate. For the purposes of participating in the program under this article, "physician and surgeon" shall also mean a student enrolled in a medical school approved or recognized by the board, a graduate of a medical school enrolled in a medical specialty residency training program approved or recognized by the board, or a

SB 1705 PUBLIC BILL - AMENDED Page 3 of 6

physician and surgeon seeking reinstatement of a license from the board.

(h) "Qualifying illness" means alcohol or substance abuse, a mental disorder, or another health condition that a clinical evaluation determines can be monitored and treated with private clinical and monitoring programs.

830.4. The Physician Health Program shall do all of the following:

(a) Subject to the requirements of Section 830.10, be available to all physicians and surgeons, as defined in subdivision (g) of Section 830.2.

(b) Promote awareness among members of the medical community on the recognition of health issues that could interfere with safe practice.

(c) Educate the medical community on the benefits of and options available for early intervention to address those health issues.

(d) Refer physicians and surgeons to monitoring programs certified by the program by executing a written agreement with the participant and monitoring the compliance of the participant with that agreement.

(e) Provide for the confidential participation by physicians and surgeons who have a qualifying illness and who are not on probation with the board.

830.6. (a) (1) There is hereby established within the Department of Consumer Affairs the Physician Health, Awareness, and Monitoring Quality Oversight Committee that shall have the duties and responsibilities set forth in this article. The committee may take any reasonable administrative actions to carry out the responsibilities and duties set forth in this article, including, but not limited to, hiring staff and entering into contracts.

(2) The committee shall be formed no later than April 1, 2013.

(3) The committee composition shall be as follows:

(A) All of the members under this subparagraph shall be appointed by the Governor and licensed in this state as physicians and surgeons with education, training, and experience in the identification and treatment of substance use or mental disorders, or both.

(i) Two members recommended by a statewide association representing psychiatrists with at least 3,000 members.

(ii) Two members recommended by a statewide association representing addiction medicine specialists with at least 300 members.

(iii) Three members recommended by a statewide association representing physicians and surgeons from all specialties, modes of practice, and practice settings with at least 25,000 members.

(iv) One member recommended by a statewide hospital association representing at least 400 hospitals.

(v) For the purpose of the initial composition of the committee, one member appointed under clause (i) shall be appointed for a two-year term and the other member for a three-year term; one member appointed under clause (ii) shall be appointed for a two-year term and the other member for a three-year term; one member appointed under clause (iii) shall be appointed for a two-year term, one member ~~for a~~ shall be appointed for a three-year term, and one member shall be appointed for a four-year term; and the member appointed under clause (iv) shall be appointed for a four-year term.

(B) All members appointed under this subparagraph shall have experience in a field related to mental illness, or alcohol or substance abuse, or both.

(i) Four members of the public appointed by the Governor. For the

initial appointment to the committee, two members shall be appointed to serve for two-year terms and two members shall be appointed to serve for four-year terms.

(ii) One member of the public appointed by the Speaker of the Assembly. The initial appointment shall be for a three-year term.

(iii) One member of the public appointed by the Senate Committee on Rules. The initial appointment shall be for a three-year term.

(4) For the purposes of this section, a public member may not be any of the following:

(A) A current or former physician and surgeon or an immediate family member of a physician and surgeon.

(B) A current or former employee of a physician and surgeon, or a business providing or arranging for physician and surgeon services, or having any financial interest in the business of a physician and surgeon.

(C) An employee or agent or representative of any organization representing physicians and surgeons.

(D) An individual or an affiliate of an organization who has conducted business with or regularly appeared before the board.

(5) A public member shall meet all of the requirements for public members on a board as set forth in Chapter 6 (commencing with Section 450) of Division 1.

(b) Members of the committee shall serve without compensation.

(c) Except as provided for in subdivision (a), committee members shall serve terms of four years and may be reappointed.

(d) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(e) The rules adopted by the committee shall be consistent with the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Substance Abuse Coordination Committee of the Department of Consumer Affairs pursuant to Section 315, the guidelines of the Federation of State Physician Health Programs, Inc., as well as community standards of practice, including, but not limited to, criteria for acceptance of participants into the program and the refusal to accept a person as a participant into the program and the assigning of costs of participation and associated financial responsibilities of participants. In the event of any conflicts between the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Substance Abuse Coordination Committee of the Department of Consumer Affairs pursuant to Section 315 and the guidelines of the Federation of State Physician Health Programs, Inc., and community standards of practice, the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Substance Abuse Coordination Committee of the Department of Consumer Affairs pursuant to Section 315 shall prevail.

830.8. (a) The department shall select a contractor for the Physician Health Program pursuant to a request for proposals, and the committee shall contract for a five-year term with that entity. The process for procuring the services for the program shall be administered by the department pursuant to Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. However, the committee shall serve as the evaluation body for the procurement.

(b) The ~~chief executive officer of the~~ program

vendor shall have expertise in the areas of substance or alcohol abuse, and mental disorders in health care professionals.

~~(c) The program vendor shall have a medical director to oversee clinical aspects of the program's operations. The medical director program vendor shall~~ have expertise in the diagnosis and treatment of alcohol and substance abuse and mental disorders in health care professionals.

~~(d) The program vendor shall have established relationships with local medical societies and hospital well-being committees for conducting education, outreach, and referrals for physician and surgeon health.~~

~~(e)~~

(d) The program vendor shall monitor the monitoring entities that participating physicians and surgeons have retained for monitoring a participant's treatment and shall provide ongoing services to physicians and surgeons that resume practice.

~~(f)~~

(e) The program vendor shall have a system for immediately reporting physicians and surgeons who fail to meet the requirements of the program as provided in subdivision (e) of Section 830.10. This system shall ensure absolute confidentiality in the communication to the enforcement division of the board, and shall not provide this information to any other individual or entity unless authorized by the enrolled physician and surgeon.

~~(g)~~

(f) The contract entered into pursuant to this article shall also require the program vendor to do both of the following:

(1) Report annually to the committee statistics related to the program, including, but not limited to, the number of participants currently in the program, the number of participants referred by the board as a condition of probation, the number of participants who have successfully completed their agreement period, the number of participants terminated from the program, and the number of participants reported by the program pursuant to subdivision (e) of Section 830.10. However, in making that report, the program shall not disclose any personally identifiable information relating to any participant.

(2) Submit to periodic audits and inspections of all operations, records, and management related to the program to ensure compliance with the requirements of this article and its implementing rules and regulations.

~~(h)~~

(g) In addition to the requirements of Section 830.16, the committee shall monitor compliance of the program with the requirements of this article. The committee or its designee may make periodic inspections and onsite visits with the vendor contracted to provide Physician Health Program services.

~~(i)~~

(h) Copies of the audits referenced in paragraph (2) of subdivision ~~(g)~~ (f) shall be published and provided to the appropriate policy committees of the Legislature within 10 business days of publication. A copy shall also be made available to the public by posting a link on the committee's Internet Web site homepage no more than 10 business days after publication.

830.10. (a) A physician and surgeon shall, as a condition of participation in the Physician Health Program, enter into an individual agreement with the program and agree to pay expenses related to treatment, monitoring, laboratory tests, and other activities specified in the participant's written agreement with the

program.

(b) The written agreement between the physician and surgeon and the program shall be consistent with the standards adopted by the committee pursuant to subdivision (e) of Section 830.6, and shall include all of the following:

(1) A jointly agreed-upon plan and mandatory conditions and procedures to monitor compliance with the program, including, but not limited to, an agreement to cease practice.

(2) Compliance with terms and conditions of treatment and monitoring.

(3) Limitations on practice.

(4) Conditions and terms for return to practice.

(5) Criteria for program completion.

(6) Criteria for termination of the participant from the program.

(7) A stipulation that expenses related to treatment, monitoring, laboratory tests, and other activities specified in the participant's written agreement with the program will be paid by the participant.

(c) In addition, if the physician and surgeon retains the services of a private monitoring entity, he or she shall agree to authorize the program vendor to receive reports from the private monitoring entity and to request information from the private monitoring entity regarding his or her treatment status. Except as provided in subdivisions (b), ~~(c),~~ (d), and (e), and subdivision ~~(f)~~ (e) of Section 830.8, a physician and surgeon's participation in the program pursuant to an agreement shall be confidential unless waived by the physician and surgeon.

(d) Any agreement entered into pursuant to this section shall not be considered a disciplinary action or order by the board, and shall not be disclosed to the committee or the board if both of the following apply:

(1) The physician and surgeon did not enroll in the program as a condition of probation or as a result of an action of the board.

(2) The physician and surgeon is in compliance with the conditions and procedures in the agreement.

(e) (1) The program shall immediately report the name of a participant to the board and the committee when it learns of the participant's failure to meet the requirements of the program, including failure to cease practice when required, failure to submit to evaluation, treatment, or biological testing when required, or a violation of the rules adopted by the committee pursuant to subdivision (e) of Section 830.6. The program shall also immediately report the name of a participant to the committee when it learns that the participant's impairment is not substantially alleviated through treatment, or if the participant withdraws or is terminated from the program prior to completion, or if, in the opinion of the program after a risk assessment is conducted, the participant is unable to practice medicine with reasonable skill and safety.

(2) Notwithstanding subdivision ~~(f)~~ (e) of Section 830.8, the report shall provide sufficient information to permit the board to assess whether discipline or other action is required to protect the public.

(f) Except as otherwise provided in subdivisions (b), (c), ~~(c),~~ ~~and (f)~~ (d), and (e)

of Section 830.8, subdivision (e) of this section, and this subdivision, any oral or written information reported to the board pursuant to this section, including, but not limited to, any physician and surgeon's participation in the program and any agreement entered into pursuant to this article, shall remain confidential as provided in subdivision (c) of Section 800, and shall

not constitute a waiver of any existing evidentiary privileges under any other provision or rule of law. However, confidentiality regarding the physician and surgeon's participation in the program and of all information and records created by the program related to that participation shall not apply if the board has referred a participant as a condition of probation.

(g) Nothing in this section prohibits, requires, or otherwise affects the discovery or admissibility of evidence in an action by the board against a physician and surgeon based on acts or omissions within the course and scope of his or her practice.

(h) Any information received, developed, or maintained by the committee regarding a physician and surgeon in the program shall not be used for any other purposes.

830.12. (a) The biennial license renewal fee established in subdivision (d) of Section 2435 shall increase by thirty-nine dollars and fifty cents (\$39.50) for purposes of this article, except those purposes specified in Section 830.10. The board shall, on a monthly basis, transfer the revenue generated from this increase to the trust fund described in subdivision (b).

(b) There is hereby established in the State Treasury the Physician Health, Awareness, and Monitoring Quality Trust Fund into which all revenue generated pursuant to subdivision (a) shall be deposited. These funds shall be used, upon appropriation by the Legislature, exclusively for the purposes of this article, except those purposes specified in Section 830.10.

(c) Nothing in this section shall be construed to prohibit additional funding from private sources from being used to support operations of the program or to support the establishment of the committee and the program.

830.14. (a) The committee shall report to the department statistics received from the program pursuant to Section 830.8, and the department shall, thereafter, report to the appropriate policy committees of the Legislature on or before October 1, 2014, and annually thereafter, the outcomes of the program, including, but not limited to, the number of individuals served, the number of participants currently in the program, the number of participants referred by the board as a condition of probation, the number of individuals who have successfully completed their agreement period, the number of participants terminated from the program, and the number of individuals reported to the board for noncompliance pursuant to subdivision (e) of Section 830.10. However, in making those reports, the committee and the department shall not disclose any personally identifiable information relating to any physician and surgeon participating in the program pursuant to an agreement entered into pursuant to Section 830.10.

