



PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street, Suite 1100, Sacramento, CA 95815
P (916) 561-8780 Fax(916) 263-2671 web www.pac.ca.gov

MEETING NOTICE

November 3, 2014

PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
8:00 A.M. – 5:00 P.M.

AGENDA

(Please see below for Webcast information)

EXCEPT "TIME CERTAIN"* ITEMS, ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

1. Call to Order by President (Sachs)
2. Roll Call (Winslow)
3. Approval of August 18, 2014 Meeting Minutes (Sachs)
4. Public Comment on items not on the Agenda (Sachs) (Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a).])
5. Reports
 - a. President's Report (Sachs)
 1. California Academy of Physician Assistants (CAPA) Annual Conference
 2. Two Year PA Training Programs: Program Status
 - b. Executive Officer's Report (Mitchell)
 1. Update on BreEZe Implementation
 2. Controlled Substance Utilization Review and Evaluation System (CURES) Update
 - c. Licensing Program Activity Report (Forsyth)
 - d. Diversion Program Activity Report (Mitchell)
 - e. Enforcement Program Activity Report (Tincher)
6. Who May Call Themselves a Physician Assistant in California: Discussion (Sachs)
7. Department of Consumer Affairs
 - a. Director's Update (Christine Lally)
8. Nomination and Election of Physician Assistant Board Officers (Mitchell)
9. Approval of Passing Score for 2015 PA Initial Licensing Examination and 2015 Dates and Locations for PA Initial Licensing Examination (Sachs/Forsyth)
10. Schedule of 2015 Board Meeting Dates and Locations (Sachs)
11. Regulations
 - a. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.541 - Medical Services Performable: Update (Sachs)

***TIME CERTAIN 10:00 AM – Petition Hearings**

12. **Petition Hearings** (Petition hearings are Public and Before the Board with a Subsequent Closed Session)
 - a. Petition for Termination of Probation – Joseph Gregory, PA 19779
 - b. Petition for Reinstatement of Physician Assistant License – Michael Anthony Cancilla, Jr., PA 15366 License Revoked.

13. **CLOSED SESSION:**

- a. Pursuant to Section 11126(c)(3) of the Government Code, the Board will move into closed session to deliberate on disciplinary matters, including petitions
- b. Pursuant to Section 11126(a) (1) of the Government Code, the Board will move into closed session to conduct the annual evaluation of the Executive Officer

RETURN TO OPEN SESSION

14. Lunch break will be taken at some point during the day's meeting.
15. PAB Policy Manual (Grant)
 - a. New Policy – Board Member Reporting: Knowledge of Violations of Physician Assistant Laws and Regulations: Review and Approval
16. Discussion on Accredited Physician Assistant Programs in California; Accreditation Process (Sachs)
 - a. Invitation to ARC-PA for Representative to Attend Board Meeting: Update
17. Telehealth (Sachs)
 - a. Telehealth for physician assistants in California – Discussion and Presentation by Cama Lock, PA, San Mateo Medical Center
18. Medical Board of California Activities (Bishop)
 - a. Prescribing Task Force Update
19. Budget Update
 - a. Budget Update (Tincher)
 - b. Presentation by Wilbert Rumbaoa, DCA Budget Analyst Regarding the Budget Development Process
20. The Legislative Committee (Hazelton/Earley)
 - a. Legislation of Interest to the Physician Assistant Board
AB 1702, AB 1841, AB 2058, AB 2102, AB 2396, SB 981, SB 1083, SB 1091, SB 1159, SB 500 and other bills impacting the Board identified by staff after publication of the agenda
21. Agenda Items for Next Meeting (Sachs)
22. Adjournment (Sachs)

Note: Agenda discussion and report items are subject to action being taken on them during the meeting by the Board at its discretion. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as "time certain". Agenda items may be taken out of order and total time allocated for public comment on particular issues may be limited.

While the Board intends to webcast this meeting, it may not be possible to webcast the meeting due to limitations on resources. The webcast can be located at www.dca.ca.gov. If you would like to ensure participation, please plan to attend at the physical location.

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 Anita Winslow at (916) 561-8782 or email Anita.Winslow@mbc.ca.gov send a written request to the Physician Assistant Board, 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.

Agenda

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PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street, Suite 1100, Sacramento, CA 95815
P (916) 561-8780 Fax(916) 263-2671 web www.pac.ca.gov

MEETING MINUTES

August 18, 2014

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

1. **Call to Order by President**

President Sachs called the meeting to order at 9:10 a.m.

2. **Roll Call**

Staff called the roll. A quorum was present.

Board Members Present:

- Robert Sachs, PA-C
- Charles Alexander, Ph.D.
- Michael Bishop, M.D.
- Jed Grant, PA-C
- Catherine Hazelton
- Rosalee Shorter, PA-C
- Cristina Gomez-Vidal Diaz
- Sonya Earley, PA-C
- Xavier Martinez

Staff Present:

- Glenn L. Mitchell, Jr., Executive Officer
- Kristy Schieldge, Senior Staff Counsel, Department of Consumer Affairs (DCA)
- Dianne Tincher, Enforcement Analyst
- Lynn Forsyth, Licensing Analyst
- Anita Winslow, Administration Analyst

3. **Approval of May 19, 2014 Meeting Minutes**

The May 19, 2014 meeting minutes were approved as written.
(m/Bishop, s/Earley, motion passes)

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

There was no public comment at this time.

5. Reports

a. President's Report

President Sachs reported on attending the Founding Advisory Committee meeting of Marshall Ketchum University PA Program. This new program has received provisional accreditation from ARC-PA. The first class is scheduled to begin in September 2014 with 24 students.

b. Executive Officer's Report

1. Update on BreEZe Implementation:

Mr. Mitchell stated that Board staff continues to work with the BreEZe team on system production stabilization issues. The main issues continue to be with enforcement and cashiering aspects of BreEZe, and the generation of reports in BreEZe.

Mr. Mitchell added that the BreEZe licensing system continues to function appropriately and the Board is not experiencing any delays in issuing physician assistant licenses. He informed the members that our on-line license renewal system is now scheduled for November 2014 due to other aspects of the system's roll out that must be addressed first.

Mr. Mitchell informed the members that Board staff are frequently attending licensing and enforcement user group meetings and their attendance is greatly assisting in resolving some of the issues that this and other boards are encountering during implementation of the BreEZe.

Mr. Mitchell stated that the Board is also receiving a great deal of assistance from staff of the Medical Board of California Information Systems Branch during the implementation stage. The Board greatly appreciates their assistance in helping us with the implementation of the system.

Mr. Mitchell thanked our applicants, licensees and consumers for their patience during the transition to BreEZe.

2. CURES Update:

The CURES system (Controlled Substance Utilization Review and Evaluation System) is a data base that contains records of controlled substance drugs dispensed in California. For the Board, CURES data is useful in investigating complaints concerning dispensing or use of controlled substances by physician assistants. Currently, the CURES system does not have the capability to meet current and future demands and needs to be updated. Additionally, budget cuts to CURES have impacted the system as well. SB 809, signed by the Governor, will address funding issues and allow for enhancements to the system to better meet the needs of the users of this information.

Mr. Mitchell stated that Joint Application Design (JAD) sessions are taking place between representatives of DCA and DOJ (there are 10 DCA Boards involved). The purpose of these sessions is to facilitate development of aspects of the new system and to define the system needs.

Mr. Mitchell added that the sessions are designed to allow information to be obtained and validated by involving participants who have a stake in the outcome.

Mr. Mitchell informed the members that Board staff does not query the system as this is performed by the Medical Board of California complaint staff; therefore, they are representing the Board in these sessions.

President Sachs asked if licensees were paying the CURES Fund fee. Mr. Mitchell responded that the fee was first assessed with April 2014 renewals.

c. Licensing Program Activity Report

Between May 1, 2014 and August 1, 2014, 256 physician assistant licenses were issued. As of August 1, 2014, 9,540 physician assistant licenses are renewed and current.

d. Diversion Program Activity Report

Mr. Mitchell reported that Maximus has been awarded the contract for the DCA diversion program for 5 years effective January 1, 2015 until December 31, 2019. Maximus is the current contractor and has had the contract for diversion program services for the past 11 years. Effective January 1, 2015, the cost per participant will be \$338.15 (the current cost is \$306.14, a \$32.00 increase). The cost per participant will increase by 3% annually per contract provisions. Board ordered participants pay the full fee and self-referrals pay 75% of the monthly fee (per Title 16, California Code of Regulation Section 1399.557).

As of July 1, 2014, the Board's Diversion Program has 13 participants, which includes 3 voluntary participants and 10 board-referral participants.

A total of 124 participants have participated in the program since implementation in 1990.

Dr. Bishop commented that the participant numbers seemed to have dropped off. Mr. Mitchell responded that because of the participation fee, self-referrals may be participating in programs covered by their health insurance.

e. Enforcement Program Activity Report

Between July 1, 2013 and June 30, 2014, 19 accusations were filed; 2 Statement of Issues were filed; 10 probationary licenses were issued, and there are currently 47 probationers.

6. **Department of Consumer Affairs**

a. **Director's Update**

Christine Lally, Deputy Director – Board & Bureau Relations reported on the leadership change within the Department of Consumer Affairs. Director, Denise Brown, retired after 30 years of service and Awet Kidane was appointed as the new Director. Tracy Rhine was appointed Chief Deputy Director. Ms. Lally added that Mr. Kidane is planning “sit-down” meetings with Executive Directors and Executive Officers of all Boards.

Ms. Lally reminded the Board about expiring terms and requested that those Board members interested in being reappointed to submit their applications to their respective appointing office.

President Sachs commented that he is pleased that all nine Board positions are filled.

7. **Regulations**

A. **Title 16, California Code of Regulations, Section 1399.541 – Medical Services Performable**

As discussed at our May meeting, the Medical Board of California (MBC) held the regulatory hearing for this proposal at their February 7, 2014 meeting. Public comment received during the 45-day comment period was reviewed.

After a discussion it was proposed to delete “or” from the language. The Board adopted this change and there was a 15 day public comment period. At the Medical Board of California meeting in May, members reviewed public comments received. And following consideration of comments received from counsel from the Health Quality Enforcement Section; MBC staff recommended further clarification of the definition of “immediately available.” MBC members voted to approve the language and refer it back to the Board for consideration.

The modified language was approved by the Board in May and it was referred back to the MBC and noticed for another 15-day public comment period. The public comment period ended on June 10, 2014. Since no public comment was received, the Board and MBC have completed their final review of the regulatory package and it has been forwarded to the Department of Consumer Affairs (DCA) for their review and approval. Once DCA approves the package it will be submitted to the Office of Administrative Law (OAL). OAL has thirty days to review the package.

This regulation will improve the way physician assistants are supervised in a surgical setting.