(b) This section shall become inoperative on October 1, 2018, pursuant to Section 10231.5 of the Government Code.

830.16. (a) The committee shall biennially contract to perform an audit of the Physician Health Program and its vendors. This section is not intended to reduce the number of audits the committee may otherwise conduct. The initial audit shall commence two years after the award of an initial five-year contract. Under no circumstances shall General Fund revenue be used for this purpose.

(b) Any person or entity conducting the audit required by this section shall maintain the confidentiality of all records reviewed and information obtained in the course of conducting the audit and shall not disclose any information identifying any program participant.

(c) The biennial audit shall be completed by ____ and shall ascertain if the program is operating in conformance with the rules

and regulations established by the committee.

CURRENT BILL STATUS

MEASURE : S.B. No. 1501
AUTHOR(S) : Kehoe.
TOPIC : Open-space easements.
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
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/14/2012
LAST HIST. ACTION : Read second time. Ordered to third reading.
FILE : ASM THIRD READING
FILE DATE : 07/05/2012
ITEM : 91

COMM. LOCATION : ASM LOCAL GOVERNMENT
COMM. ACTION DATE : 06/13/2012
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 09 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.

CURRENT BILL STATUS

MEASURE : S.B. No. 1575
AUTHOR(S) : Committee on Business, Professions and Economic
Development (Senators Price (Chair), Corbett, Correa,
Emmerson, Hernandez, Negrete McLeod, Strickland, Vargas,
and Wyland).
TOPIC : Professions and vocations.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/28/2012

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

LAST HIST. ACT. DATE: 06/28/2012
LAST HIST. ACTION : From committee with author's amendments. Read second
time and amended. Re-referred to Com. on APPR.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to amend Sections 1640, 1715.5, 1934, 1950.5,
2021, 2064, 2184, 2220, 2424, 2516, 2518, 2570.13,
2904.5, 3057.5, 3742, 3750, 3750.5, 4209, 4980.04,
4980.34, 4980.397, 4980.398, 4980.399, 4980.40, 4980.43,
4980.44, 4980.48, 4980.50, 4980.78, 4980.80, 4984.01,
4984.4, 4984.7, 4984.72, 4989.16, 4989.42, 4992.05,
4992.07, 4992.09, 4992.1, 4996.1, 4996.3, 4996.4,
4996.6, 4996.28, 4999.22, 4999.32, 4999.45, 4999.46,
4999.50, 4999.52, 4999.53, 4999.55, 4999.57, 4999.58,
4999.59, 4999.62, 4999.63, 4999.64, 4999.76, 4999.90,
4999.100, 4999.106, and 4999.120 of, to add Sections
1902.2, 1942, 1958.1, and 4300.1 to, and to repeal
Section 1909.5 of, the Business and Professions Code,
relating to professions and vocations.

BILL NUMBER: SB 1575 AMENDED
 BILL TEXT

AMENDED IN ASSEMBLY JUNE 28, 2012
 AMENDED IN ASSEMBLY JUNE 20, 2012
 AMENDED IN ASSEMBLY JUNE 12, 2012
 AMENDED IN SENATE APRIL 16, 2012

INTRODUCED BY Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Strickland, Vargas, and Wyland)

MARCH 12, 2012

An act to amend Sections 1640, 1715.5, 1934, 1950.5, 2021, 2064, 2184, 2220, 2424, 2516, 2518, 2570.13, 2904.5, 3057.5, 3742, 3750, 3750.5, 4209, 4980.04, 4980.34, 4980.397, 4980.398, 4980.399, 4980.40, 4980.43, 4980.44, 4980.48, 4980.50, 4980.78, 4980.80, 4984.01, 4984.4, 4984.7, 4984.72, 4989.16, 4989.42, 4992.05, 4992.07, 4992.09, 4992.1, 4996.1, 4996.3, 4996.4, 4996.6, 4996.28, 4999.22, 4999.32, 4999.45, 4999.46, 4999.50, 4999.52, 4999.53, 4999.55, 4999.57, 4999.58, 4999.59, 4999.62, 4999.63, 4999.64, 4999.76, 4999.90, 4999.100, 4999.106, and 4999.120 of, to add Sections 1902.2, 1942, 1958.1, and 4300.1 to, and to repeal Section 1909.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1575, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

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

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dentistry by the Dental Board of California within the Department of Consumer Affairs. Existing law establishes the Dental Hygiene Committee of California under the jurisdiction of the board and provides for the licensure and regulation of the practice of dental hygienists by the committee.

This bill would require dental hygienists, upon initial licensure and renewal, to report their employment status to the committee and would require that information to be posted on the committee's Internet Web site. This bill would also require an approved dental hygiene education program to register extramural dental facilities, as defined, with the committee.

Existing law provides that a dental hygienist may have his or her license suspended or revoked by the board for committing acts of unprofessional conduct, as defined.

This bill would include within the definition of unprofessional conduct the aiding or abetting of the unlicensed or unlawful practice of dental hygiene.

Existing law authorizes the committee to deny an application for licensure or to revoke or suspend a license for specified reasons.

This bill would require the committee to deny a license or renewal of a license to any person who is required by law to register as a sex offender.

Existing law authorizes the Dental Board of California to issue a special permit to persons meeting certain requirements, including furnishing satisfactory evidence of having graduated from a dental college.

This bill would allow that requirement to also be met through completion of an accredited advanced education program.

The bill would delete obsolete references.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician and surgeon. Existing law provides for the licensure and regulation of the practice of podiatric medicine by the California Board of Podiatric Medicine within the Medical Board of California.

Existing law requires the Medical Board of California and the California Board of Podiatric Medicine to provide written notification by certified mail to any physician and surgeon or podiatrist who does not renew his or her license within 60 days of expiration.

This bill would require the Medical Board of California and the California Board of Podiatric Medicine to provide that written notification either by certified mail or by electronic mail if requested by the licensee. The bill would require the Medical Board of California to annually send an electronic notice to all licensees and applicants requesting confirmation that his or her electronic mail address is current.

Existing law authorizes the Medical Board of California to take action against all persons guilty of violating the Medical Practice Act. Existing law requires the Medical Board of California to enforce and administer various disciplinary provisions as to physician and surgeon certificate holders.

This bill would specify that those certificate holders include those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders.

(3) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensure and regulation of the practice of licensed midwifery by the Medical Board of California. A violation of the act is a crime. Under existing law, these licenses are subject to biennial renewal that includes the payment of a specified fee and the completion of specified continuing education.

This bill would exempt a licensee from those renewal requirements if the licensee has applied to the board and has been issued a retired status license. The bill would prohibit the holder of a retired status license from engaging in the practice of midwifery. Because a violation of that prohibition would constitute a crime, the bill would impose a state-mandated local program.

(4) Existing law, the Occupational Therapy Practice Act, requires the California Board of Occupational Therapy to ensure proper supervision of occupational therapy assistants and aides. An aide is required to be supervised by an occupational therapist.

This bill would also provide for an aide to be supervised by an occupational therapy assistant.

(5) Existing law, the Psychology Licensing Law, provides for the licensure and regulation of psychologists by the Board of Psychology. Existing law provides that a licensed psychologist is a health care practitioner for purposes of specified telehealth provisions that concern the delivery of health care via information and communication technologies.

This bill would instead provide that a licensed psychologist is a

health care provider subject to those telehealth provisions.

(6) Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of the practice of respiratory care by the Respiratory Care Board of California.

Under existing law, during the period of any clinical training, a student respiratory care practitioner is required to be under the direct supervision, as defined, of a person holding a valid and current license.

This bill would require such a student to be under the direct supervision of a person with a valid, current, and unrestricted license.

Existing law authorizes the board to order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license for specified causes including a pattern of substandard care.

This bill would expand that provision to also include negligence in the licensee's practice as a respiratory care practitioner, or in any capacity as a health care worker, consultant, supervisor, manager or health facility owner, or as a party responsible for the care of another.

Existing law authorizes the board to deny, suspend, place on probation, or revoke the license of any applicant or licenseholder who has obtained, possessed, used, or administered to himself or herself, or furnished or administered to another, any controlled substances or dangerous drug, except as directed by a specified health care provider.

This bill would also make illegally possessing any associated paraphernalia a ground for the denial, suspension, placing on probation, or revocation of a license.

(7) Existing law, the Pharmacy Law, provides for the California State Board of Pharmacy within the Department of Consumer Affairs, to license and regulate the practice of pharmacy.

Existing law authorizes the board to suspend or revoke a license if the holder has been convicted of certain crimes or has engaged in unprofessional conduct, as specified.

This bill would modify the practice requirements applicable to intern pharmacists. The bill would also provide that the board continues to have jurisdiction in a disciplinary action against a licensee, even if the license is expired, canceled, forfeited, suspended, revoked, placed on retired status, or voluntarily surrendered.

(8) Under existing law, the Board of Behavioral Sciences is responsible for the licensure and regulation of marriage and family therapists, licensed educational psychologists, licensed clinical social workers, and licensed professional clinical counselors.

Under existing law, a license that is not renewed within 3 years after its expiration may not be renewed. However, the former licensee is authorized to apply for and obtain a new license if certain requirements are met, including, but not limited to, passing one or more current licensing examinations, as specified and submitting certain fees.

This bill would additionally require a former licensee to comply with the fingerprint requirements established by board regulation or as directed by the board. The bill would make other technical and clarifying changes.

Existing law makes various changes to the licensing and associated examination requirements for marriage and family therapists, clinical social workers, and professional clinical counselors, effective January 1, 2013.

This bill would delay the implementation of these and other

related changes until January 1, 2014.

(9) Existing law, the Marriage and Family Therapist Act, with respect to applicants for licensure or registration by reciprocity or for those applicants who obtained education or experience outside of California that apply on and after January 1, 2014, existing law provides that education is substantially equivalent if certain requirements are met, including the completion of a course in California law and professional ethics.

This bill would require that course to be 18 hours in length.

For persons who apply for licensure between January 1, 2010, and December 31, 2013, existing law authorizes the board to issue a license to a person who holds a valid license from another state if certain requirements are met, including the completion of specified coursework or training. Existing law provides that an applicant who completed a specified course in law and professional ethics is required to complete an 18-hour course in California law and professional ethics.

This bill would instead specify that an 18-hour course in California law and professional ethics is only required if the above specified course in law and professional ethics does not meet certain requirements. The bill would make other technical changes to those provisions.

The bill would rename the act as the Licensed Marriage and Family Therapist Act.

(10) Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of the practice of professional clinical counseling by the Board of Behavioral Sciences.

Under existing law, to qualify for registration, an intern applicant is required to meet certain qualifications. With respect to applicants for registration who began graduate study before August 1, 2012, and complete study on or before December 31, 2018, an applicant is required to complete a minimum of 18 contact hours of instruction in California law and professional ethics prior to registration as an intern.

This bill would describe the content of that instruction for professional clinical counselors.

Existing law authorizes the board to refuse to issue any registration or license, or to suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct that includes, but is not limited to, the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of specified substances, or any combination thereof.

This bill would delete the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of specified substances, or any combination thereof, from the list of what constitutes professional conduct. The bill would make it unprofessional conduct to willfully violate specified provisions governing patient access to health care records.

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

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

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

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

SECTION 1. Section 1640 of the Business and Professions Code is amended to read:

1640. Any person meeting all the following eligibility requirements may apply for a special permit:

(a) Furnishing satisfactory evidence of having a pending contract with a California dental college approved by the board as a full-time professor, an associate professor, or an assistant professor.

(b) Furnishing satisfactory evidence of having graduated from a dental college approved by the board, or of having completed an advanced education program accredited by either the Commission on Dental Accreditation of the American Dental Association or a national accrediting body approved by the board.

(c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty board or, in lieu thereof, establishing his or her qualifications to take a specialty board examination or furnishing satisfactory evidence of having completed an advanced educational program in a discipline from a dental college approved by the board.

(d) Furnishing satisfactory evidence of successfully completing an examination in California law and ethics developed and administered by the board.

(e) Paying a fee for applications as provided by this chapter.

SEC. 2. Section 1715.5 of the Business and Professions Code is amended to read:

1715.5. (a) A licensee shall, upon his or her initial licensure and any subsequent application for renewal, report the completion of any advanced educational program accredited by the Committee on Dental Accreditation in a dental specialty recognized by the American Dental Association.

(b) The licensee shall also report, upon his or her initial licensure and any subsequent application for renewal, the practice or employment status of the licensee, designated as one of the following:

(1) Full-time practice or employment in a dental practice of 32 hours per week or more in California. This reporting requirement shall also apply to a dental auxiliary licensee.

(2) Full-time practice or employment in a dental practice outside of California.

(3) Part-time practice or employment in a dental practice for less than 32 hours per week in California.

(4) Dental administrative employment that does not include direct patient care, as may further be defined by the board.

(5) Retired.

(6) Other practice or employment status, as may be further defined by the board.

(c) Information collected pursuant to subdivision (b) shall be posted on the Internet Web site of the board ~~or the Committee on Dental Auxiliaries (COMDA), as appropriate~~.

(d) (1) A licensee ~~, including a dental auxiliary licensee,~~ may report, in his or her application for renewal, and the board ~~or COMDA, as appropriate~~ shall collect, information regarding the licensee's cultural background and foreign language proficiency. ~~This requirement shall be phased in by January 1, 2009, as provided in paragraph (2).~~

~~(2) Prior to collecting information beginning on January 1, 2009, pursuant to this subdivision, the board and COMDA shall, on or before~~

~~the preceding March 1, prepare the survey questions and prepare for a test run of dental students to ensure the efficiency of the data being collected. On or before the preceding July 1, the board and COMDA shall advise their licensees that they are collecting this data before commencing collection of data under this subdivision. On or before the preceding October 1, the board and COMDA shall conduct the test run of dental students and make appropriate changes to the survey questions prior to data collection implementation.~~

~~—(3)~~

(2) Information collected pursuant to this subdivision shall be aggregated on an annual basis, based on categories utilized by the board ~~and COMDA~~ in the collection of the data, into both statewide totals and ZIP Code of primary practice or employment location totals.

~~—(4)~~

(3) Aggregated information under this subdivision shall be compiled annually, and reported on the Internet Web site of the board ~~or COMDA, as appropriate,~~ on or before July 1 of each year.

~~(e) It is the intent of the Legislature to utilize moneys in the State Dental Auxiliary Fund to pay any cost incurred by the Committee on Dental Auxiliaries in implementing this section.~~

~~(f) If COMDA ceases to exist, the responsibilities placed upon it by this section shall be transferred to the successor entity or entities responsible for licensing registered dental hygienists and registered dental assistants.~~

~~—SEC. 2.~~ SEC. 3. Section 1902.2 is added to the Business and Professions Code, to read:

1902.2. (a) A licensee shall report, upon his or her initial licensure and any subsequent application for renewal or inactive license, the practice or employment status of the licensee, designated as one of the following:

(1) Full-time practice or employment in a dental or dental hygiene practice of 32 hours per week or more in California.

(2) Full-time practice or employment in a dental or dental hygiene practice of 32 hours or more outside of California.

(3) Part-time practice or employment in a dental or dental hygiene practice for less than 32 hours per week in California.

(4) Part-time practice or employment in a dental or dental hygiene practice for less than 32 hours per week outside of California.

(5) Dental hygiene administrative employment that does not include direct patient care, as may be further defined by the committee.

(6) Retired.

(7) Other practice or employment status, as may be further defined by the committee.

(b) Information collected pursuant to subdivision (a) shall be posted on the Internet Web site of the committee.

(c) (1) A licensee may report on his or her application for renewal, and the committee, as appropriate, shall collect, information regarding the licensee's cultural background and foreign language proficiency.

(2) Information collected pursuant to this subdivision shall be aggregated on an annual basis, based on categories utilized by the committee in the collection of the data, into both statewide totals and ZIP Code of primary practice or employment location totals.

(3) Aggregated information under this subdivision shall be compiled annually, and reported on the Internet Web site of the committee as appropriate, on or before July 1 of each year.

(d) It is the intent of the Legislature to utilize moneys in the State Dental Hygiene Fund to pay any cost incurred by the committee in implementing this section.

~~SEC. 3.~~ SEC. 4. Section 1909.5 of the Business and Professions Code is repealed.

~~SEC. 4.~~ SEC. 5. Section 1934 of the Business and Professions Code is amended to read:

1934. A licensee who changes his or her physical address of record or email address shall notify the committee within 30 days of the change. A licensee who changes his or her legal name shall provide the committee with documentation of the change within 10 days.

~~SEC. 5.~~ SEC. 6. Section 1942 is added to the Business and Professions Code, to read:

1942. (a) As used in this section "extramural dental facility" means any clinical facility employed by an approved dental hygiene educational program for instruction in dental hygiene that exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved program and in which dental hygiene services are rendered.

(b) An approved dental hygiene educational program shall register extramural dental facilities with the committee. The registration shall be accompanied by information supplied by the dental hygiene program pertaining to faculty supervision, scope of treatment to be rendered, name and location of the facility, date operation will commence, discipline of which such instruction is a part, and a brief description of the equipment and facilities available. That information shall be supplemented by a copy of the agreement between the approved dental hygiene educational program or parent university and the affiliated institution establishing the contractual relationship. Any change in the information provided to the committee shall be communicated to the committee.

~~SEC. 6.~~ SEC. 7. Section 1950.5 of the Business and Professions Code is amended to read:

1950.5. Unprofessional conduct by a person licensed under this article is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The aiding or abetting of any unlicensed person to practice dentistry or dental hygiene.

(c) The aiding or abetting of a licensed person to practice dentistry or dental hygiene unlawfully.

(d) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dental hygiene.

(e) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1962.

(f) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiographs, prescriptions, or other services or articles supplied to patients.

(g) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(h) The advertising of either professional superiority or the advertising of performance of professional services in a superior

manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(i) The employing or the making use of solicitors.

(j) Advertising in violation of Section 651.

(k) Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(l) The violation of any of the provisions of this division.

(m) The permitting of any person to operate dental radiographic equipment who has not met the requirements to do so, as determined by the committee.

(n) The clearly excessive administering of drugs or treatment, or the clearly excessive use of treatment procedures, or the clearly excessive use of treatment facilities, as determined by the customary practice and standards of the dental hygiene profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(o) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(p) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(q) The alteration of a patient's record with intent to deceive.

(r) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.

(s) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.

(t) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(u) Use of fraud in the procurement of any license issued pursuant to this article.

(v) Any action or conduct that would have warranted the denial of the license.

(w) The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.

(x) The failure to report to the committee in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the committee may conduct an inspection of the dental hygiene practice office if the committee finds that it is necessary.

(y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended

functions shall report to the committee all deaths occurring in his or her practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in his or her practice with a copy sent to the committee if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

~~SEC. 7.~~ SEC. 8. Section 1958.1 is added to the Business and Professions Code, to read:

1958.1. (a) Notwithstanding any other law, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, all of the following shall apply:

(1) The committee shall deny an application by the individual for licensure pursuant to this article.

(2) If the individual is licensed under this article, the committee shall promptly revoke the license of the individual. The committee shall not stay the revocation nor place the license on probation.

(3) The committee shall not reinstate or reissue the individual's licensure under this article. The committee shall not issue a stay of license denial and place the license on probation.

(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 requires his or her registration as a sex offender.

(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. However, nothing in this paragraph shall prohibit the committee from exercising its discretion to discipline a licensee under other provisions of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2013. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

~~SEC. 8.~~ SEC. 9. Section 2021 of the Business and Professions Code is amended to read:

2021. (a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter to furnish any information as it may deem necessary to enable it to compile the directory.

(b) Each licensee shall report to the board each and every change of address within 30 days after each change, giving both the old and new address. If an address reported to the board at the time of application for licensure or subsequently is a post office box, the applicant shall also provide the board with a street address. If another address is the licensee's address of record, he or she may request that the second address not be disclosed to the public.

(c) Each licensee shall report to the board each and every change of name within 30 days after each change, giving both the old and new

names.

(d) The board shall annually send an electronic notice to each applicant and licensee who has chosen to receive correspondence via electronic mail that requests confirmation from the applicant or licensee that his or her electronic mail address is current. An applicant or licensee that does not confirm his or her electronic mail address shall receive correspondence at a mailing address provided pursuant to subdivision (b).

~~SEC. 9.~~ SEC. 10. Section 2064 of the Business and Professions Code is amended to read:

2064. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in this state, or to prevent students enrolled in a program of supervised clinical training under the direction of an approved medical school pursuant to Section 2104, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

~~SEC. 10.~~ SEC. 11. Section 2184 of the Business and Professions Code is amended to read:

2184. (a) Each applicant shall obtain on the written examination a passing score, established by the board pursuant to Section 2177.

(b) (1) Passing scores on each step of the United States Medical Licensing Examination shall be valid for a period of 10 years from the month of the examination for purposes of qualification for licensure in California.

(2) The period of validity provided for in paragraph (1) may be extended by the board for any of the following:

(A) For good cause.

(B) For time spent in a postgraduate training program, including, but not limited to, residency training, clinical training, fellowship training, remedial or refresher training, or other training that is intended to maintain or improve medical skills.

(C) For an applicant who is a physician and surgeon in another state or a Canadian province who is currently and actively practicing medicine in that state or province.

(3) Upon expiration of the 10-year period plus any extension granted by the board under paragraph (2), the applicant shall pass the Special Purpose Examination of the Federation of State Medical Boards or a clinical competency written examination determined by the board to be equivalent.

~~SEC. 11.~~ SEC. 12. Section 2220 of the Business and Professions Code is amended to read:

2220. Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and

Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

~~SEC. 12.~~ SEC. 13. Section 2424 of the Business and Professions Code is amended to read:

2424. (a) The board or the California Board of Podiatric Medicine, as the case may be, shall notify in writing either by certified mail, return receipt requested, or by electronic mail if requested by the licensee, any physician and surgeon or any podiatrist who does not renew his or her license within 60 days from its date of expiration.

(b) Notwithstanding Section 163.5, any such licensee who does not renew his or her expired license within 90 days of its date of expiration shall pay all the following fees:

(1) The renewal fee in effect at the time of renewal.

(2) A penalty fee equal to 50 percent of the renewal fee.

(3) The delinquency fee required by Section 2435 or 2499.5, as the case may be.

(c) Notwithstanding any other provision of law, the renewal of any expired physician's and surgeon's or podiatrist's license within six months from its date of expiration shall be retroactive to the date of expiration of that license. The division or board, for good cause, may waive the 50 percent penalty fee and may extend retroactivity up to two years from the expiration date of any such license.