B. Section 100 Changes without Regulatory Effect to Title 16, California Code of Regulations, Section 1399.621 – sponsored Free Health Care Events – Sponsoring Entity Registration Form

The Department of Consumer Affairs recently transitioned the processing of Sponsored Free Health Care Events sponsoring entity forms to the Department's Complaint Resolution Program. Because of this transition, the DCA Sponsoring Entity form has been updated to a new revision date. Therefore, we were required to submit a Section 100 (changes without regulatory effect) rulemaking file to reflect the amended form in our regulation.

This package was submitted to the Office of Administrative Law on July 8, 2014. OAL approved this regulatory proposal on August 13, 2014.

8. Discussion of Board Members reporting alleged violations of Physician Assistant Laws and Regulations to the Board

Ms. Schieldge reported that the physician assistant laws and regulations do not contain any provisions requiring Board members to report violations of physician assistant laws and regulations by physician assistants. She stated that there are other Boards within the Department that require their licensees, which would include professional Board members, to report violations of laws and regulations.

She quoted Business and Profession Code Section 3758.5, as an example, which relates to the Respiratory Care Board:

“If a licensee has knowledge that another person may be in violation of, or has violated, any of the statutes or regulations administered by the board, the licensee shall report this information to the board in writing and shall cooperate with the board in furnishing information or assistance as may be required.”

Ms. Schieldge stated that it was up to the Board's discretion or judgment to require members to report violations. There is no legal requirement within the Physician Assistant Practice Act that states violations must be reported.

When asked if a regulation should be adopted Ms. Schieldge responded that other Boards within the Department have regulations but, perhaps, another option is for the Board to adopt a policy that recommends that members refer any violation to the Executive Officer for review and possible disciplinary action. She also stated that if a Board member is a witness to a violation and after investigation it comes to the Board as a disciplinary matter they should recuse themselves from voting on the proposed decision.

9. Discussion of approved controlled substance education courses: responsibilities of course providers

President Sachs stated that controlled substance education courses are given to allow physician assistants to waive patient specific authority from their supervising physician to transmit controlled substances drug orders. He asked

what the Board's responsibility is in regard to auditing the various education course providers to ensure they are complying with the regulations.

President Sachs was asked to give a brief background of the law and regulations adopted by the Board. He outlined the course requirements required by the regulation passed by the Board and that only licensed PA's could take the course.

Ms. Shorter asked if there were other course providers in addition to California Academy of Physician Assistants (CAPA). President Sachs responded that he believes a course is offered by the Stanford Hospital and Clinic. There may be other course providers who choose not to make their course available to the public, rather, offering it to their employees. He also noted the Board has the legal authority to audit these course providers.

Ms. Schieldge added that Business and Professional Code Section 3502.1(c)(2) states that only licensed PA's may take the course. She also referenced Title 16 California Code of Regulations Sections 1399.610(b) and 1399.612(b), which gives the Board the authority to audit the providers of the courses.

Ms. Shorter suggested that now would be a good time to conduct an audit since there are several course providers that the Board is aware of. President Sachs added that the Stanford course has only been offered for the last several years. CAPA has offered the course since the regulations were adopted. He believes that the Board should follow up on the audits to ensure compliance with the laws and regulations.

President Sachs suggested that the audit should include the course provider's syllabus and qualifications of the course instructors. He also suggested that the Board do a "spot check" every two years to make sure the course providers are in compliance with the regulations.

Public Comment: Gaye Breyman of the California Academy of Physician Assistants reported that they offer the course to licensed PA's 4 times a year.

There was a motion to direct staff to audit for the course syllabus, instructor credentials, and a year of participants.
(m/Gomez-Vidal Diaz, s/Grant, motion passes)

10. **Petition Hearings**

The following petition hearings were held before the Board:

- A. Petition for Termination of Probation – Robert J. Lucas, PA-15947
- B. Petition for Reinstatement of Physician Assistant License – Ricky R. Hicks, PA-12721

11. **Closed Session**

A. Pursuant to Section 11126(c)(3) of the Government Code, the Board moved into closed session to deliberate on disciplinary matters and the petitions.

RETURNED TO OPEN SESSION

12. **A lunch break was taken**

13. **Discussion on Accredited Physician Assistant Program in California: accreditation process**

President Sachs stated that he is concerned that the current national accreditation process may not be adequately addressing the need to increase the number of PA training programs that will be needed to meet the health care provider shortage.

Dr. Bishop suggested that one option is to expand the existing PA training programs especially due to the implementation of the Affordable Care Act and the need for more health care providers, including PA's.

Mr. Grant wanted to know if California could approve their own PA programs. President Sachs answered that the National Commission on the Certification of Physician Assistants (NCCPA) will only allow individuals who have graduated from ARC-PA approved training programs to sit for the Physician Assistant National Certification Examination (PANCE). The Board utilizes the PANCE as its initial licensing exam.

In an effort to open dialog, President Sachs directed staff to invite an ARC-PA representative to a meeting to discuss our concerns and to seek ways we can cooperate to address the health care provider shortage.

14. **Medical Board of California Activities**

a. **Prescribing Task Force Update**

Dr. Bishop reported that the second meeting of the Prescribing Task Force was held in Sacramento on June 19, 2014 to allow for additional input from the stake holders.

A third meeting will be scheduled to address additional concerns, and to finalize the guidelines.

15. **Budget Update**

Ms. Tincher reported that at the end of fiscal year the Board still had 10.63% of the budget remaining.

The Board discussed ways to save additional funds and agreed to electronic Board material packets instead of relying exclusively on paper materials.

16. **The Legislative Committee**

Legislation of Interest to the Physician Assistant Board

Catherine Hazelton indicated to the members that staff had provided the Legislative Committee with eleven bills that may impact consumers, physician assistants or the Board. She included a handout which updated the Board on bills discussed at the May 2014 Board meeting. Ms. Hazelton also suggested that due to time restraints, bills be prioritized and to discuss only the bills of interest to the Board.

The following bills were discussed by the Board members:

AB 1841 (Mullin) This bill would allow medical assistants to furnish labeled and prepackaged prescription drugs, other than controlled substances, to a patient, if so ordered by a licensed physician, licensed doctor of podiatric medicine, a physician assistant, a nurse practitioner or a certified nurse midwife.

Ms. Hazelton noted that a letter was sent by the Board's Executive Officer, on behalf of the Board, stating their recommendations and concerns with this bill. Ms. Hazelton added that the bill had already passed through the legislature and there were no additional opportunities for amendments.

AB 2058 (Wilk) This bill would modify the definition of "state body" within the Bagley-Keene Open Meeting Act, to exclude advisory bodies with less than three individuals, except for certain standing committees.

The Board's Executive Officer sent a letter of opposition due to the cost to implement it. The Board's concern was acknowledged but it was passed as is.

Ms. Schieldge noted that the Board's concerns were also sent to the Governor's office. She also stated that other Boards within the Department had similar concerns and that the bill was opposed by the Department of Consumer Affairs.

The bill is back in the Assembly.

SB 1083(Pavley) This bill authorizes a physician assistant to certify disability, after performance of a physical examination by the physician assistant under the supervision of a physician, and would correspondingly expand the definition of practitioner to include a physician assistant.

The Board has taken a "support" position on this bill, which was passed by the Senate. A letter of support was sent to the bill's author. It is currently awaiting the Assembly and should go to the Governor's office.

AB 1091(Galgiani) This legislation would require state agencies to publish notice of “proposed rulemaking activities” in the California Regulatory Notice Register at least 15 days prior to undertaking the activity. Included activities are informational hearings, workshops, scoping hearings, preliminary meetings, and public and stakeholder outreach meetings.

The Board has taken an “opposed” position on this bill. It is being held in Senate Appropriations and is not currently active.

Public Comment: Teresa Anderson – California County of Physician Assistants (CCPA), stated that the Employment Development Department (EDD) had some concerns with implementing the provisions of SB 1083. She reported that CCPA is working with EDD to resolve these issues. Ms. Anderson stated that there was never a problem policy wise and the bill has received a lot of support.

17. **Agenda Items for Next Meeting**

- A. Nomination and Election of Physician Assistant Board Officers
- B. Approval of Passing Score for PA Initial Licensing Examinations and 2014 Dates and Locations for PA Initial Licensing Examination.
- C. Schedule of 2015 Board Meeting Dates and Locations.
- D. Legislation Report of bills of interest to the Board.
- E. New Policy: Board member reporting alleged violations of physician assistant laws and regulations to the Board.
- F. AB 2058 if passed how will the Board comply
- G. Invitation to DCA Budget Analyst – how the budget is developed.

18. **Adjournment**

With no further business, the meeting adjourned at 3:35 P.M.

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PHYSICIAN ASSISTANT BOARD
LICENSING PROGRAM ACTIVITY REPORT

INITIAL LICENSES ISSUED

	August 1, 2014- October 1, 2014	August 1, 2013- November 1, 2013
Initial Licenses	189	264

SUMMARY OF RENEWED/CURRENT LICENSES

	As of October 1, 2014	As of November 1, 2013
Physician Assistant	9,729	9,579

**PHYSICIAN ASSISTANT BOARD
DIVERSION PROGRAM**

ACTIVITY REPORT

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

	As of 1 October 2014	As of 1 October 2013	As of 1 October 2012
Voluntary referrals	03	02	04
Board referrals	13	12	18
Total number of participants	16	14	22

HISTORICAL STATISTICS

(Since program inception: 1990)

Total intakes into program as of 1 October 2014: 128	
Closed Cases as of 1 October 2014	
• Participant expired:	01
• Successful completion:	42
• Dismissed for failure to receive benefit:	04
• Dismissed for non-compliance:	24
• Voluntary withdrawal:	21
• Not eligible:	19
Total closed cases:	111

OTHER DCA BOARD DIVERSION PROGRAM PARTICIPANTS

(As of October 2014)

Dental Board of California:	33
Osteopathic Medical Board of California:	16
Board of Pharmacy:	62
Physical Therapy Board of California:	13
Board of Registered Nursing:	468
Veterinary Board of California:	2

**PHYSICIAN ASSISTANT BOARD
ENFORCEMENT ACTIVITY REPORT**

July 1 through September 30, 2014

Submitted by: Dianne Tincher

Disciplinary Decisions

License Denied.....0
Probation0
Public Reprimand/Reproval 1
Revocation..... 1
Surrender.....0
Probationary Licenses Issued3
Petition for Reinstatement Denied0
Petition for Reinstatement Granted.....0
Petition for Termination of Prob Denied.....0
Petition for Termination of Prob Granted... .0
Other.....0

Accusation/Statement of Issues

Accusation Filed 1
Accusation Withdrawn.....0
Statement of Issues Filed..... 1
Statement of Issues Withdrawn0
Petition to Revoke Probation Filed..... 1
Petition to Compel Psychiatric Exam0
Interim Suspension Orders (ISO)/PC23..... 1

Citation and Fines

Pending from previous FY..... 12
Issued6
Closed5
Withdrawn0
Sent to AG/noncompliance0
Pending 13
Initial Fines Issued.....\$1750
Modified Fines Due\$1750
Fines Received.....\$2350

Current Probationers

Active45
Tolled..... 13

Agenda

Item

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**WHO MAY CALL THEMSELVES A PHYSICIAN ASSISTANT
IN CALIFORNIA**

Business and Professions Code Section 3501(a)(4)

“Physician assistant” means a person who meets the requirements of this chapter and is licensed by the board.