~~SEC. 13.~~ SEC. 14. Section 2516 of the Business and Professions Code is amended to read:

2516. (a) Each licensed midwife who assists, or supervises a student midwife in assisting, in childbirth that occurs in an out-of-hospital setting shall annually report to the Office of Statewide Health Planning and Development. The report shall be submitted no later than March 30, with the first report due in March 2008, for the prior calendar year, in a form specified by the board and shall contain all of the following:

(1) The midwife's name and license number.

(2) The calendar year being reported.

(3) The following information with regard to cases in California in which the midwife, or the student midwife supervised by the midwife, assisted during the previous year when the intended place of birth at the onset of care was an out-of-hospital setting:

(A) The total number of clients served as primary caregiver at the onset of care.

(B) The total number of clients served with collaborative care available through, or given by, a licensed physician and surgeon.

(C) The total number of clients served under the supervision of a licensed physician and surgeon.

(D) The number by county of live births attended as primary caregiver.

(E) The number, by county, of cases of fetal demise, infant deaths, and maternal deaths attended as primary caregiver at the discovery of the demise or death.

(F) The number of women whose primary care was transferred to another health care practitioner during the antepartum period, and

the reason for each transfer.

(G) The number, reason, and outcome for each elective hospital transfer during the intrapartum or postpartum period.

(H) The number, reason, and outcome for each urgent or emergency transport of an expectant mother in the antepartum period.

(I) The number, reason, and outcome for each urgent or emergency transport of an infant or mother during the intrapartum or immediate postpartum period.

(J) The number of planned out-of-hospital births at the onset of labor and the number of births completed in an out-of-hospital setting.

(K) The number of planned out-of-hospital births completed in an out-of-hospital setting that were any of the following:

(i) Twin births.

(ii) Multiple births other than twin births.

(iii) Breech births.

(iv) Vaginal births after the performance of a cesarean section.

(L) A brief description of any complications resulting in the morbidity or mortality of a mother or a neonate.

(M) Any other information prescribed by the board in regulations.

(b) The Office of Statewide Health Planning and Development shall maintain the confidentiality of the information submitted pursuant to this section, and shall not permit any law enforcement or regulatory agency to inspect or have copies made of the contents of any reports submitted pursuant to subdivision (a) for any purpose, including, but not limited to, investigations for licensing, certification, or regulatory purposes.

(c) The office shall report to the board, by April 30, those licensees who have met the requirements of subdivision (a) for that year.

(d) The board shall send a written notice of noncompliance to each licensee who fails to meet the reporting requirement of subdivision (a). Failure to comply with subdivision (a) will result in the midwife being unable to renew his or her license without first submitting the requisite data to the Office of Statewide Health Planning and Development for the year for which that data was missing or incomplete. The board shall not take any other action against the licensee for failure to comply with subdivision (a).

(e) The board, in consultation with the office and the Midwifery Advisory Council, shall devise a coding system related to data elements that require coding in order to assist in both effective reporting, and the aggregation of data pursuant to subdivision (f). The office shall utilize this coding system in its processing of information collected for purposes of subdivision (f).

(f) The office shall report the aggregate information collected pursuant to this section to the board by July 30 of each year. The board shall include this information in its annual report to the Legislature.

(g) Notwithstanding any other provision of law, a violation of this section shall not be a crime.

~~SEC. 14.~~ SEC. 15. Section 2518 of the Business and Professions Code is amended to read:

2518. (a) Licenses issued pursuant to this article shall be renewable every two years upon payment of the fee prescribed by Section 2520 and submission of documentation that the licenseholder has completed 36 hours of continuing education in areas that fall within the scope of the practice of midwifery, as specified by the board.

(b) Each license not renewed shall expire, but may be reinstated within five years from the expiration upon payment of the prescribed

fee and upon submission of proof of the applicant's qualifications as the board may require.

(c) A licensee is exempt from the payment of the renewal fee required by Section 2520 and the requirement for continuing education if the licensee has applied to the board for, and been issued, a retired status license. The holder of a retired status license may not engage in the practice of midwifery.

~~SEC. 15.~~ SEC. 16. Section 2570.13 of the Business and Professions Code is amended to read:

2570.13. (a) Consistent with this section, subdivisions (a), (b), and (c) of Section 2570.2, and accepted professional standards, the board shall adopt rules necessary to assure appropriate supervision of occupational therapy assistants and aides.

(b) An occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.

(c) An aide providing delegated, client-related supportive services shall require continuous and direct supervision by an occupational therapist or occupational therapy assistant.

~~SEC. 16.~~ SEC. 17. Section 2904.5 of the Business and Professions Code is amended to read:

2904.5. A psychologist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care provider subject to the provisions of Section 2290.5.

~~SEC. 17.~~ SEC. 18. Section 3057.5 of the Business and Professions Code is amended to read:

3057.5. Notwithstanding any other provision of this chapter, the board shall permit a graduate of a foreign university who meets all of the following requirements to take the examinations for a certificate of registration as an optometrist:

(a) Is over the age of 18 years.

(b) Is not subject to denial of a certificate under Section 480.

(c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

~~SEC. 18.~~ SEC. 19. Section 3742 of the Business and Professions Code is amended to read:

3742. During the period of any clinical training, a student respiratory care practitioner shall be under the direct supervision of a person holding a valid, current, and unrestricted license issued under this chapter. "Under the direct supervision" means assigned to a respiratory care practitioner who is on duty and immediately available in the assigned patient care area.

~~SEC. 19.~~ SEC. 20. Section 3750 of the Business and Professions Code is amended to read:

3750. The board may order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

(a) Advertising in violation of Section 651 or Section 17500.

(b) Fraud in the procurement of any license under this chapter.

(c) Knowingly employing unlicensed persons who present themselves as licensed respiratory care practitioners.

(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Negligence in his or her practice as a respiratory care practitioner.

(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

(h) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(i) The aiding or abetting of any person to engage in the unlawful practice of respiratory care.

(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

(k) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any patient, hospital, or other record.

(l) Changing the prescription of a physician and surgeon, or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.

(m) Denial, suspension, or revocation of any license to practice by another agency, state, or territory of the United States for any act or omission that would constitute grounds for the denial, suspension, or revocation of a license in this state.

(n) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Podiatric Medicine, the Board of Dental Examiners, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(o) Incompetence in his or her practice as a respiratory care practitioner.

(p) A pattern of substandard care or negligence in his or her practice as a respiratory care practitioner, or in any capacity as a health care worker, consultant, supervisor, manager or health facility owner, or as a party responsible for the care of another.

~~SEC. 20.~~ SEC. 21. Section 3750.5 of the Business and Professions Code is amended to read:

3750.5. In addition to any other grounds specified in this chapter, the board may deny, suspend, place on probation, or revoke the license of any applicant or licenseholder who has done any of the following:

(a) Obtained, possessed, used, or administered to himself or herself in violation of law, or furnished or administered to another,

any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9, except as directed by a licensed physician and surgeon, dentist, podiatrist, or other authorized health care provider, or illegally possessed any associated paraphernalia.

(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her ability to conduct with safety the practice authorized by his or her license.

(c) Applied for employment or worked in any health care profession or environment while under the influence of alcohol.

(d) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

(e) Been committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a), (b), and (c), in which event the court order of commitment or confinement is prima facie evidence of that commitment or confinement.

(f) Falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).

~~SEC. 21.~~ SEC. 22. Section 4209 of the Business and Professions Code is amended to read:

4209. (a) (1) An intern pharmacist shall complete 1,500 hours of pharmacy practice before applying for the pharmacist licensure examination.

(2) This pharmacy practice shall comply with the Standards of Curriculum established by the Accreditation Council for Pharmacy Education or with regulations adopted by the board.

(b) An intern pharmacist shall submit proof of his or her experience on board-approved affidavits, or another form specified by the board, which shall be certified under penalty of perjury by a pharmacist under whose supervision such experience was obtained or by the pharmacist-in-charge at the pharmacy while the pharmacist intern obtained the experience. Intern hours earned in another state may be certified by the licensing agency of that state to document proof of those hours.

(c) An applicant for the examination who has been licensed as a pharmacist in any state for at least one year, as certified by the licensing agency of that state, may submit this certification to satisfy the required 1,500 hours of intern experience, provided that the applicant has obtained a minimum of 900 hours of pharmacy practice experience in a pharmacy as a pharmacist. Certification of an applicant's licensure in another state shall be submitted in writing and signed, under oath, by a duly authorized official of the state in which the license is held.

~~SEC. 22.~~ SEC. 23. Section 4300.1 is added to the Business and Professions Code, to read:

4300.1. The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee

shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

~~SEC. 23.~~ SEC. 24. Section 4980.04 of the Business and Professions Code is amended to read:

4980.04. This chapter shall be known and may be cited as the Licensed Marriage and Family Therapist Act.

~~SEC. 24.~~ SEC. 25. Section 4980.34 of the Business and Professions Code is amended to read:

4980.34. It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

(a) The licensing of marriage and family therapists, clinical social workers, professional clinical counselors, and educational psychologists.

(b) The development and administration of licensing examinations and examination procedures, as specified, consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(d) Consumer education.

~~SEC. 25.~~ SEC. 26. Section 4980.397 of the Business and Professions Code is amended to read:

4980.397. (a) Effective January 1, 2014, an applicant for licensure as a marriage and family therapist shall pass the following two examinations as prescribed by the board:

(1) A California law and ethics examination.

(2) A clinical examination.

(b) Upon registration with the board, a marriage and family therapist intern shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant may take the clinical examination only upon meeting all of the following requirements:

(1) Completion of all required supervised work experience.

(2) Completion of all education requirements.

(3) Passage of the California law and ethics examination.

(d) This section shall become operative on January 1, 2014.

~~SEC. 26.~~ SEC. 27. Section 4980.398 of the Business and Professions Code is amended to read:

4980.398. (a) Each applicant who had previously taken and passed the standard written examination but had not passed the clinical vignette examination shall also obtain a passing score on the clinical examination in order to be eligible for licensure.

(b) An applicant who had previously failed to obtain a passing score on the standard written examination shall obtain a passing score on the California law and ethics examination and the clinical examination.

(c) An applicant who had obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.

(d) This section shall become operative on January 1, 2014.

~~SEC. 27.~~ SEC. 28. Section 4980.399 of the Business and Professions Code is amended to read:

4980.399. (a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (d).

(d) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her first renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by the section shall be taken through a board-approved continuing education provider, a county, state or governmental entity, or a college or university.

(e) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(f) This section shall become operative on January 1, 2014.

~~SEC. 28.~~ SEC. 29. Section 4980.40 of the Business and Professions Code, as amended by Section 5 of Chapter 387 of the Statutes of 2011, is amended to read:

4980.40. To qualify for a license, an applicant shall have all of the following qualifications:

(a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.

(b) Be at least 18 years of age.

(c) Have at least two years of experience that meet the requirements of Section 4980.43.

(d) Pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(e) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 29.~~ SEC. 30. Section 4980.40 of the Business and Professions Code, as added by Section 6 of Chapter 387 of the Statutes of 2011, is amended to read:

4980.40. To qualify for a license, an applicant shall have all of the following qualifications:

(a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.

(b) Be at least 18 years of age.

(c) Have at least two years of experience that meet the requirements of Section 4980.43.

(d) Effective January 1, 2014, successfully pass a California law and ethics examination and a clinical examination. An applicant who

has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(e) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(f) This section shall become operative on January 1, 2014.

~~SEC. 30.~~ SEC. 31. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctoral degree.

(4) Not more than 1,300 hours of supervised experience obtained prior to completing a master's or doctoral degree.

The applicant shall not be credited with more than 750 hours of counseling and direct supervisor contact prior to completing the master's or doctoral degree.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) No hours of experience may be gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(7) Not more than a combined total of 1,000 hours of experience in the following:

(A) Direct supervisor contact.

(B) Professional enrichment activities. For purposes of this chapter, "professional enrichment activities" include the following:

(i) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor. An applicant shall have no more than 250 hours of verified attendance at these workshops, seminars, training sessions, or conferences.

(ii) Participation by the applicant in personal psychotherapy, which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional. An applicant shall have no more than 100 hours of participation in personal psychotherapy. The applicant shall be credited with three hours of experience for each hour of personal psychotherapy.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) For all hours gained on or after January 1, 2012, not more than 500 hours of experience in the following:

(A) Experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes.

(B) Client centered advocacy.

(10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children. For up to 150 hours of treating couples and families in conjoint therapy, the applicant shall be credited with two hours of experience for each hour of therapy provided.

(11) Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

(12) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(c) Except for experience gained pursuant to subparagraph (B) of paragraph (7) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.

(2) An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than five hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

(4) Direct supervisor contact shall occur within the same week as the hours claimed.

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied the requirements of subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner

or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctoral degree and is thereafter granted the intern registration by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies,

or in any other way pay for the obligations of their employers.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

~~SEC. 31.~~ SEC. 32. Section 4980.44 of the Business and Professions Code is amended to read:

4980.44. An unlicensed marriage and family therapist intern employed under this chapter shall comply with the following requirements:

(a) Possess, at a minimum, a master's degree as specified in Section 4980.36 or 4980.37, as applicable.

(b) Register with the board prior to performing any duties, except as otherwise provided in subdivision (g) of Section 4980.43.

(c) Prior to performing any professional services, inform each client or patient that he or she is an unlicensed marriage and family therapist registered intern, provide his or her registration number and the name of his or her employer, and indicate whether he or she is under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

(d) (1) Any advertisement by or on behalf of a marriage and family therapist registered intern shall include, at a minimum, all of the following information:

(A) That he or she is a marriage and family therapist registered intern.

(B) The intern's registration number.

(C) The name of his or her employer.

(D) That he or she is supervised by a licensed person.

(2) The abbreviation "MFTI" shall not be used in an advertisement unless the title "marriage and family therapist registered intern" appears in the advertisement.

~~SEC. 32.~~ SEC. 33. Section 4980.48 of the Business and Professions Code is amended to read:

4980.48. (a) A trainee shall, prior to performing any professional services, inform each client or patient that he or she is an unlicensed marriage and family therapist trainee, provide the name of his or her employer, and indicate whether he or she is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, or a licensed physician certified

in psychiatry by the American Board of Psychiatry and Neurology.

(b) Any person that advertises services performed by a trainee shall include the trainee's name, the supervisor's license designation or abbreviation, and the supervisor's license number.

(c) Any advertisement by or on behalf of a marriage and family therapist trainee shall include, at a minimum, all of the following information:

(1) That he or she is a marriage and family therapist trainee.

(2) The name of his or her employer.

(3) That he or she is supervised by a licensed person.

~~SEC. 33.~~ SEC. 34. Section 4980.50 of the Business and Professions Code, as amended by Section 7 of Chapter 387 of the Statutes of 2011, is amended to read:

4980.50. (a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (d) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than

seven years before.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.

(i) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 34.~~ SEC. 35. Section 4980.50 of the Business and Professions Code, as added by Section 8 of Chapter 387 of the Statutes of 2011, is amended to read:

4980.50. Effective January 1, 2014, the following shall apply:

(a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (d) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The board shall not deny any applicant, whose application for licensure is complete, admission to the clinical examination, nor shall the board postpone or delay any applicant's clinical examination or delay informing the candidate of the results of the clinical examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the California law and ethics examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination or the clinical examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(g) Effective January 1, 2014, no applicant shall be eligible to participate in the clinical examination if he or she fails to obtain a passing score on the clinical examination within seven years from his or her initial attempt, unless he or she takes and obtains a

passing score on the current version of the California law and ethics examination.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.

(i) This section shall become operative on January 1, 2014.

~~SEC. 35.~~ SEC. 36. Section 4980.78 of the Business and Professions Code is amended to read:

4980.78. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2014.

(b) For purposes of Sections 4980.72 and 4980.74, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by an accrediting agency recognized by the United States Department of Education and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:

(A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face counseling.

(B) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) The applicant completes any units and course content requirements under subdivision (d) of Section 4980.36 not already completed in his or her education.

(3) The applicant completes credit level coursework from a degree-granting institution that provides all of the following:

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

(B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.

(C) Structured meeting with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(D) Instruction in addiction and co-occurring substance abuse and mental health disorders, as specified in subparagraph (I) of paragraph (2) of subdivision (d) of Section 4980.36.

(4) The applicant completes an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process.

(5) The applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.

~~SEC. 36.~~ SEC. 37. Section 4980.80 of the Business and Professions Code is amended to read:

4980.80. (a) This section applies to persons who apply for licensure between January 1, 2010, and December 31, 2013, inclusive.

(b) The board may issue a license to a person who, at the time of application, holds a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if all of the following requirements are satisfied:

(1) The person has held that license for at least two years immediately preceding the date of application.

(2) The education and supervised experience requirements are substantially the equivalent of this chapter.

(3) The person complies with Section 4980.76, if applicable.

(4) The person successfully completes the board administered licensing examinations as specified by subdivision (d) of Section 4980.40 and pays the fees specified.

(5) The person completes all of the following coursework or training:

(A) (i) An applicant who completed a two semester or three quarter unit course in law and professional ethics for marriage and family therapists that does not meet the requirements of Section 4980.41 as part of his or her qualifying degree shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, the following subjects: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to the confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to patients.

(ii) An applicant who has not completed a two semester or three quarter unit course in law and professional ethics for marriage and family therapists that included areas of study as specified in Section 4980.41 as part of his or her qualifying degree, shall complete a two semester or three quarter unit course in California law and professional ethics that includes, at minimum, the areas of study specified in Section 4980.41.

(B) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(C) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25 and any regulations promulgated thereunder.

(D) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(E) (i) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(ii) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(F) A minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(G) A minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate

course.

(H) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 37.~~ SEC. 38. Section 4984.01 of the Business and Professions Code, as amended by Section 9 of Chapter 387 of the Statutes of 2011, is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 38.~~ SEC. 39. Section 4984.01 of the Business and Professions Code, as added by Section 10 of Chapter 387 of the Statutes of 2011, is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No

registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(d) This section shall become operative on January 1, 2014.

~~SEC. 39.~~ SEC. 40. Section 4984.4 of

the Business and Professions Code is amended to read:

4984.4. A license that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued; however, the former licensee may apply for and obtain a new license if the following criteria are satisfied:

(a) No fact, circumstance, or condition exists that, if the license were issued, would constitute grounds for its revocation or suspension.

(b) He or she submits an application for examination eligibility and the fee for that application.

(c) He or she takes and passes the current licensing examinations.

(d) He or she submits the fee for initial license issuance.

(e) He or she complies with the fingerprint requirements established by board regulation.

~~SEC. 40.~~ SEC. 41. Section 4984.7 of

the Business and Professions Code, as amended by Section 11 of Chapter 387 of the Statutes of 2011, is amended to read:

4984.7. (a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an intern registration shall be seventy-five dollars (\$75).

(2) The renewal fee for an intern registration shall be seventy-five dollars (\$75).

(3) The fee for the application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the standard written examination shall be one hundred dollars (\$100). The fee for the clinical vignette examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(B) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred eighty dollars (\$180).

(7) The fee for license renewal shall be a maximum of one hundred eighty dollars (\$180).

(8) The fee for inactive license renewal shall be a maximum of ninety dollars (\$90).

(9) The renewal delinquency fee shall be a maximum of ninety dollars (\$90). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 41.~~ SEC. 42. Section 4984.7 of the Business and Professions Code, as added by Section 12 of Chapter 387 of the Statutes of 2011, is amended to read:

4984.7. (a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an intern registration shall be seventy-five dollars (\$75).

(2) The renewal fee for an intern registration shall be seventy-five dollars (\$75).

(3) The fee for the application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the clinical examination shall be one hundred dollars (\$100). The fee for the California law and ethics examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(B) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred eighty dollars (\$180).

(7) The fee for license renewal shall be a maximum of one hundred eighty dollars (\$180).

(8) The fee for inactive license renewal shall be a maximum of ninety dollars (\$90).

(9) The renewal delinquency fee shall be a maximum of ninety dollars (\$90). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

(c) This section shall become operative on January 1, 2014.

~~SEC. 42.~~ SEC. 43. Section 4984.72 of the Business and Professions Code, as amended by Section 13 of Chapter 387 of the Statutes of 2011, is amended to read:

4984.72. (a) An applicant who fails a standard or clinical

vignette written examination may, within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of the fee for the examination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all requirements in effect on the date of application, and pays all required fees.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 43.~~ SEC. 44. Section 4984.72 of the Business and Professions Code, as added by Section 14 of Chapter 387 of the Statutes of 2011, is amended to read:

4984.72. (a) Effective January 1, 2014, an applicant who fails the clinical examination may, within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of the fee for the examination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all requirements in effect on the date of application, and pays all required fees.

(b) This section shall become operative on January 1, 2014.

~~SEC. 44.~~ SEC. 45. Section 4989.16 of the Business and Professions Code is amended to read:

4989.16. (a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the board.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Licensed Marriage and Family Therapist Practice Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

~~SEC. 45.~~ SEC. 46. Section 4989.42 of the Business and Professions Code is amended to read:

4989.42. A license that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter. A former licensee may apply for a new license if he or she satisfies all of the following requirements:

(a) No fact, circumstance, or condition exists that, if the license were issued, would constitute grounds for its revocation or suspension.

(b) Payment of the fees that would be required if he or she were applying for a license for the first time.

(c) Passage of the current licensure examination.

(d) He or she complies with the fingerprint requirements established by board regulation.

~~SEC. 46.~~ SEC. 47. Section 4992.05 of the Business and Professions Code is amended to read:

4992.05. (a) Effective January 1, 2014, an applicant for licensure as a clinical social worker shall pass the following two examinations as prescribed by the board:

(1) A California law and ethics examination.

(2) A clinical examination.

(b) Upon registration with the board, an associate social worker registrant shall, within the first year of registration, take an

examination on California law and ethics.

(c) A registrant may take the clinical examination only upon meeting all of the following requirements:

- (1) Completion of all education requirements.
- (2) Passage of the California law and ethics examination.
- (3) Completion of all required supervised work experience.
- (d) This section shall become operative on January 1, 2014.

~~SEC. 47.~~ SEC. 48. Section 4992.07 of the Business and Professions Code is amended to read:

4992.07. (a) An applicant who had previously taken and passed the standard written examination but had not passed the clinical vignette examination shall also obtain a passing score on the clinical examination in order to be eligible for licensure.

(b) An applicant who had previously failed to obtain a passing score on the standard written examination shall obtain a passing score on the California law and ethics examination and the clinical examination.

(c) An applicant who had obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.

(d) This section shall become operative on January 1, 2014.