Business and Professions Code Section 3503

No person other than one who has been licensed to practice as a physician assistant shall practice as a physician assistant or in a similar capacity to a physician and surgeon or podiatrist or hold himself or herself out as a “physician assistant,” or shall use any other term indicating or implying that he or she is a physician assistant.

##

Title 16, Division 13.8 California Code of Regulations Section 1399.502(c)

“Physician assistant” means a person who is licensed by the board as a physician assistant.

Title 16, Division 13.8 California Code of Regulations Section 1399.520

No person shall practice as a physician assistant in this state unless he or she is a trainee or is licensed to practice as a physician assistant by the board.

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LICENSING INITIAL LICENSING EXAMINATION

PASSING SCORE

Business and Professions Code section 3517 provides in pertinent part:

“The board shall, however, establish a passing score for each examination.”

Motion to approve the passing score for the physician assistant initial licensing examination for year 2015 as established by the National Commission on Certification of Physician Assistants.

DATES AND LOCATIONS

Business and Professions Code section 3517 provides in pertinent part:

“The time and place of examination shall be fixed by the board.”

Motion to approve the dates and locations for the physician assistant initial licensing examination for year 2015.

Dates: The examination is given on a year-round basis. There will be no testing between December 21 – 31, 2015.

Locations: Pearson VUE Professional Centers.

**

NCCPA Exam Development and Scoring

NCCPA's exam questions are developed by committees comprising of PAs and physicians selected based on both their item writing skills, experience and demographic characteristics (i.e., practice specialty, geographic region, practice setting, etc.). The test committee members each independently write a certain number of test questions or items, and then, each item then goes through an intense review by content experts and medical editors from which only some items emerge for pre-testing. Every NCCPA exam includes both scored and pre-test items, and examinees have no way of distinguishing between the two. This allows NCCPA to collect important statistics about how the pre-test items perform on the exam, which informs the final decision about whether a particular question meets the standards for inclusion as a scored item on future PANCE or PANRE exams.

When NCCPA exams are scored, candidates are initially awarded 1 point for every correct answer and 0 points for incorrect answers to produce a raw score. After examinees' raw scores have been computed by two independent computer systems to ensure accuracy, the scored response records for PANCE and PANRE examinees are entered into a maximum likelihood estimation procedure, a sophisticated, mathematically-based procedure that uses the difficulties of all the scored items in the form taken by an individual examinee as well as the number of correct responses to calculate that examinee's proficiency measure. This calculation is based on the *Rasch model* and equates the scores, compensating for minor differences in difficulty across different versions of the exam. Thus, in the end, all proficiency measures are calculated as if everyone took the same exam

Finally, the proficiency measure is converted to a scaled score so that results can be compared over time and among different groups of examinees. The scale is based on the performance of a reference group (some particular group of examinees who took the exam in the past) whose scores were scaled so that the average proficiency measure was assigned a scaled score of 500 and the standard deviation was established at 100. The minimum reported score is 200, and the maximum reported score is 800.

We do not publish the percent correct level necessary to pass our examinations any more. Given that we have multiple test forms this information would not be accurate since some test forms, while built to be exactly the same, are slightly different in their difficulty. Therefore we convert the percent correct to a scaled score and report scores and the passing standard on that scale.

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2015 CALENDAR

January

SU	M	TU	W	TH	F	SA
				(H)	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	(H)	20	21	22	23	24
25	26	27	28	(M)	(M)	31

February

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	(H)	17	18	19	20	21
22	23	24	25	26	27	28

March

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	(H)				

April

SU	M	TU	W	TH	F	SA
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	(M)		

May

SU	M	TU	W	TH	F	SA
					(M)	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	(H)	26	27	28	29	30
31						

June

SU	M	TU	W	TH	F	SA
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July

SU	M	TU	W	TH	F	SA
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	(M)	(M)	

August

SU	M	TU	W	TH	F	SA
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

September

SU	M	TU	W	TH	F	SA
		1	2	3	4	5
6	(H)	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October

SU	M	TU	W	TH	F	SA
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	(M)	(M)	31

November

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	(H)	12	13	14
15	16	17	18	19	20	21
22	23	24	25	(H)	(H)	28
29	30					

December

SU	M	TU	W	TH	F	SA
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	(H)	26
27	28	29	30	31		

H - Holiday

M - Medical Board Meetings Dates: February 6 & 7, May 1 & 2, July 24 & 25, October 23 & 24.

Agenda

Item

15

GENERAL AREA: General

SPECIFIC SUBJECT: Board Member Reporting: Knowledge of Violations of Physician Assistant Laws and Regulations

STATEMENT:

If a Board member has knowledge that a physician assistant may be in violation of, or has violated, any of the statutes or regulations administered by the Board, the Board member is encouraged to report this information to the Executive Officer and is also encouraged to cooperate with the Executive Officer in furnishing information or assistance as may be required to investigate the matter.

NECESSITY:

Business and Professional Code Section 3504.1 states that “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.”

When a Board member witnesses or has knowledge of alleged violations of any statutes or regulations administered by the Board, that member is encouraged to report those violations to the Executive Officer, thus maintaining the highest standard of professional conduct to promote the health, safety, and welfare of the citizens of California.

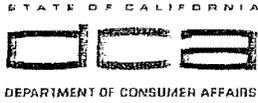
PRESENTED TO THE PHYSICIAN ASSISTANT BOARD: _____

APPROVED BY THE PHYSICIAN ASSISTANT BOARD: _____

Agenda

Item

16



PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street, Suite 1100, Sacramento, CA 95815
P (916) 561-8780 Fax(916) 263-2671 web www.pac.ca.gov



September 12, 2014

John McCarty, Executive Director
Accreditation Review Commission on Education
for the Physician Assistant, Inc.
12000 Findley Road, Suite 150
Johns Creek, GA 20097

Dear Mr. McCarty,

On behalf of the Physician Assistant Board, I would like to invite you or a representative of ARC-PA to attend our November 3, 2014 Board meeting, which will be held in Sacramento, California.

Business and Professions Code Section 3513 states that the Board shall recognize the approval of physician assistant training programs approved by a national accrediting organization. Additionally, training programs accredited by a national accreditation organization approved by the Board shall be deemed approved by the Board. Therefore, physician assistant training programs approved by ARC-PA are deemed California-approved.

Due to the implementation of the Patient Protection and Affordable Care Act in California, the current health care delivery system will be required to accommodate additional consumers who will be eligible for health care. As more consumers move into the health care system, more health care providers, including physician assistants, will be needed to accommodate this increase.

The Board believes that the development of additional physician assistant training programs and expeditiously accrediting and approving new programs will help in addressing this need.

The Board is interested in learning more about the accreditation process and how we may work cooperatively with ARC-PA to better facilitate in the development, accreditation, and approval of additional physician assistant training programs.

Please contact the Board's executive officer, Glenn Mitchell, and let him know if you or an ARC-PA representative will be able to attend the meeting. Please respond by October 17, 2014 if you or an ARC-PA representative will be able to attend so the Board may properly notice it on its public agenda. You may contact Mr. Mitchell at 916.561.8783 or glenn.mitchell@mbc.ca.gov.

We look forward to meeting you and discussing this important matter.

Thank you.

Sincerely,

A handwritten signature in black ink that reads 'Robert E. Sachs'.

Robert E. Sachs, President
Physician Assistant Board

Agenda

Item

19

DEPARTMENT OF CONSUMER AFFAIRS

PHYSICIAN ASSISTANT COMMITTEE

BUDGET REPORT

RUN DATE 10/10/2014

AS OF 9/30/2014

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FM 03

PHYSICIAN ASSISTANT BOARD

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
PERSONAL SERVICES							
SALARIES AND WAGES							
003 00 CIVIL SERVICE-PERM	0	15,837	47,510	0	47,510	(47,510)	
033 04 TEMP HELP (907)	0	1,652	5,712	0	5,712	(5,712)	
063 00 STATUTORY-EXEMPT	0	6,744	20,232	0	20,232	(20,232)	
063 03 COMM MEMBER (911)	0	2,100	2,200	0	2,200	(2,200)	
TOTAL SALARIES AND WAGES	0	26,333	75,653	0	75,653	(75,653)	0.00%
STAFF BENEFITS							
103 00 OASDI	0	1,360	4,080	0	4,080	(4,080)	
104 00 DENTAL INSURANCE	0	181	543	0	543	(543)	
105 00 HEALTH/WELFARE INS	0	2,364	7,093	0	7,093	(7,093)	
106 01 RETIREMENT	0	5,483	16,448	0	16,448	(16,448)	
125 15 SCIF ALLOCATION CO	0	108	318	0	318	(318)	
134 00 OTHER-STAFF BENEFI	0	747	2,220	0	2,220	(2,220)	
135 00 LIFE INSURANCE	0	7	21	0	21	(21)	
136 00 VISION CARE	0	35	104	0	104	(104)	
137 00 MEDICARE TAXATION	0	372	1,069	0	1,069	(1,069)	
TOTAL STAFF BENEFITS	0	10,657	31,895	0	31,895	(31,895)	0.00%
TOTAL PERSONAL SERVICES	0	36,989	107,548	0	107,548	(107,548)	0.00%
OPERATING EXPENSES & EQUIPMENT							
FINGERPRINTS							
213 04 FINGERPRINT REPORT	0	2,009	3,381	0	3,381	(3,381)	
TOTAL FINGERPRINTS	0	2,009	3,381	0	3,381	(3,381)	0.00%
GENERAL EXPENSE							
206 00 MISC OFFICE SUPPLI	0	968	1,617	0	1,617	(1,617)	
207 00 FREIGHT & DRAYAGE	0	17	201	0	201	(201)	
217 00 MTG/CONF/EXHIBIT/S	0	469	4,041	5,458	9,499	(9,499)	
TOTAL GENERAL EXPENSE	0	1,453	5,858	5,458	11,316	(11,316)	0.00%
PRINTING							
242 03 COPY COSTS ALLO	0	400	400	0	400	(400)	
242 05 METRO PRINT/MAIL	0	343	1,175	0	1,175	(1,175)	
244 00 OFFICE COPIER EXP	0	0	0	1,320	1,320	(1,320)	
TOTAL PRINTING	0	743	1,575	1,320	2,895	(2,895)	0.00%

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT

AS OF 9/30/2014

RUN DATE 10/10/2014

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FM 03

PHYSICIAN ASSISTANT BOARD

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
COMMUNICATIONS							
252 00 CELL PHONES,PDA,PA	0	61	121	0	121	(121)	
257 01 TELEPHONE EXCHANGE	0	16	33	0	33	(33)	
TOTAL COMMUNICATIONS	0	76	154	0	154	(154)	0.00%
POSTAGE							
262 00 STAMPS, STAMP ENVE	0	23	23	0	23	(23)	
263 05 DCA POSTAGE ALLO	0	295	478	0	478	(478)	
TOTAL POSTAGE	0	317	501	0	501	(501)	0.00%
TRAVEL: IN-STATE							
292 00 PER DIEM-I/S	0	383	406	0	406	(406)	
294 00 COMMERCIAL AIR-I/S	0	0	425	0	425	(425)	
296 00 PRIVATE CAR-I/S	0	491	665	0	665	(665)	
297 00 RENTAL CAR-I/S	0	0	78	0	78	(78)	
301 00 TAXI & SHUTTLE SER	0	39	39	0	39	(39)	
TOTAL TRAVEL: IN-STATE	0	912	1,612	0	1,612	(1,612)	0.00%
FACILITIES OPERATIONS							
343 00 RENT-BLDG/GRND(NON	0	3,670	11,011	33,032	44,042	(44,042)	
TOTAL FACILITIES OPERATIONS	0	3,670	11,011	33,032	44,042	(44,042)	0.00%
C/P SVS - INTERDEPARTMENTAL							
382 00 CONSULT/PROF-INTER	0	0	0	59,000	59,000	(59,000)	
TOTAL C/P SVS - INTERDEPARTMENTAL	0	0	0	59,000	59,000	(59,000)	0.00%
C/P SVS - EXTERNAL							
404 05 C&P EXT ADMIN CR C	0	111	188	23,812	24,000	(24,000)	
418 02 CONS/PROF SVS-EXTR	0	2,301	4,345	33,493	37,838	(37,838)	
TOTAL C/P SVS - EXTERNAL	0	2,412	4,533	57,306	61,838	(61,838)	0.00%
DEPARTMENTAL SERVICES							
424 03 OIS PRO RATA	0	0	19,106	0	19,106	(19,106)	
427 00 INDIRECT DISTRB CO	0	0	12,373	0	12,373	(12,373)	
427 02 SHARED SVS-MBC ONL	0	0	0	90,112	90,112	(90,112)	
427 30 DOI - ISU PRO RATA	0	0	387	0	387	(387)	
427 34 PUBLIC AFFAIRS PRO	0	0	378	0	378	(378)	
427 35 PCSD PRO RATA	0	0	413	0	413	(413)	
TOTAL DEPARTMENTAL SERVICES	0	0	32,657	90,112	122,769	(122,769)	0.00%

DEPARTMENT OF CONSUMER AFFAIRS

PHYSICIAN ASSISTANT COMMITTEE

BUDGET REPORT
AS OF 9/30/2014

RUN DATE 10/10/2014

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FM 03

PHYSICIAN ASSISTANT BOARD

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
CONSOLIDATED DATA CENTERS							
428 00 CONSOLIDATED DATA	0	0	0	0	0	0	
TOTAL CONSOLIDATED DATA CENTERS	0	0	0	0	0	0	0.00%
DATA PROCESSING							
436 00 SUPPLIES-IT (PAPER)	0	31	31	0	31	(31)	
TOTAL DATA PROCESSING	0	31	31	0	31	(31)	0.00%
CENTRAL ADMINISTRATIVE SERVICES							
438 00 PRO RATA	0	0	17,420	0	17,420	(17,420)	
TOTAL CENTRAL ADMINISTRATIVE SERVICES	0	0	17,420	0	17,420	(17,420)	0.00%
ENFORCEMENT							
396 00 ATTORNEY GENL-INTE	0	28,930	47,422	0	47,422	(47,422)	
414 31 EVIDENCE/WITNESS F	0	2,188	7,069	0	7,069	(7,069)	
418 97 COURT REPORTER SER	0	600	600	0	600	(600)	
427 32 INVEST SVS-MBC ONL	0	35,923	35,923	0	35,923	(35,923)	
TOTAL ENFORCEMENT	0	67,641	91,014	0	91,014	(91,014)	0.00%
TOTAL OPERATING EXPENSES & EQUIPMEN	0	79,265	169,747	246,227	415,974	(415,974)	0.00%
<hr/>							
PHYSICIAN ASSISTANT BOARD	0	116,254	277,295	246,227	523,522	(523,522)	0.00%
<hr/>							
	0	116,254	277,295	246,227	523,522	(523,522)	0.00%

Agenda

Item

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AB

1702



California
LEGISLATIVE INFORMATION

AB-1702 Professions and vocations: incarceration. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass Chp
Assembly: 1st Cmt 2nd Cmt 2nd Pass Pass

Bill Status	
Measure:	AB-1702
Lead Authors:	Malenschein (A)
Principal Coauthors:	-
Coauthors:	Mitchell (S)
Topic:	Professions and vocations: incarceration.
31st Day in Print:	03/16/14
Title:	An act to add Section 480.5 to the Business and Professions Code, relating to professions and vocations.
House Location:	Secretary of State
Chaptered Date:	09/18/14
Last Amended Date:	04/23/14

Type of Measure
Inactive Bill - Chaptered
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
09/18/14	Chaptered by Secretary of State - Chapter 410, Statutes of 2014.
09/18/14	Approved by the Governor.
08/19/14	Enrolled and presented to the Governor at 3 p.m.
08/13/14	In Assembly. Ordered to Engrossing and Enrolling.
08/13/14	Read third time. Passed. Ordered to the Assembly. (Ayes 32. Noes 0. Page 4455.).

SENATE RULES COMMITTEE

AB 1702

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1702

Author: Maienschein (R), et al.

Amended: 4/23/14 in Assembly

Vote: 21

SENATE BUSINESS, PROF. & ECON. DEV. COMMITTEE: 9-0, 6/16/14

AYES: Lieu, Wyland, Berryhill, Block, Corbett, Galgiani, Hernandez, Hill, Torres

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 5/15/14 (Consent) - See last page for vote

SUBJECT: Professions and vocations: license: incarcerated individuals

SOURCE: AFSCME Local 2620

DIGEST: This bill specifies that an individual who has satisfied the requirements for licensure while incarcerated and who applies for licensure after being released from incarceration shall not have his/her application delayed or denied solely on the basis that some or all of the requirements were completed while the individual was incarcerated; and exempts the Board of Chiropractic Examiners (BCE) from these requirements.

ANALYSIS:

Existing law:

1. Allows a board to deny a license, as specified, on the grounds that the applicant has done one of the following:
 - A. Been convicted of a crime, as specified;

CONTINUED

- B. Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself/herself or another, or substantially injure another; or
 - C. Done any act that if done by a licentiate of the business or profession in question, is grounds for suspension or revocation of license.
2. Authorizes a board to deny a license, as specified, only if a crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.
 3. Specifies that no person shall be denied a license solely on the basis that he/she has been convicted of a felony if he/she has obtained a certificate of rehabilitation, as specified, or that he/she has been convicted of a misdemeanor, if he/she has met all applicable requirements of the criteria of rehabilitation, developed by the board, to evaluate the rehabilitation of a person when considering the denial of a license, as specified.
 4. Requires each board, as specified, to develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.
 5. Requires each board, as specified, to develop criteria to evaluate the rehabilitation of a person when (a) considering the denial of a license by the board, as specified; or (b) considering suspension or revocation of a license, as specified.
 6. Requires a board that has denied an application for a license, as specified, to include a copy of the criteria relating to rehabilitation, as specified, and to inform the applicant of the following: (a) the earliest date on which the applicant may reapply for licensure, as specified; and (b) that all competent evidence of rehabilitation presented will be considered upon reapplication.
 7. Provides for the licensure and regulation of the chiropractic profession by the BCE under an Initiative Act.

This bill:

1. Specifies that an individual who has satisfied any of the requirements needed to obtain a license, while incarcerated, and who applies for licensure upon release from incarceration, and who is otherwise eligible for the license, may not be subject to a delay in the processing of his/her application or the denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.
2. Provides that nothing in this bill shall be construed to limit the ability of a board to deny a license for other grounds, as specified.
3. Provides that this bill does not apply to a petition for reinstatement of a license or to the licensure of individuals under the Chiropractic Act, as specified.

Background

Requirements for licensure. Each board under the Department of Consumer Affairs (DCA) is responsible for enforcing their licensing standards and ensuring that an applicant has met all of the specified educational, examination, and experience requirements necessary for licensure, based on the criteria set forth in each specified practice act. The individual boards are tasked with the duty of examining the content of applications to ensure they have met the appropriate criteria, including the investigation of criminal convictions.

Existing law authorizes boards to deny a license based on certain elements, including the conviction of a crime for duties substantially related to the criteria of the profession, and each board determines what those duties are. Additionally, boards are required to develop criteria for rehabilitation in order to potentially address individuals who have been denied a license based on past convictions. Rehabilitation criteria are determined directly by the boards and are not uniform.

In 2010, one of the boards under DCA, the Board of Barbering and Cosmetology (BBC), established a licensing process which allows an applicant with past convictions to submit an application prior to enrolling in a school. This allows BBC to review the convictions and determine if the convictions are substantially related to the practice prior to a student paying tuition and completing schooling only to later be denied licensure.

Additionally, BBC currently has a program in which examinations for their specific licensure categories are offered in state correctional facilities. According

CONTINUED

to BBC, they work closely with the Department of Corrections and Rehabilitation to schedule and administer examinations in the correctional facilities. However, this is a unique program which is not consistent across the boards, and this bill will not interfere with the current program offered by BBC.

Delays regarding school approval. The boards under DCA are primarily responsible for establishing the criteria for curriculum, coursework, equipment and other relevant materials for schools within their profession. In addition, most schools are also approved by the Bureau for Private Postsecondary Education (BPPE), which requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures.

The author's office believes this bill ensures that individuals applying for licensure who have obtained an education from institutions approved by both board-approved schools and the BPPE will not be denied licensure, nor will their application for licensure be delayed simply because they attended an institution while incarcerated. If a school has received the appropriate approval or accreditation, this should not be the reason for licensure delay.

Barriers to employment for individuals who have criminal convictions. According to the author's office, numerous studies and research have been conducted about employment barriers for individuals who have criminal records. In 2011, U.S. Attorney General Eric Holder established the Reentry Council to assist in the coordination of helping to remove federal barriers to successful reentry, so that motivated individuals—who have served their time—are able to compete for a job, attain stable housing, and support their children and their families.

Information provided by the Council of State Governments, Justice Center, found that each year nearly 700,000 individuals are released from state and federal prisons and another 12 million individuals cycle through local jails. More than two-thirds of state prisoners are rearrested within three years of their release; half are re-incarcerated. Further, it was reported that two out of every three men were employed before they were incarcerated, and many were the primary financial contributors in their households. Individuals who have been incarcerated can expect future annual earnings to be reduced by some 40% after they return to their communities.

Under existing law, boards under DCA are permitted to make licensure decisions based on the specific criminal history reported by an applicant or identified through background check requirements. This bill does not alter or impede a

board's ability to deny a license if the criminal conviction merits denial under existing law, but may assist other individuals seeking licensure for different professions if boards are delaying or denying applications solely on the fact the applicant's education was achieved during incarceration.