~~SEC. 48.~~ SEC. 49. Section 4992.09 of the Business and Professions Code is amended to read:

4992.09. (a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (d).

(d) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her first renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by the section shall be taken through a board-approved continuing education provider, a county, state or governmental entity, or a college or university.

(e) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(f) This section shall become operative on January 1, 2014.

~~SEC. 49.~~ SEC. 50. Section 4992.1 of the Business and Professions Code, as amended by Section 18 of Chapter 387 of the Statutes of 2011, is amended to read:

4992.1. (a) Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take the examination.

(b) Every applicant who is issued a clinical social worker license shall be examined by the board.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(d) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaint against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

(h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 50.~~ SEC. 51. Section 4992.1 of the Business and Professions Code, as added by Section 19 of Chapter 387 of the Statutes of 2011, is amended to read:

4992.1. (a) Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take an examination under this chapter.

(b) Every applicant who is issued a clinical social worker license shall be examined by the board.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(d) The board shall not deny any applicant, whose application for licensure is complete, admission to the clinical examination, nor shall the board postpone or delay any applicant's clinical examination or delay informing the candidate of the results of the clinical examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for examination who has passed the California law and ethics examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination or the clinical examination permission to retake either examination pending completion of the investigation of any complaint against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(g) Effective January 1, ~~2013,~~ 2014, no applicant shall be eligible to participate in the clinical examination if he or she fails to obtain a passing score on the clinical examination within seven years from his or her initial attempt, unless he or she takes and obtains a passing score on the current version of the California law and ethics examination.

(h) This section shall become operative on January 1, 2014.

~~SEC. 51.~~ SEC. 52. Section 4996.1 of the Business and Professions Code, as amended by Section 21 of Chapter 387 of the Statutes of 2011, is amended to read:

4996.1. (a) The board shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and successfully passes a board-administered written or oral examination or both examinations. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 52.~~ SEC. 53. Section 4996.1 of the Business and Professions Code, as added by Section 22 of Chapter 387 of the Statutes of 2011, is amended to read:

4996.1. (a) Effective January 1, 2014, the board shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and who successfully passes a California law and ethics examination and a clinical examination. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(b) This section shall become operative on January 1, 2014.

~~SEC. 53.~~ SEC. 54. Section 4996.3 of the Business and Professions Code, as amended by Section 24 of Chapter 387 of the Statutes of 2011, is amended to read:

4996.3. (a) The board shall assess the following fees relating to the licensure of clinical social workers:

(1) The application fee for registration as an associate clinical social worker shall be seventy-five dollars (\$75).

(2) The fee for renewal of an associate clinical social worker registration shall be seventy-five dollars (\$75).

(3) The fee for application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the standard written examination shall be a maximum of one hundred fifty dollars (\$150). The fee for the clinical vignette examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fees.

(B) The amount of the examination fees shall be based on the

actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred fifty-five dollars (\$155).

(7) The fee for license renewal shall be a maximum of one hundred fifty-five dollars (\$155).

(8) The fee for inactive license renewal shall be a maximum of seventy-seven dollars and fifty cents (\$77.50).

(9) The renewal delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 54.~~ SEC. 55. Section 4996.3 of the Business and Professions Code, as added by Section 25 of Chapter 387 of the Statutes of 2011, is amended to read:

4996.3. (a) The board shall assess the following fees relating to the licensure of clinical social workers:

(1) The application fee for registration as an associate clinical social worker shall be seventy-five dollars (\$75).

(2) The fee for renewal of an associate clinical social worker registration shall be seventy-five dollars (\$75).

(3) The fee for application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the clinical examination shall be one hundred dollars (\$100). The fee for the California law and ethics examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fees.

(B) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred fifty-five dollars (\$155).

(7) The fee for license renewal shall be a maximum of one hundred fifty-five dollars (\$155).

(8) The fee for inactive license renewal shall be a maximum of seventy-seven dollars and fifty cents (\$77.50).

(9) The renewal delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

(c) This section shall become operative on January 1, 2014.

~~SEC. 55.~~ SEC. 56. Section 4996.4 of the Business and Professions Code, as amended by Section 28 of Chapter 387 of the Statutes of 2011, is amended to read:

4996.4. (a) An applicant who fails a standard or clinical vignette written examination may, within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all required fees.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 56.~~ SEC. 57. Section 4996.4 of the Business and Professions Code, as added by Section 29 of Chapter 387 of the Statutes of 2011, is amended to read:

4996.4. (a) Effective January 1, 2014, an applicant who fails the clinical examination may, within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all required fees.

(b) This section shall become operative on January 1, 2014.

~~SEC. 57.~~ SEC. 58. Section 4996.6 of the Business and Professions Code is amended to read:

4996.6. (a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(b) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, complete the following actions:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(c) To renew an expired license within three years of its expiration, the licensee shall, as a condition precedent to renewal, complete all of the actions described in subdivision (b) and pay a delinquency fee.

(d) A license that is not renewed within three years after its

expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the former licensee may apply for and obtain a new license if he or she satisfies all of the following requirements:

- (1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.
- (2) He or she submits an application for examination eligibility.
- (3) He or she takes and passes the current licensing examinations.
- (4) He or she submits the fees for examination eligibility and for initial license issuance.
- (5) He or she complies with the fingerprint requirements established by board regulation.

~~SEC. 58.~~ SEC. 59. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

- (1) Apply for renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.
- (3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(4) On and after January 1, 2014, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a new associate clinical social worker registration if the applicant meets all requirements for registration in effect at the time of his or her application for a new associate clinical social worker registration. An applicant issued a subsequent associate registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

~~SEC. 59.~~ SEC. 60. Section 4999.22 of the Business and Professions Code is amended to read:

4999.22. (a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words "licensed professional clinical counselor" and shall not state that they are licensed to practice professional clinical counseling, unless they are otherwise licensed to provide professional clinical counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or the Licensed Marriage and Family Therapist Act.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of his or her professional practice.

(d) This chapter shall not apply to an employee of a governmental entity or a school, college, or university, or of an institution both nonprofit and charitable, if his or her practice is performed solely under the supervision of the entity, school, college, university, or institution by which he or she is employed, and if he or she performs those functions as part of the position for which he or she is employed.

(e) All persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

~~SEC. 60.~~ SEC. 61. Section 4999.32 of the Business and Professions Code is amended to read:

4999.32. (a) This section shall apply to applicants for examination eligibility or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4999.33.

(b) To qualify for examination eligibility or registration, applicants shall possess a master's or doctoral degree that is counseling or psychotherapy in content and that meets the requirements of this section, obtained from an accredited or approved institution, as defined in Section 4999.12. For purposes of this subdivision, a degree is "counseling or psychotherapy in content" if it contains the supervised practicum or field study experience described in paragraph (3) of subdivision (c) and, except as provided in subdivision (d), the coursework in the core content areas listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c).

(c) The degree described in subdivision (b) shall contain not less than 48 graduate semester or 72 graduate quarter units of instruction, which shall, except as provided in subdivision (d), include all of the following:

(1) The equivalent of at least three semester units or four and one-half quarter units of graduate study in each of following core content areas:

(A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.

(B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.

(C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

(D) Group counseling theories and techniques, including principles of group dynamics, group process components, developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical

strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience, or the equivalent, in a clinical setting that provides a range of professional clinical counseling experience, including the following:

- (A) Applied psychotherapeutic techniques.
- (B) Assessment.
- (C) Diagnosis.
- (D) Prognosis.
- (E) Treatment.
- (F) Issues of development, adjustment, and maladjustment.
- (G) Health and wellness promotion.
- (H) Other recognized counseling interventions.

(I) A minimum of 150 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) (1) An applicant whose degree is deficient in no more than two of the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing post-master's or postdoctoral degree coursework at an accredited or approved institution, as defined in Section 4999.12.

(2) Coursework taken to meet deficiencies in the required areas of

study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) shall be the equivalent of three semester units or four and one-half quarter units of study.

(3) The board shall make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation.

(e) In addition to the degree described in this section, or as part of that degree, an applicant shall complete the following coursework or training prior to registration as an intern:

(1) A minimum of 15 contact hours of instruction in alcoholism and other chemical substance abuse dependency, as specified by regulation.

(2) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(3) A two semester unit or three quarter unit survey course in psychopharmacology.

(4) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics.

(5) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations adopted thereunder.

(6) A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to clients, and state and federal laws related to confidentiality of patient health information. When coursework in a master's or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester unit or 72 quarter unit requirement in subdivision (c).

(7) A minimum of 10 contact hours of instruction in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging. On and after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(8) A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

~~SEC. 61.~~ SEC. 62. Section 4999.45 of the Business and Professions Code, as amended by Section 32 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.45. An intern employed under this chapter shall:

(a) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(b) Not be employed or volunteer in a private practice until

registered as an intern.

(c) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(d) Renew annually for a maximum of five years after initial registration with the board.

(e) When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 62.~~ SEC. 63. Section 4999.45 of the Business and Professions Code, as added by Section 33 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.45. (a) An intern employed under this chapter shall:

(1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(2) Not be employed or volunteer in a private practice until registered as an intern.

(3) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(4) Renew annually for a maximum of five years after initial registration with the board.

(b) When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(c) This section shall become operative on January 1, 2014.

~~SEC. 63.~~ SEC. 64. Section 4999.46 of the Business and Professions Code, as amended by Section 34 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.46. (a) To qualify for the licensure examinations specified in subdivision (c) of Section 4999.52, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

(b) The experience shall include a minimum of 3,000 postdegree hours of supervised clinical mental health experience related to the practice of professional clinical counseling, performed over a period of not less than two years (104 weeks), which shall include:

(1) Not more than 40 hours in any seven consecutive days.

(2) Not less than 1,750 hours of direct counseling with individuals or groups in a setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

(3) Not more than 500 hours of experience providing group therapy or group counseling.

(4) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

(5) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of

Title 16 of the California Code of Regulations.

(6) Not more than a combined total of 1,250 hours of experience in the following related activities:

(A) Direct supervisor contact.

(B) Client centered advocacy.

(C) Not more than 250 hours of experience administering tests and evaluating psychological tests of clients, writing clinical reports, writing progress notes, or writing process notes.

(D) Not more than 250 hours of verified attendance at workshops, training sessions, or conferences directly related to professional clinical counseling that are approved by the applicant's supervisor.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

(d) An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the applicant applies for intern registration within 90 days of the granting of the qualifying degree and is registered as an intern by the board.

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

(f) Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(1) No more than five hours of supervision, whether individual or group, shall be credited during any single week.

(2) An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 64.~~ SEC. 65. Section 4999.46 of the Business and Professions Code, as added by Section 35 of Chapter

387 of the Statutes of 2011, is amended to read:

4999.46. (a) To qualify for the licensure examination specified by paragraph (2) of subdivision (a) of Section 4999.53, applicants shall complete clinical mental health experience under the general supervision of an approved supervisor as defined in Section 4999.12.

(b) The experience shall include a minimum of 3,000 postdegree hours of supervised clinical mental health experience related to the practice of professional clinical counseling, performed over a period of not less than two years (104 weeks), which shall include:

(1) Not more than 40 hours in any seven consecutive days.

(2) Not less than 1,750 hours of direct counseling with individuals or groups in a setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

(3) Not more than 500 hours of experience providing group therapy or group counseling.

(4) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

(5) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations.

(6) Not more than a combined total of 1,250 hours of experience in the following related activities:

(A) Direct supervisor contact.