BCE exemption. This bill makes clear that BCE is exempt from the provisions of this bill because the Chiropractic Act was created through an initiative measure approved by the electors of California on November 7, 1922. As is common with many initiatives, unless the initiative measure states otherwise, it may not be amended or repealed by the Legislature without a vote of approval of the electors, thus prohibiting a legislative change.

Comments

According to the author, "this bill is needed to create continuity in the licensing process, while enabling eligible individuals to receive a professional license, consistent with current law, without being penalized for previous incarceration." As indicated by the author, recidivism is a major problem in California, where the recidivism rate has hovered near two-thirds. Studies show that many of these former inmates commit new crimes within the first year of release. Studies also show that programs that teach prisoners vocational skills are vital to their successful rehabilitation.

If prisoners have the opportunity to support themselves upon release, they are far less likely to reoffend and threaten the quality of life of our communities.

As stated by the author, "[u]fortunately, current law penalizes inmates who seek to make better lives for themselves. Those who have learned vocational skills such as cosmetology and auto repair while behind bars are often required to wait extended periods of time before being allowed to apply for a license in their new profession. This is because the law gives licensing boards the power to impose additional restrictions on those who have been convicted of a crime."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 6/30/14)

AFSCME Local 2620 (source)
American Probation and Parole Association
Association of American Physicians and Surgeons
California Board of Accountancy

CONTINUED

California Catholic Conference, Inc.
California Communities United Institute
California Correctional Peace Officers Association
Californians United for a Responsible Budget
Drug Policy Alliance
Legal Services for Prisoners with Children
Los Angeles Probation Officers' Union, AFSCME Local 685
National Employment Law Project
Riverside Sheriffs' Association
The Women's Foundation of California

OPPOSITION: (Verified 6/30/14)

Board of Behavioral Sciences
Board of Psychology

ARGUMENTS IN SUPPORT: The California Correctional Peace Officers Association states, "If California is serious about reducing recidivism; it needs to promote work among the previously incarcerated. Allowing a person who has met the qualifications for a profession, and has not served time for a crime related to that profession, to become licensed represents a sound use of the resources devoted to that person's training. More importantly, it provides that individual with a clear path to becoming a productive, tax-paying member of society, rather than to continue to be a financial dependent on state and local governments."

Other supporters state that this bill addresses a common problem for people coming out of prison and jail – they may have been trained for a trade while incarcerated but if the trade requires a license or certification, they may not be able to work at that trade because of restrictive licensing laws. This bill will at least assure there are no delays in receiving a license or certification just because the licensure requirements were completed while the person was incarcerated. Supporters believe that this bill helps address a critical problem – the importance of people finding immediate employment upon reentry and will also be effective in helping to lower the rates of recidivism in California.

ARGUMENTS IN OPPOSITION: The Board of Psychology is concerned that prohibiting a board from delaying the processing of the application for a license may somehow impede upon their process in determining whether the conviction is substantially related to the qualifications, functions, or duties of the profession for which they are seeking a license.

CONTINUED

ASSEMBLY FLOOR: 78-0, 5/15/14

AYES: Achadjian, Alejo, Allen, Ammiano, Bigelow, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Dababneh, Dahle, Daly, Dickinson, Donnelly, Eggman, Fong, Fox, Frazier, Beth Gaines, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gorell, Gray, Grove, Hagman, Hall, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Pan, Patterson, Perea, John A. Pérez, V. Manuel Pérez, Quirk, Quirk-Silva, Rendon, Ridley-Thomas, Rodriguez, Salas, Skinner, Stone, Ting, Wagner, Waldron, Weber, Wieckowski, Wilk, Williams, Yamada, Atkins

NO VOTE RECORDED: Mansoor, Vacancy

MW:d 7/1/14 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** **END** ****

AB

1841



California.
LEGISLATIVE INFORMATION

AB-1841 Medical assistants. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass Chp
Assembly: 1st Cmt 2nd 3rd Pass Pass

Bill Status	
Measure:	AB-1841
Lead Authors:	Mullin (A)
Principal Coauthors:	-
Coauthors:	Hernandez (S)
Topic:	Medical assistants.
31st Day In Print:	03/21/14
Title:	An act to amend Section 2069 of the Business and Professions Code, relating to medicine.
House Location:	Secretary of State
Chaptered Date:	09/15/14
Last Amended Date:	06/02/14

Type of Measure
Inactive Bill - Chaptered
Majority Vote Required
Non-Appropriation
Non-Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
09/15/14	Chaptered by Secretary of State - Chapter 333, Statutes of 2014.
09/15/14	Approved by the Governor.
08/27/14	Enrolled and presented to the Governor at 3 p.m.
08/18/14	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 77. Noes 0. Page 6084.).
08/12/14	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 14 pursuant to Assembly Rule 77.

CONCURRENCE IN SENATE AMENDMENTS

AB 1841 (Mullin)

As Amended June 2, 2014

Majority vote

ASSEMBLY: 76-0 (May 19, 2014) SENATE: 35-0 (August 11, 2014)

Original Committee Reference: B., P. & C.P.

SUMMARY: Clarifies that medical assistants (MAs) may hand out properly labeled and prepackaged prescription drugs to patients as part of their existing authorization to provide "technical supportive services."

The Senate amendments:

- 1) Permit MAs to hand out prescription drugs in the following non-state operated facilities licensed by the Board of Pharmacy:
 - a) A nonprofit community clinic or free clinic as specified,
 - b) A primary care clinic owned or operated by a county;
 - c) A clinic operated by a federally recognized Indian tribe or tribal organization;
 - d) A clinic operated by a primary care community or free clinic, operated on separate premises from a licensed clinic, and that is open no more than 20 hours per week;
 - e) A student health center clinic operated by a public institution of higher education;
 - f) A nonprofit multispecialty clinic; or,
 - g) A surgical clinic.
- 2) Require that a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife provide the appropriate patient consultation regarding use of the drug.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) This bill clarifies that MAs may hand out properly labeled and prepackaged prescription drugs to patients as part of their existing scope of practice under "technical supportive services" in certain non-state operated clinics. This bill is sponsored by Planned Parenthood.
- 2) According to the author's office, "Providing MAs this authority will help reduce waiting times, expand access, and improve patient care and satisfaction in community clinics, including Planned Parenthoods. Allowing an MA to hand over medication and provide follow up instruction will ensure that a patient has received counseling on their medication

twice and will provide them an additional opportunity to ask questions. This will also free up the clinician, allowing them to spend more time with the patient answering questions because they are not rushing to perform additional duties."

- 3) MAs are unlicensed, but certificated, individuals. An MA must have a high school diploma or general educational development (GED) equivalent and take a certificate course at an approved school. The exact duration of these programs vary, but San Francisco State University, for example, requires 140 classroom hours and a clinical externship. MAs also must complete a minimum of 60 hours of continuing education over five years.

An MA may perform the following specific functions as part of "technical supportive" services in addition to administrative functions:

- a) Administer medication orally, sublingually, topically, vaginally or rectally, or by providing a single dose to a patient for immediate self-administration;
- b) Administer medication by inhalation if the medications are patient-specific and have been or will be routinely and repetitively administered to that patient;
- c) Perform electrocardiogram, electroencephalogram, or plethysmography tests (used to measure changes in volume in different parts of the body);
- d) Apply and remove bandages and dressings;
- e) Remove sutures or staples from superficial incisions or lacerations;
- f) Collect by non-invasive techniques and preserve specimens for testing, including urine, sputum, semen, and stool;
- g) Prepare patients for and assist the physician, podiatrist, physician assistant or registered nurse in examinations or procedures including positioning, draping, shaving and disinfecting treatment sites; and prepare a patient for gait analysis testing;
- h) As authorized by the physician or podiatrist, provide patient information and instructions;
- i) Collect and record patient data including height, weight, temperature, pulse, respiration rate, and blood pressure; and,
- j) Perform simple laboratory and screening tests customarily performed in a medical office.

This bill simply clarifies that MAs may hand out properly labeled and prepackaged prescription drugs to patients as part of "technical supportive services." Based on their current abilities, this appears to be well within their scope of practice. This bill limits the practice settings in which MAs may do this to non-state operated clinics.

This clarification is consistent with the work of similarly unlicensed "pharmacy clerks" or "pharmacy assistants." This is a traditional title used in the pharmacy industry and is included under regulations for "ancillary personnel" in pharmacy regulations. A pharmacy clerk may also

perform various "non-discretionary" tasks that do not require the abilities and authorities of either a pharmacist or a Licensed Pharmacy Technician.

These unlicensed individuals work in a pharmacy under the supervision of a pharmacist and cannot "dispense" prescriptions as that term is understood in current law, but they can "hand" the patient filled prescriptions that have been approved by a pharmacist for dispensing.

Analysis Prepared by: Sarah Huchel / B., P. & C.P. / (916) 319-3301

FN: 0004294

AB

2058



California
LEGISLATIVE INFORMATION

AB-2058 Open meetings. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass
Assembly: 1st Cmt 2nd Cmt 2nd 3rd Pass Pass Veto

Bill Status	
Measure:	AB-2058
Lead Authors:	Wilk (A)
Principal Coauthors:	-
Coauthors:	DeSaulnier (S) , Gaines (S) , Hagman (A) , Harkey (A) , Olsen (A) , Vidak (S)
Topic:	Open meetings.
31st Day in Print:	03/23/14
Title:	An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.
House Location:	Assembly
Enrolled Date:	08/22/14
Last Amended Date:	06/19/14

Type of Measure
Inactive Bill - Vetoed
Two Thirds Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
09/27/14	Vetoed by Governor.
09/03/14	Enrolled and presented to the Governor at 4 p.m.
08/20/14	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 78. Noes 0. Page 6208.)
08/13/14	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 15 pursuant to Assembly Rule 77.
08/13/14	Read third time. Urgency clause adopted. Passed. Ordered to the Assembly. (Ayes 33. Noes 0. Page 4455.)

Governor's Veto Message

To the Members of the California State Assembly:

I am returning Assembly Bill 2058 without my signature.

This bill expands the definition of a state body, under the Bagley-Keene Open Meeting Act, to standing advisory committees with one or two members.

Any meeting involving formal action by a state body should be open to the public. An advisory committee, however, does not have authority to act on its own and must present any findings and recommendations to a larger body in a public setting for formal action. That should be sufficient.

Sincerely,

Edmund G. Brown Jr.

GOVERNOR'S VETO

AB 2058 (Wilk)

As Amended June 19, 2014

2/3 vote

ASSEMBLY: 77-0 (May 27, 2014) SENATE: 33-0 (August 13, 2014)

ASSEMBLY: 78-0 (August 20, 2014)

SUMMARY: Modifies the definition of "state body" to clarify that standing committees, even if composed of less than three members, are a "state body" for the purposes of the Bagley-Keene Open Meeting Act (Act). Specifically, this bill clarifies that advisory bodies created to consist of fewer than three individuals are not a state body, except that standing committees of a state body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by resolution, policies, bylaws, or formal action of a state body are state bodies for the purposes of the Bagley-Keene Open Meeting Act.

FISCAL EFFECT: According to the Senate Appropriations Committee, in general, this bill imposes minor to moderate costs on affected state entities. Some state entities may simply decide to eliminate certain advisory bodies and specified standing committees rather than spend limited resources for compliance with open meeting requirements.

COMMENTS:

Purpose of the bill: According to the author, current law contains two parallel open meeting statutes; the Brown Act for local governments and the Bagley-Keene Act for state government. Prior to 1993, the Brown Act contained language very similar to the current language in the Bagley-Keene Act regarding standing committees. However, in the 1990's when a local government entity attempted to claim a loophole existed for two-member standing committees, the legislature promptly removed any ambiguity on the matter of the Brown Act. However, a conforming change was not made, to the Bagley-Keene Act, as no change was thought necessary.

The ambiguity left in the Bagley-Keene Act is allowing state bodies to deliberate and direct staff behind closed doors. These state agencies are allowing standing committees to interpret the language of the Bagley-Keene Act in a manner that is contrary to the intent of the Legislature and the public; government at all levels must conduct its business visibly and transparently.

This bill would align the definitions in the Bagley-Keene Act to those in the Brown Act, making the clarifying change in the Bagley-Keene Act that the Legislature made to the Brown Act in 1993. In addition, the bill would make it definite that all standing committees are subject to the transparency of open meeting regulations, regardless of the size of the membership.

Similar language in the Brown Act: As discussed above, the Brown Act currently contains language that is very similar to the language found in this bill. The Brown Act defines a "legislative body" as a:

A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committee, composed solely of the members of the legislative body that are less than a quorum of the legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter. (Government Code Section 54952(b))

As the above language shows, local governments are currently abiding by regulations that this bill is currently trying to apply to state bodies. This bill would, in simple terms, simply align the definitions of a "state body" in the Bagley-Keene Act to the definitions of a "legislative body" in the Brown Act.

GOVERNOR'S VETO MESSAGE:

"This bill expands the definition of a state body, under the Bagley-Keene Open Meeting Act, to standing advisory committees with one or two members.

"Any meeting involving formal action by a state body should be open to the public. An advisory committee, however, does not have authority to act on its own and must present any findings and recommendations to a larger body in a public setting for formal action. That should be sufficient."

Analysis Prepared by: Felipe Lopez / G.O. / (916) 319-2531

FN: 0005636

AB

2102



California
LEGISLATIVE INFORMATION

AB-2102 Licensees: data collection. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass Chp
 Assembly: 1st Cmt 2nd 3rd Pass Pass

Bill Status	
Measure:	AB-2102
Lead Authors:	Ting (A)
Principal Coauthors:	-
Coauthors:	Ammiano (A) , Skinner (A)
Topic:	Licensees: data collection.
31st Day in Print:	03/23/14
Title:	An act to amend Section 2717 of, and to add Sections 2852.5, 3518.1, 3770.1, and 4506 to, the Business and Professions Code, relating to healing arts.
House Location:	Secretary of State
Chaptered Date:	09/18/14
Last Amended Date:	08/04/14

Type of Measure
Inactive Bill - Chaptered
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
09/18/14	Chaptered by Secretary of State - Chapter 420, Statutes of 2014.
09/18/14	Approved by the Governor.
09/04/14	Enrolled and presented to the Governor at 4 p.m.
08/21/14	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 54. Noes 21. Page 6267.).
08/18/14	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 20 pursuant to Assembly Rule 77.

CONCURRENCE IN SENATE AMENDMENTS

AB 2102 (Ting)

As Amended August 4, 2014

Majority vote

ASSEMBLY: 56-15 (May 15, 2014) SENATE: 27-9 (August 18, 2014)

Original Committee Reference: B., P. & C.P.

SUMMARY: Requires the Board of Registered Nursing (BRN), the Board of Vocational Nursing and Psychiatric Technicians (BVNPT), the Physician Assistant Board (PAB), and the Respiratory Care Board of California (RCBC) to collect demographic data on their respective licensees and provide that data to the Office of Statewide Health Planning and Development (OSHPD). Specifically, this bill:

- 1) Requires BRN, BVNPT, PAB, and RCBC to collect all of the following information on their respective licensees at least biennially, at the time of both issuing an initial license and a renewal license:
 - a) Location of practice, including city, county, and ZIP code;
 - b) Race or ethnicity, by election of the licensee;
 - c) Gender;
 - d) Languages spoken;
 - e) Educational background; and,
 - f) Classification of primary practice site among the types of practice sites specified by the respective boards, including, but not limited to, clinic, hospital, managed care organization, or private practice.
- 2) Requires BRN, BVNPT, PAB, and RCBC to provide that data annually to OSHPD in a manner directed by OSHPD that allows for inclusion into the annual health care workforce report provided to the Legislature, as specified.
- 3) Authorizes BRN to expend \$145,000 from the BRN Fund in the Professions and Vocations Fund for the purpose of implementing this bill.
- 4) Makes Legislative findings and declarations relative to the collection of information about California's health care workforce.
- 5) Makes other technical and clarifying changes.

The Senate amendments clarify that the data should be collected both at initial issuance and renewal of the license, expand the scope of the data collected to include classification of the primary practice site, and authorize BRN to spend \$145,000 in implementation.

FISCAL EFFECT: According to the Senate Appropriations Committee, one-time costs of about \$130,000 for modifications to the computer software used to process licensing applications (various special funds).

COMMENTS:

- 1) *Purpose of this bill.* This bill will require BRN, BVNPT, PAB, and RCBC to report demographic information on their licensees to OSHPD so that OSHPD can collect more complete and consistent data on California's health care workforce. With that data, policy makers will ideally be better able to identify geographic areas of the state where there are shortages of health care workers with cultural and linguistic competencies. This bill is sponsored by the California Pan-Ethnic Health Network and the Latino Coalition for a Healthy California.
- 2) *Author's statement.* According to the author's office, "For millions of Californians, comprehensive access to healthcare depends on professionals who can provide culturally and linguistically appropriate medical services. California collects data on healthcare occupations, but current data is insufficient for determining the state's capacity to address the needs of our diverse population, in particular language access. AB 2102 requires the collection and reporting of key demographic data for registered nurses, nurse practitioners, physician assistants, respiratory care providers, vocational nurses and psychiatric technicians. This will enable the state to better identify health care disparities and craft solutions to ensure comprehensive coverage and greater health care access for all Californians."
- 3) *The role of OSHPD in data collection.* OSHPD was created in 1978 to provide California with an enhanced understanding of the structure and function of its healthcare delivery systems. OSHPD is the statewide leader in collecting data and disseminating information about California's healthcare infrastructure, promoting an equitably distributed healthcare workforce, and publishing valuable information about healthcare outcomes.

OSHPD currently publishes an annual report to the Legislature with information on education and employment trends in the health care professions, current supply and demand for health care workers, and gaps in the educational pipeline producing workers in specific occupations and geographic area. Available information for these reports is limited, however. According to the author's office, race, language capacity, and gender demographic information would greatly enrich the quality of OSHPD's reports and better inform policymaking. While some boards, such as BRN, do collect demographic data on their licensees, this bill would standardize the information required to be collected and formalize its inclusion in OSHPD's annual report.

The author's office reports that these boards were chosen because the Medical Board of California and Dental Board of California already collect this demographic information, and the remaining boards affected by this bill represent professionals who work closely with patients and already report some information to OSHPD.

AB

2396



California
LEGISLATIVE INFORMATION

AB-2396 Convictions: expungement: licenses. (2013-2014)

Senate: 1st Cmt 2nd 3rd 2nd 3rd Pass Chp
 Assembly: Int 1st Cmt 2nd 3rd Pass Pass

Bill Status	
Measure:	AB-2396
Lead Authors:	Bonta (A)
Principal Coauthors:	-
Coauthors:	Skinner (A)
Topic:	Convictions: expungement: licenses.
31st Day in Print:	03/25/14
Title:	An act to amend Section 480 of the Business and Professions Code, relating to expungement.
House Location:	Secretary of State
Chaptered Date:	09/28/14
Last Amended Date:	08/19/14

Type of Measure
Inactive Bill - Chaptered
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
09/28/14	Chaptered by Secretary of State - Chapter 737, Statutes of 2014.
09/28/14	Approved by the Governor.
09/08/14	Enrolled and presented to the Governor at 3:30 p.m.
08/26/14	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 62. Noes 15. Page 6445.).
08/21/14	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 23 pursuant to Assembly Rule 77.

CONCURRENCE IN SENATE AMENDMENTS

AB 2396 (Bonta)

As Amended August 19, 2014

Majority vote

ASSEMBLY: 55-17 (May 23, 2014)

SENATE: 24-10 (August 21, 2014)

Original Committee Reference: B., P. & C.P.

SUMMARY: Prohibits boards within the Department of Consumer Affairs (DCA) from denying a professional license based solely on a criminal conviction that has been withdrawn, set aside or dismissed by the court.

The Senate amendments require a license applicant who has a conviction that has been dismissed to provide proof of the dismissal.

FISCAL EFFECT: According to the Senate Appropriations Committee, DCA indicates that the majority of boards and bureaus under its jurisdiction would have minor and absorbable costs. However, the following boards indicate costs would be incurred as a result of increased workload to conduct investigations on license applicants with expunged convictions:

- 1) The Board of Behavioral Sciences (BBS) estimates annual costs of \$227,195. (Behavioral Science Examiners Fund)
- 2) The Board of Psychology estimates annual costs of \$86,266. (Psychology Fund)
- 3) The Board of Pharmacy estimates costs in 2015-16 of \$56,000 and ongoing costs of \$48,000. (Pharmacy Board Contingent Fund)
- 4) The Dental Board estimates annual costs of \$26,640. (State Dentistry Fund)

COMMENTS:

- 1) *Purpose of this bill.* This bill would prohibit boards and bureaus within DCA from denying a professional license to an applicant based solely on a prior conviction that was dismissed by a court either because the individual completed the terms of his or her sentence without committing any additional offenses or because a dismissal would serve the interests of justice. In doing so, the author aims to alleviate barriers to employment after incarceration. This bill is sponsored by the Alameda County Board of Supervisors.
- 2) *Author's statement.* According to the author, "[This bill] is designed to reduce employment barriers for people with criminal records who have been rehabilitated. [This bill] allows them the opportunity to pursue meaningful employment and work towards entering the middle class, instead of struggling in low-wage jobs or returning to crime.

"In many cases, individuals seeking a professional license struggle to achieve self-sufficiency because of consideration of a dismissed record that is irrelevant to their ability to perform the job. Under current law, even applicants who are presumed to be rehabilitated by the court system may still have their license denied.