(B) Client centered advocacy.

(C) Not more than 250 hours of experience administering tests and evaluating psychological tests of clients, writing clinical reports, writing progress notes, or writing process notes.

(D) Not more than 250 hours of verified attendance at workshops, training sessions, or conferences directly related to professional clinical counseling that are approved by the applicant's supervisor.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

(d) An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the applicant applies for intern registration within 90 days of the granting of the qualifying degree and is registered as an intern by the board.

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

(f) Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(1) No more than five hours of supervision, whether individual or group, shall be credited during any single week.

(2) An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(h) This section shall become operative on January 1, 2014.

~~SEC. 65.~~ SEC. 66. Section 4999.50 of the Business and Professions Code, as amended by Section 36 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.50. (a) The board may issue a professional clinical counselor license to any person who meets all of the following requirements:

(1) He or she has received a master's or doctoral degree described in Section 4999.32 or 4999.33, as applicable.

(2) He or she has completed at least 3,000 hours of supervised experience in the practice of professional clinical counseling as provided in Section 4999.46.

(3) He or she provides evidence of a passing score, as determined by the board, on examinations designated by the board pursuant to Section 4999.52.

(b) An applicant who has satisfied the requirements of this chapter shall be issued a license as a professional clinical counselor in the form that the board may deem appropriate.

(c) The board shall begin accepting applications for examination eligibility on January 1, 2012.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 66.~~ SEC. 67. Section 4999.50 of the Business and Professions Code, as added by Section 37 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.50. (a) The board may issue a professional clinical counselor license to any person who meets all of the following requirements:

(1) He or she has received a master's or doctoral degree described in Section 4999.32 or 4999.33, as applicable.

(2) He or she has completed at least 3,000 hours of supervised experience in the practice of professional clinical counseling as provided in Section 4999.46.

(3) He or she provides evidence of a passing score, as determined by the board, on the examinations designated in Section 4999.53.

(b) An applicant who has satisfied the requirements of this chapter shall be issued a license as a professional clinical counselor in the form that the board may deem appropriate.

(c) This section shall become operative on January 1, 2014.

~~SEC. 67.~~ SEC. 68. Section 4999.52 of the Business and Professions Code, as amended by Section 38 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.52. (a) Except as provided in Sections 4999.54 and 4999.56,

every applicant for a license as a professional clinical counselor shall be examined by the board. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine.

(c) (1) It is the intent of the Legislature that national licensing examinations, such as the National Counselor Examination for Licensure and Certification (NCE) and the National Clinical Mental Health Counselor Examination (NCMHCE), be evaluated by the board as requirements for licensure as a professional clinical counselor.

(2) The board shall evaluate various national examinations in order to determine whether they meet the prevailing standards for the validation and use of licensing and certification tests in California.

(3) The Department of Consumer Affairs' Office of Professional Examination Services shall review the occupational analysis that was used for developing the national examinations in order to determine if it adequately describes the licensing group and adequately determines the tasks, knowledge, skills, and abilities the licensed professional clinical counselor would need to perform the functions under this chapter.

(4) Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(5) If national examinations do not meet the standards specified in paragraph (2), the board may require a passing score on either of the following:

(A) The national examinations plus one or more board-developed examinations.

(B) One or more board-developed examinations.

(6) The licensing examinations shall also incorporate a California law and ethics examination element that is acceptable to the board, or, as an alternative, the board may develop a separate California law and ethics examination.

(d) The board shall not deny any applicant who has submitted a complete application for examination admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(e) The board shall not deny any applicant whose application for licensure is complete admission to the examinations, nor shall the board postpone or delay any applicant's examinations or delay informing the candidate of the results of the examinations, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(f) If an applicant for examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the examinations, but may notify the applicant that licensure will not be granted pending completion of the investigation.

(g) Notwithstanding Section 135, the board may deny any applicant who has previously failed an examination permission to retake that examination pending completion of the investigation of any complaints against the applicant.

(h) Nothing in this section shall prohibit the board from

denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, respectively, or the application has been denied in accordance with subdivision (b) of Section 485.

(i) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(j) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 68.~~ SEC. 69. Section 4999.52 of the Business and Professions Code, as added by Section 39 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.52. (a) Except as provided in Sections 4999.54 and 4999.56, every applicant for a license as a professional clinical counselor shall be examined by the board. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine.

(c) The board shall not deny any applicant who has submitted a complete application for examination admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(d) The board shall not deny any applicant whose application for licensure is complete admission to the examinations specified by paragraph (2) of subdivision (a) of Section 4999.53, nor shall the board postpone or delay this examination for any applicant or delay informing the candidate of the results of this examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, who has passed the California law and ethics examination, is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take this examination, but may notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination, or the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, permission to retake either examination pending completion of the investigation of any complaints against the applicant.

(g) Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, respectively, or the application has been denied in accordance with subdivision (b) of Section 485.

(h) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an

examination.

(i) On and after January 1, 2014, the examination specified by paragraph (2) of subdivision (a) of Section 4999.53 shall be passed within seven years of an applicant's initial attempt.

(j) No applicant shall be eligible to participate in the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, if he or she fails to obtain a passing score on this examination within seven years from his or her initial attempt. If the applicant fails to obtain a passing score within seven years of initial attempt, he or she shall obtain a passing score on the current version of the California law and ethics examination in order to be eligible to retake this examination.

(k) The provisions of this section shall become operative on January 1, 2014.

~~SEC. 69.~~ SEC. 70. Section 4999.53 of

the Business and Professions Code is amended to read:

4999.53. (a) Effective January 1, 2014, a clinical counselor intern applying for licensure as a clinical counselor shall pass the following examinations as prescribed by the board:

(1) A California law and ethics examination.

(2) A clinical examination administered by the board, or the National Clinical Mental Health Counselor Examination if the board finds that this examination meets the prevailing standards for validation and use of the licensing and certification tests in California.

(b) Upon registration with the board, a clinical counselor intern shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant may take the clinical examination or the National Clinical Mental Health Counselor Examination, as established by the board through regulation, only upon meeting all of the following requirements:

(1) Completion of all required supervised work experience.

(2) Completion of all education requirements.

(3) Passage of the California law and ethics examination.

(d) This section shall become operative on January 1, 2014.

~~SEC. 70.~~ SEC. 71. Section 4999.55 of

the Business and Professions Code is amended to read:

4999.55. (a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) If an applicant fails the California law and ethics exam, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (d).

(d) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her first renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a board-approved continuing education provider, a county, state, or governmental entity, or a college or university.

(e) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics

examination.

(f) This section shall become operative January 1, 2014.

~~SEC. 71.~~ SEC. 72. Section 4999.57 of the Business and Professions Code is amended to read:

4999.57. (a) This section applies to a person who applies for examination eligibility or registration between January 1, 2011, and December 31, 2013, inclusive, who does not hold a license described in subdivision (a) of Section 4999.58.

(b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4999.40, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, which includes, in addition to the course described in subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics for professional clinical counselors.

(d) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant's education meets the requirements of Section 4999.32. If the applicant's degree does not contain the content or the overall units required by Section 4999.32, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(1) The applicant's degree contains the required number of practicum units under paragraph (3) of subdivision (c) of Section 4999.32.

(2) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4999.32.

(3) The applicant's degree otherwise complies with this section.

(e) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 72.~~ SEC. 73. Section 4999.58 of the Business and Professions Code is amended to read:

4999.58. (a) This section applies to a person who applies for examination eligibility between January 1, 2011, and December 31, 2013, inclusive, and who meets both of the following requirements:

(1) At the time of application, holds a valid license as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States.

(2) Has held the license described in paragraph (1) for at least two years immediately preceding the date of application.

(b) The board may issue a license to a person described in subdivision (a) if all of the following requirements are satisfied:

(1) The education and supervised experience requirements of the other jurisdiction are substantially the equivalent of this chapter, as described in subdivision (e) and in Section 4999.46.

(2) The person complies with subdivision (b) of Section 4999.40, if applicable.

(3) The person successfully completes the examinations required by the board pursuant to paragraph (3) of subdivision (a) of Section 4999.50.

(4) The person pays the required fees.

(c) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure by that state as a licensed professional clinical counselor.

(d) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, which includes, in addition to the course described in subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics for professional clinical counselors.

(e) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant's education meets the requirements of Section 4999.32. If the applicant's degree does not contain the content or the overall units required by Section 4999.32, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(1) The applicant's degree contains the required number of practicum units under paragraph (3) of subdivision (c) of Section 4999.32.

(2) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4999.32.

(3) The applicant's degree otherwise complies with this section.

(f) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 73.~~ SEC. 74. Section 4999.59 of the Business and Professions Code is amended to read:

4999.59. (a) This section applies to a person who applies for examination eligibility or registration between January 1, 2011, and December 31, 2013, inclusive, who meets both of the following requirements:

(1) At the time of application, holds a valid license described in paragraph (1) of subdivision (a) of Section 4999.58.

(2) Has held the license described in paragraph (1) for less than two years immediately preceding the date of application.

(b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4999.40, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure in that state as a professional clinical counselor.

(c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed the training or coursework required under subdivision (e) of Section 4999.32, which includes, in addition to the course described in subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour course in California law and professional ethics for professional clinical counselors.

(d) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the

applicant's education meets the requirements of Section 4999.32. If the applicant's degree does not contain the content or the overall units required by Section 4999.32, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(1) The applicant's degree contains the required number of practicum units under paragraph (3) of subdivision (c) of Section 4999.32.

(2) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4999.32.

(3) The applicant's degree otherwise complies with this section.

(e) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 74.~~ SEC. 75. Section 4999.62 of

the Business and Professions Code is amended to read:

4999.62. (a) This section applies to persons who apply for examination eligibility or registration on or after January 1, 2014.

(b) For purposes of Sections 4999.60 and 4999.61, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:

(A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face counseling.

(B) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(2) The applicant completes any units and course content requirements under Section 4999.33 not already completed in his or her education.

(3) The applicant completes credit level coursework from a degree-granting institution that provides all of the following:

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

(B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.

(C) Structured meeting with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(D) Instruction in behavioral addiction and co-occurring substance abuse and mental health disorders, as specified in subparagraph (K) of paragraph (1) of subdivision (c) of Section 4999.33.

(4) The applicant completes, in addition to the course described in subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33, an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients.

~~SEC. 75.~~ SEC. 76. Section 4999.63 of the Business and Professions Code is amended to read:

4999.63. (a) For applicants who submit an application for a license on or before January 1, 2014, a valid passing score on the examination referenced in subdivision (c) of Section 4999.52 shall have been obtained less than seven years prior to the application date.

(b) For applicants who submit an application for a license on and after January 1, 2014, a valid passing score on the examination referenced in paragraph (2) of subdivision (a) of Section 4999.53 shall have been obtained less than seven years prior to the application date.

~~SEC. 76.~~ SEC. 77. Section 4999.64 of the Business and Professions Code is amended to read:

4999.64. (a) Effective January 1, 2014, an applicant who fails the examination specified in paragraph (2) of subdivision (a) of Section 4999.53 may, within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of the fee for the examination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all requirements in effect on the date of application, and pays all required fees.

(b) This section shall become operative on January 1, 2014.

~~SEC. 77.~~ SEC. 78. Section 4999.76 of the Business and Professions Code is amended to read:

4999.76. (a) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completed continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause, as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) A school, college, or university that is accredited or approved, as defined in Section 4999.12. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional clinical counseling association, a licensed health facility, a governmental entity, a continuing education unit of a four-year institution of higher learning that is accredited or approved, or a mental health professional association, approved by the board.

(e) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for

failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of professional clinical counseling.

(2) Significant recent developments in the discipline of professional clinical counseling.

(3) Aspects of other disciplines that enhance the understanding or the practice of professional clinical counseling.

(g) A system of continuing education for licensed professional clinical counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For the purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

(i) The continuing education requirements of this section shall fully comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

~~SEC. 78.~~ SEC. 79. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee, applicant, or registrant under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation,

or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, ~~professional clinical counselor,~~ or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telemedicine.

(ad) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

~~SEC. 79.~~ SEC. 80. Section 4999.100 of the Business and Professions Code, as amended by Section 44 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do the following:

- (1) Apply for a renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

~~SEC. 80.~~ SEC. 81. Section 4999.100 of the Business and Professions Code, as added by Section 45 of Chapter 387 of the Statutes of 2011, is amended to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do the following:

- (1) Apply for a renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The intern registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

(d) This section shall become operative on January 1, 2014.

~~SEC. 81.~~ SEC. 82. Section 4999.106 of the Business and Professions Code is amended to read:

4999.106. A license that is not renewed within three years after

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.
+LAST AMENDED DATE : 03/22/2012

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

LAST HIST. ACT. DATE: 07/17/2012
LAST HIST. ACTION : Chaptered by Secretary of State - Chapter 140, Statutes
of 2012.
COMM. LOCATION : SEN APPROPRIATIONS
COMM. ACTION DATE : 06/25/2012
COMM. ACTION : Senate Rule 28.8.

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

BILL NUMBER: AB 1548 CHAPTERED
BILL TEXT

CHAPTER 140
FILED WITH SECRETARY OF STATE JULY 17, 2012
APPROVED BY GOVERNOR JULY 17, 2012
PASSED THE SENATE JULY 2, 2012
PASSED THE ASSEMBLY APRIL 26, 2012
AMENDED IN ASSEMBLY MARCH 22, 2012

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, 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.

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

SECTION 1. The Legislature finds and declares that the Medical Practice Act prohibits corporations and other artificial legal entities from exercising professional rights, privileges, or powers, as described in Article 18 (commencing with Section 2400) of Chapter 5 of Division 2 of the Business and Professions Code, and that the prohibited conduct described in Section 2417.5 of the Business and Professions Code, as added by this act, is declaratory of existing law.

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

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

(b) For purposes of this section, "outpatient elective cosmetic medical procedures or treatments" means medical procedures or treatments that are performed to alter or reshape normal structures of the body solely in order to improve appearance.

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

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

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.

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.

BILL NUMBER: AB 137 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JANUARY 23, 2012

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:

SECTION 1. Section 1367.65 of the Health and Safety Code is amended to read:

1367.65. (a) Until June 30, ~~2012~~ 2013
, every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed shall be 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.

(b) On or after July 1, ~~2012~~ 2013 ,
every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed shall be deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

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

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

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

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

10123.81. (a) Until June 30, ~~2012~~ 2013
, every individual or group policy of disability insurance or

self-insured employee welfare benefit plan that is issued, amended, or renewed, shall be deemed to provide coverage for at least the following, upon the referral of a nurse practitioner, certified nurse-midwife, or physician, providing care to the patient and operating within the scope of practice provided under existing law for breast cancer screening or diagnostic purposes:

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

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

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

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

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

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

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

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

10123.815. (a) Commencing July 1, ~~2012~~ 2013 , a health insurer subject to Section 10123.8 or 10123.81 shall provide a policyholder with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer. This information may be provided by written letter sent to the policyholder, by publication in a newsletter sent to the policyholder, by publication in evidence of coverage, by direct telephone call to the policyholder, by electronic transmission, by Web-based portal containing various plan or policy and benefit information if the policyholder has access to that portal, or by any other means that will reasonably notify the policyholder of the recommended timelines for testing. Communications made by an insurer's contracted providers that satisfy the requirements of this section shall constitute compliance by the insurer with this section.

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

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

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

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.

BILL NUMBER: AB 1894 INTRODUCED
BILL TEXT

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:

SECTION 1. Section 3519 of the Business and Professions Code is amended to read:

3519. The committee shall issue under the name of the Medical Board of California a license to all physician assistant applicants who meet all of the following requirements:

(a) Provide evidence of successful completion of an approved program.

(b) Pass any examination required under Section 3517.

(c) ~~Not be~~ Are not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.

(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: expedited
licensure.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 06/12/2012

TYPE OF BILL :

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

LAST HIST. ACT. DATE: 07/03/2012
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR.
(Ayes 8. Noes 0.) (July 2). Re-referred to Com. on
APPR.
COMM. LOCATION : SEN APPROPRIATIONS
HEARING DATE : 08/06/2012

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

BILL NUMBER: AB 1904 AMENDED
BILL TEXT

AMENDED IN SENATE JUNE 12, 2012

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 amended, Block. Professions and vocations: military spouses: ~~temporary licenses.~~ expedited licensure.

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.~~ Existing law authorizes a licensee to reinstate an expired license without examination or penalty if, among other requirements, the license expired while the licensee was on active duty as a member of the California National Guard or the United States Armed Forces.

This bill would ~~authorize~~ require a board within the department to ~~issue a temporary license to expedite the licensure process for~~ an applicant who ~~, among other requirements,~~ holds an equivalent a license in the same profession or vocation 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~~ no

. Fiscal committee: yes. State-mandated local program: no.

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

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

115.5. (a) A board within the department ~~may issue a temporary license to~~ shall expedite the licensure

process for an applicant who meets ~~all~~
both of the following requirements:

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

~~(2)~~

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

~~(3)~~

(2) Holds a current license in another state, district, or territory of the United States ~~with the requirements that the board determines are substantially equivalent to those established under this code for that occupation~~ in the profession or vocation for which he or she seeks a license from the board .

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

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

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

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

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

~~(c) A temporary license issued under this section shall be valid for 180 days, except that the license may, at the discretion of the board, be extended for an additional 180-day period on application of the license holder.~~

~~(d)~~

(b) A board may adopt regulations necessary to administer this section.



Physician Assistant Committee

Mission Statement

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

Vision Statement:

As a result of our efforts the health care needs of California consumers are met by Physician Assistants in a compassionate, competent, ethical and culturally-sensitive manner.

Values:

- **Accountability:** We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.
- **Efficiency:** We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.
- **Effectiveness:** We make informed decisions that make a difference and have a positive, measurable impact.
- **Integrity:** We are honest, fair and respectful in our treatment of everyone, which is demonstrated through our decision-making process.
- **Customer Service:** We acknowledge all stakeholders as our customers, listen to them, and take their needs into account.
- **Employees:** We are an employer of choice and strategically recruit, train, and retain employees. We value and recognize employee contributions and talent.
- **Unity:** We draw strength from our organizational diversity as well as California's ever-changing cultural and economic diversity.



*Physician
Assistant
Committee*

Goals:

GOAL 1 - Licensing

Protect consumers by licensing qualified applicants using a timely, accurate and cost effective process.

GOAL 2 - Enforcement

To protect consumers through an enforcement process that is timely, fair, and consistent with the applicable laws and regulations.

GOAL 3 – Education & Outreach

Provide education and outreach to consumers, healthcare providers, physician assistant training programs and applicants in an accurate accessible manner, including presentations to diverse, underserved populations.

GOAL 4 – Administrative Efficiency

Utilizing the latest management tools and technology, provide cost-effective, quality administrative services to consumers, applicants and licensees.

GOAL 5 – Legislative & Regulatory

Support legislation; pursue laws and regulations that would better meet the needs of consumers in an ever-changing health care environment.

GOAL 6 - Workforce

Address Physician Assistant workforce needs.



Physician Assistant Committee

Objectives:

GOAL 1 - Licensing

Protect consumers by licensing qualified applicants using a timely, accurate and cost effective process.

Objectives (not prioritized):

- Streamline the regulatory language in regards to licensing schools.
- Improve the Committee's information technology system and support.
- Acquire and maintain adequate staff.
- Consider increasing the length of time between renewals.
- Review application, license, and renewal fees to ensure they are current.
- Develop and transition to an all-electronic processing method for licensing.

GOAL 2 - Enforcement

To protect consumers through an enforcement process that is timely, fair, and consistent with the applicable laws and regulations.

Objectives (not prioritized):

- Identify and use expert witnesses who understand the legal requirements for enforcement.
- Create an enforcement process tree and post it on the Committee's web site.
- Clarify enforcement regulations and statutes.
- Post disciplinary guidelines conspicuously on the web site.
- Reduce the time required to conduct investigations.
- Add requirement for licensees to report any convictions that occur prior to renewal of their license.
- Establish a faster Interim Suspension Order process and use it consistently.
- Increase the number of investigators on staff.



Objectives (continued):

GOAL 3 – Education & Outreach

Provide education and outreach to consumers, healthcare providers, physician assistant training programs and applicants in an accurate accessible manner, including presentations to diverse, underserved populations.

Objectives (not prioritized):

- Arrange for a Twitter account for the Committee executive officer.
- Explore the creation of a blog or other form of “chat” site for Physician’s Assistants on the Committee’s web site.
- Ensure the views of the profession are represented on national health care issues.
- Create a calendar on the web site that allows PAs and the public to post outreach events.
- Create a newsletter and post it on the Committee’s web site.
- Schedule and conduct seminars to increase community/public awareness of the profession.
- Promote the PA career path in high schools and junior colleges.
- Send representatives to present at 4-5 PA schools each year.
- Use electronic venues, such as the Web, Twitter and Facebook to educate stakeholders about new laws.

GOAL 4 – Administrative Efficiency

Utilizing the latest management tools and technology, provide cost-effective, quality administrative services to consumers, applicants and licensees.

Objectives (not prioritized):

- Explore setting up a VPN for the Committee.
- Increase the use of electronic, on-line communication to reduce the use of hard-copy.
- Provide electronic access to all electronic data.
- Provide internship opportunities for staff at the Committee.



Objectives (continued):

GOAL 5 – Legislative & Regulatory

Support legislation; pursue laws and regulations that would better meet the needs of consumers in an ever-changing health care environment.

Objectives (not prioritized):

- Stay abreast of updated, changed, and newly enforced laws to make sure we stay compliant.
- Ensure that new legislation and regulations reflect the current needs of Physician Assistant practice.
- Keep regulations current.
- Develop and maintain relationships with legislators.
- Sponsor new legislation to speed up the enforcement process.
- Review the PA school accreditation process.
- Pursue mandatory reporting from hospitals and clinics of disciplinary actions taken against PAs.

GOAL 6 - Workforce

Address Physician Assistant workforce needs.

Objectives (not prioritized):

- Collect workforce data every three years and post it on the Committee's web site.
- Inform and educate legislators and the public about the need for more Physician Assistant schools.
- Provide information about the PA career to health sectors of the military branches.

**PHYSICIAN ASSISTANT COMMITTEE
MEETING DATES FOR 2012**

| <u>DATE</u> | <u>LOCATION</u> |
|----------------------------------|-----------------|
| Monday, October 29 th | Sacramento |

MEDICAL BOARD MEETING DATES FOR 2012

| <u>DATE</u> | <u>LOCATION</u> |
|-------------|-----------------|
|-------------|-----------------|

| | |
|---|-----------|
| October 25 th and 26 th | San Diego |
|---|-----------|