"According to a 2007 report prepared by the Board of Barbering and Cosmetology, of the 501 applicants denied by the Board over the preceding five hearings, all 501 applicants possessed criminal records. Only 33 applicants were determined to have produced evidence of rehabilitation. [This bill] will eliminate this fundamental unfairness within the law. In addition, [this bill] will help address the shortage of qualified labor in many fields, increase employment in those fields, and spur economic growth."

- 3) *Obtaining a dismissal of a conviction.* Penal Code Sections 1203.4, 1203.4(a) and 1203.41 provide expungement relief to an individual who has committed certain types of crimes. This relief is not available to persons who were sentenced to prison, or who have committed certain sex or other offenses, as specified. While most major felonies result in a prison sentence, not all felonies require a defendant to serve a prison sentence. As a result, only persons who were convicted of misdemeanors or felonies and sentenced to probation, which may include jail time, or who were convicted of misdemeanors or infractions and were not sentenced to probation, may have their conviction dismissed.

In order to obtain a dismissal, a person must successfully serve and complete all the terms of their sentence, including paying any restitution and fines, and not be charged with any other offenses. In addition, a person must file a petition with the court, which may include information about the offense, letters of recommendation, proof of compliance with the terms of probation, and any other materials that may assist the court in making a decision. The petition must also be served to the applicable district or city attorney, who may object to the petition and provide evidence to the court that the dismissal should not be granted. The court will decide on the petition, and if the petition is denied, an individual may file for reconsideration or refile the petition at a later date. As a result, this "set aside and dismissal" remedy is limited both in terms of scope and application.

- 4) *License denials.* Over half of the boards under DCA require criminal history information, and other boards require applicants to self-report any criminal history. While criminal background checks are supposed to show whether a conviction has been dismissed, this does not always occur. If a board denies a license, it is required to notify the applicant by letter, which provides the applicant with the specific reasons why the application was denied. An applicant has the right to appeal the denial of the application by requesting a statement of issues hearing, and must submit a request for that hearing within 60 days of the date of the letter. Once a written request for a hearing is made, it is forwarded to the Attorney General's office. At the hearing, an applicant may present evidence and witnesses to prove that his or her application for a certificate or license should not be denied.
- 5) *Professional boards have great discretion when determining whether to deny a license.* Existing law authorizes each board to deny a professional license based on an applicant's past conviction, "act involving dishonest, fraud, or deceit," or other act that could subject a licensee to license suspension or revocation, if that conviction or act is "substantially related" to the qualifications, functions, or duties of the business or profession for which application is made. This discretion does not distinguish between types of convictions or types of dishonest acts, and these terms are so broad that many convictions or acts could be determined by a board to be cause for denial of a license. In addition, there are no other qualifications, such as how long ago a person was convicted or had committed a bad act, or

whether a board has to take that length of time into consideration. It is up to each board to determine what they consider as criteria for license denial or rehabilitation.

Analysis Prepared by: Eunie Linden / B., P. & C.P. / (916) 319-3301

FN: 0005290

SB

500



California
LEGISLATIVE INFORMATION

SB-500 Drug Medi-Cal. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass

Assembly: 1st Cmt 2nd 3rd Cmt 3rd Cmt

Bill Status	
Measure:	SB-500
Lead Authors:	Lieu (S)
Principal Coauthors:	Gray (A) , Pan (A)
Coauthors:	-
Topic:	Drug Medi-Cal.
31st Day in Print:	03/24/13
Title:	An act to amend Section 2241.6 of the Business and Professions Code, relating to healing arts. An act to amend Section 14124.20 of the Welfare and Institutions Code, relating to Medi-Cal.
House Location:	Assembly
Last Amended Date:	08/22/14
Committee Location:	Asm Rules

Type of Measure
Active Bill - In Committee Process
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
08/25/14	Re-referred to Com. on RLS. pursuant to Assembly Rule 97.
08/25/14	Ordered to third reading.
08/25/14	Action rescinded whereby the bill was re-referred to Com. on HEALTH pursuant to Assembly Rule 77.2.
08/22/14	Re-referred to Com. on HEALTH pursuant to Assembly Rule 77.2.
08/22/14	Ordered to third reading.

SENATE THIRD READING
 SB 500 (Lieu)
 As Amended May 29, 2014
 Majority vote

SENATE VOTE: 33-0

BUSINESS & PROFESSIONS 11-0

APPROPRIATIONS

14-0

Ayes: Bonilla, Jones, Dickinson, Eggman,
 Gordon, Hagman, Holden, Mullin,
 Skinner, Ting, Wilk

Ayes: Gatto, Bigelow, Bocanegra, Bradford,
 Ian Calderon, Eggman, Gomez,
 Holden, Linder, Pan, Quirk,
 Ridley-Thomas, Wagner, Weber

SUMMARY: Requires the Medical Board of California (MBC) to update pain management case review standards by July 1, 2015, and every five years thereafter, as specified. Specifically, this bill:

- 1) Requires MBC to update pain management case review standards on or before July 1, 2015, and every five years thereafter.
- 2) Authorizes MBC to consult with the Osteopathic Medical Board of California in developing pain management case review standards.
- 3) Requires MBC to convene a task force to develop and recommend the updated standards to the board.
- 4) Authorizes the task force to consult with entities such as the American Pain Society, the American Academy of Pain Medicine, the California Society of Anesthesiologists, the California Chapter of the American College of Emergency Physicians, the Osteopathic Medical Board of California, any other medical entity specializing in pain control therapies, the American Cancer Society, a physician who treats or evaluates patients as part of the workers' compensation system, an osteopathic physician, a physician assistant, and specialists in pharmacology and addiction medicine.
- 5) Makes other technical or nonsubstantive changes.

FISCAL EFFECT: According to the Assembly Appropriations Committee, minor and absorbable costs to MBC (Contingent Fund of the MBC) to meet this bill's requirements. The MBC is already convening a Prescribing Task Force that is in the process of reviewing pain management standards.

COMMENTS:

- 1) *Purpose of this bill.* This bill requires MBC to convene a task force to update MBC's 2007 pain management case review standards to ensure the competent review of such cases by July 1, 2015, and every five years thereafter. This bill is author sponsored.

- 2) *Current MBC standards for pain management.* MBC publishes guidelines for physician's management of patient pain to educate those physicians who lack knowledge about appropriate treatment and for those who may fail to treat pain properly due to fear of discipline by MBC. MBC's Web site states, "These Guidelines are intended to improve effective pain management in California, by avoiding under treatment, over treatment, or other inappropriate treatment of a patient's pain and by clarifying the principles of professional practice that are endorsed by the Medical Board so that physicians have a higher level of comfort in using controlled substances, including opioids, in the treatment of pain. These Guidelines are intended to promote improved pain management for all forms of pain and for all patients in pain."

The guidelines were first adopted in 1994, when MBC outlined its approach to improving appropriate prescribing for effective pain management in California in a policy statement. The statement was the product of one year of research, hearings and discussions.

The statement was expanded in May 2002 as a result of AB 487 (Aroner), Chapter 518, Statutes of 2001, which called for a task force to review the 1994 Guidelines and to assist MBC in "develop[ing] standards to assure the competent review in cases concerning the management, including, but not limited to, the under treatment, under medication, and over medication of a patient's pain." The task force expanded the scope of the 1994 Guidelines from intractable pain patients to all patients with pain.

- 3) *Evolving standards of pain control.* Pain prescribing guidelines have evolved over the years. For example, previous law declared it to be unprofessional conduct for a practitioner to prescribe pain medications to an addict. However, the standard of care has evolved, and current law now permits a physician to prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

Standards of care change due to new information, practices, and medication. MBC last revised its guidelines for prescribing controlled substances in 2007. This bill will ensure that MBC revisits its guidelines every five years to reflect changing practices.

- 4) *MBC's Prescribing Task Force.* MBC established a Prescribing Task Force in 2013 in response to a board member's suggestion that MBC further define best practices as it relates to prescribing controlled substances to aid pain management and reduce prescription drug overdoses. The Prescribing Task Force will revisit the pain management guidelines and continue to meet, although it does not have a deadline for approving changes.

Analysis Prepared by: Sarah Huchel / B., P. & C.P. / (916) 319-3301

SB

981



California.
LEGISLATIVE INFORMATION

SB-981 Regulations: review process. (2013-2014)

Senate: 1st Cmt

Assembly:

Bill Status	
Measure:	SB-981
Lead Authors:	Huff (S)
Principal Coauthors:	-
Coauthors:	Gaines (S) , Hagman (A) , Harkey (A) , Jones (A) , Olsen (A)
Topic:	Regulations: review process.
31st Day in Print:	03/14/14
Title:	An act to add Section 11349.11 to, and to add and repeal Section 11349.10 of, the Government Code, relating to regulations.
House Location:	Senate
Last Amended Date:	04/10/14
Committee Location:	Sen Governmental Organization
Committee Action Date:	04/22/14
Committee Motion:	Do pass as amended, and re-refer to the Committee on Appropriations.
Committee Vote Result:	(FAIL) »» Ayes: 5; Noes: 5; Abstain: 1;

Type of Measure
Active Bill - In Committee Process
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
04/22/14	Set, first hearing. Failed passage in committee. (Ayes 5. Noes 5. Page 3212.) Reconsideration granted.
04/10/14	From committee with author's amendments. Read second time and amended. Re-referred to Com. on G.O.
03/06/14	Set for hearing April 22.
02/20/14	Referred to Com. on G.O.
02/12/14	From printer. May be acted upon on or after March 14.

Bill No: SB 981

**SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
Senator Lou Correa, Chair
2013-2014 Regular Session
Staff Analysis**

**SB 981 Author: Huff
As Amended: April 10, 2014
Hearing Date: April 22, 2014
Consultant: Paul Donahue**

SUBJECT

Regulations: Review process

DESCRIPTION

This bill would require each state agency to review each regulation adopted prior to January 1, 2014, and to develop a report to the Legislature containing prescribed information. Specifically, this bill:

- 1) Requires each agency to review each regulation adopted prior to January 1, 2014, and develop a report that includes at least the following information for each regulation:
 - a) The date that the Office of Administrative Law (OAL) approved the regulation.
 - b) The purpose.
 - c) The statutory authority.
 - d) The identification of impacted sectors.
 - e) The direct costs by sector.
 - f) Whether the regulation is duplicative of other regulations.
 - g) Whether the regulation is still relevant.
 - h) Whether the regulation needs to be updated in order to become more effective or less burdensome.
- 2) Requires the agency to consult with parties affected by the regulation in developing the report, and submit the report to the Legislature by January 1, 2016.

- 3) Specifies that, to the extent that an agency is a component member of another agency, the member agency shall submit a copy of its report to the highest ranking agency head prior to submitting the report to the Legislature.
- 4) Requires an agency head to review the reports for each component agency to identify duplicative or conflicting regulations between departments.
- 5) Requires each agency, by January 1, 2021, and at least every 5 years thereafter, to conduct additional reviews of regulations that have been in effect for at least 20 years, as specified, and to submit an annual report to the Legislature that identifies the regulations reviewed during that year and the associated findings, as outlined above.

EXISTING LAW

- 1) The Administrative Procedure Act (APA) governs the process for adoption, amendment, or repeal of regulations by state agencies charged with the implementation of statutes, and for legal review of those regulatory actions. (Govt. Code § 11340 et seq.)
- 2) Directs the OAL, at the request of any standing, select, or joint committee of the Legislature, to initiate a priority review of any regulation that the committee believes does not meet the standards of (1) necessity, (2) authority, (3) clarity, (4) reference, and (5) nonduplication. (Govt. Code § 11349.7)
- 3) Specifies that if OAL is notified of, or on its own becomes aware of, an existing regulation for which the statutory authority has been repealed or becomes ineffective, then the OAL shall order the agency to show cause why the regulation should not be repealed, and shall notify the Legislature in writing of this order. (Govt. Code § 11349.8)
- 4) Authorizes an agency that is considering adopting, amending, or repealing a regulation to consult with interested persons before initiating any regulatory action. (Govt. Code § 11346)

BACKGROUND

- 1) Author's statement: The author's office states that, today, there are well over 28,000 pages of regulations, with hundreds of new agency laws added each year by unelected bureaucracies. All of these regulations carry the same force of law as any legislation, yet there is no systematic review of agency regulations to determine whether or not they are duplicative or excessive. The author notes that OAL does not review the accuracy of cost information supplied by state agencies when promulgating regulations. The author predicts that SB 981 will provide policy makers with the objective information needed to identify job-killing regulations and allow the state to take appropriate action to reform or repeal these regulations. The author says that California's arduous and vast regulatory laws are hampering business expansion and job growth, and lists specific examples of the consequences, some of which include:

- a) A Sacramento State University study found the total cost of regulation is approximately \$493 billion, or 3.8 million lost jobs – a tenth of the state’s population. Today, there are well over 28,000 pages of regulations with hundreds of new agency laws added each year by unelected bureaucracies. All of these carry the same force of law as any legislation.
 - b) According to the 2013 Bureau of Labor Statistics, California ranks the 5th worst state in unemployment.
 - c) Forbes Magazine ranks California as the most costly state to do business, while the Chief Executive Magazine finds California’s business climate as the worst in the nation for 9 years in a row.
- 2) The regulatory process: Before any state agency can adopt a new regulation, the Administrative Procedure Act (APA)¹ requires OAL to review a proposed regulation using the following standards: necessity, authority, clarity, consistency, reference, and non-duplication.² In this regard, “necessity” means that “the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the *purpose of the statute* [or court decision]...” In addition, the APA defines “authority” as “the *provision of law* which permits or obligates the agency to adopt, amend, or repeal a regulation.”³
- Thus, while it is no doubt true that California has seen a significant increase in the volume and scope of administrative agency regulations in recent years, it should be noted that none of those regulations could ever have been adopted without express, statutory authorization by the Legislature.
- 3) Support: A coalition of business associations contend that the information provided by SB 981 will help legislators understand the scope and impact of regulations to aid their development of sensible state policies and budgets. Supporters also note that existing regulations are oftentimes never really reviewed again. Supporters note that the Legislature retains an important oversight role in connection with the broad authority which has been delegated to state agencies on matters of great importance, such as public health and safety, consumer protection, business operations and environmental protections. Finally, small business advocates note that the overlapping, duplicative or even obsolete regulations make it difficult for small businesses to keep up with the changing regulatory landscape.
 - 4) Opposition: Opponents contend that SB 981 would undermine the efficiency of state government by requiring all state agencies to review every regulation they have ever adopted and write a report about them. Instead, opponents state, state agencies should be protecting the health and safety of the workers, families, and communities of California. Opponents state that working people in this state depend upon their state

¹ Govt. Code § 11340 et seq.

² Govt. Code § 11349.1

³ Govt. Code § 11349

agencies to make sure that they are paid fairly, that they have a safe workplace, and that their children have access to clean air and water.

- 5) Technical amendments: On page 2, lines 1 and 2, the following amendments are suggested:

11349.10. (a) Each agency shall review each regulation *that it* adopted prior to January 1, 2014. The review shall be developed ...

On page 2, lines 25 to 27, inclusive should be amended, to read:

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2010~~ 2020, deletes or extends that date.

PRIOR/RELATED LEGISLATION

SB 396 (Huff), 2011-2012 Session. Would have required each agency to review each regulation adopted prior to January 1, 2011, and develop a report with prescribed information that shall be submitted to the Legislature on or before January 1, 2013. (Held in Senate Environmental Quality Committee)

SB 366 (Calderon), 2011-2012 Session. Would have required each state agency to review its regulations to identify duplicative, overlapping, inconsistent or outdated provisions and repeal or amend identified regulations. Creates a Streamlined Permit Review Team charged with improving the efficiency of the state permitting process for development projects. (Held in this Committee)

SB 401 (Fuller), 2011-2012 Session. Would have required every regulation proposed by an agency after January 1, 2012, include a provision repealing the regulation in 5 years. (Held in Senate Environmental Quality Committee)

SB 942 (Dutton), 2009-2010 Session. Would have required state agencies that are proposing a regulatory action to submit more detailed cost information. (Held in Senate Appropriations Committee)

SUPPORT:

California Asian Pacific Chamber of Commerce
 California Business Properties Association
 California Business Roundtable
 California Chamber of Commerce
 California Manufacturers and Technology Association
 California Restaurant Association
 Consumer Specialty Products Association
 Howard Jarvis Taxpayers Association
 Industrial Environmental Association
 National Aerosol Association
 National Federation of Independent Business

Pacific Merchant Shipping Association

OPPOSE:

California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Labor Federation
California Teamsters Public Affairs Council
Engineers & Scientists, IFPTE Local 20
International Longshore and Warehouse Union, Coast Division
Professional & Technical Engineers, IFPTE Local 21
State Building and Construction Trades Council
UNITE HERE
Utility Workers Union of America, Local 132

FISCAL COMMITTEE: Senate Appropriations Committee

SB

1083



California
LEGISLATIVE INFORMATION

SB-1083 Physician assistants: disability certifications. (2013-2014)

Senate: 1st Cmt 2nd Pass Pass Chp
 Assembly: 1st Cmt 2nd Pass Cmt 2nd 3rd Pass

Bill Status	
Measure:	SB-1083
Lead Authors:	Pavley (S)
Principal Coauthors:	-
Coauthors:	-
Topic:	Physician assistants: disability certifications.
31st Day in Print:	03/22/14
Title:	An act to amend Section 3502.3 of the Business and Professions Code, and to amend Section 2708 of the Unemployment Insurance Code, relating to physician assistants.
House Location:	Secretary of State
Chaptered Date:	09/18/14
Last Amended Date:	08/18/14

Type of Measure
Inactive Bill - Chaptered
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax Levy

Last 5 History Actions	
Date	Action
09/18/14	Chaptered by Secretary of State. Chapter 438, Statutes of 2014.
09/18/14	Approved by the Governor.
09/02/14	Enrolled and presented to the Governor at 11 a.m.
08/26/14	Assembly amendments concurred in. (Ayes 36. Noes 0. Page 4873.) Ordered to engrossing and enrolling.
08/26/14	In Senate. Concurrence in Assembly amendments pending.

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

SB 1083

UNFINISHED BUSINESS

Bill No: SB 1083
Author: Pavley (D)
Amended: 8/18/14
Vote: 21

SENATE BUSINESS, PROF. & ECON. DEV. COMM.: 9-0, 4/21/14

AYES: Lieu, Wyland, Berryhill, Block, Corbett, Galgiani, Hernandez, Hill,
Padilla

SENATE FLOOR: 36-0, 4/28/14 (Consent)

AYES: Anderson, Beall, Berryhill, Block, Cannella, Corbett, Correa, De León,
DeSaulnier, Evans, Fuller, Gaines, Galgiani, Hancock, Hernandez, Hill, Hueso,
Huff, Jackson, Knight, Lara, Leno, Lieu, Liu, Mitchell, Monning, Morrell,
Nielsen, Padilla, Pavley, Roth, Steinberg, Vidak, Walters, Wolk, Wyland
NO VOTE RECORDED: Calderon, Torres, Wright, Yee

ASSEMBLY FLOOR: 79-0, 8/25/14 - See last page for vote

SUBJECT: Physician assistants: disability certifications

SOURCE: California Academy of Physician Assistants

DIGEST: This bill amends the Physician Assistant Practice Act to authorize a physician assistant (PA) to certify claims for disability insurance (DI), after performance of a physical examination by the PA and under the supervision of a physician and surgeon; expands the definition of “practitioner” to include PAs; and requires the Employment Development Department (EDD) to implement these provisions on or before January 1, 2017.

Assembly Amendments require EDD to implement the provisions of this bill by January 1, 2017.

CONTINUED

ANALYSIS:

Existing law:

1. Authorizes the Physician Assistant Board to license and regulate the practice of PAs.
2. Specifies the delegation of services agreement for a PA including ordering durable medical equipment, approving, signing, modifying or, after consultation with a supervising physician, adding to a plan of treatment or care.
3. Allows a PA or nurse practitioner (NP), under the supervision of a physician, to carry out the initial report for and authorize temporary disability for no more than three calendar days.
4. Prohibits a PA or NP from prescribing permanent DI.
5. Allows the claimant to apply for DI by having a doctor's note that certifies the claimant's illness, injury, or pregnancy, or that of a family member that is under the claimant's care. If the claimant requires more DI after the first period of DI is over, they can continue to file for DI using the original doctor's note.
6. Defines a "doctor's note" as a medical document that certifies the claimant's illness, injury, or pregnancy based on the physician or practitioner's medical knowledge, a physical examination, and the claimant's medical history. The note must also include the physician or practitioner's recommendation for the claimant's leave from work and their reception of DI.
7. Defines "practitioner" as a person duly licensed or certified in California acting within the scope of his/her license or certification who is a dentist, podiatrist, or an NP, and in the case of an NP, after performance of a physical examination by an NP and collaboration with a physician and surgeon, or as to normal pregnancy or childbirth, a midwife or nurse midwife, or NP.

This bill:

1. Permits PAs to certify disability under the supervision of a physician and surgeon.

CONTINUED

2. Expands the definition of “practitioner” to include PAs who have performed a physical examination under the supervision of a physician and surgeon.
3. Requires EDD to implement these provisions on or before January 1, 2017.
4. Requires funds appropriated to cover costs of this bill to come from the Unemployment Compensation Disability Fund.

Background

PA roles and training. A PA is a licensed and highly skilled health care professional trained to provide patient evaluation, education, and health care services. A PA works with a physician to provide medical care and guidance needed by a patient.

A PA must attend a specialized medical training program associated with a medical school that includes classroom studies and clinical experience. An academic degree and/or certificate is awarded upon graduation. Most PA training programs require prior health care experience. Many PAs have two or four-year academic degrees before entering a PA training program.

Authorization to sign forms. Existing law permits PAs to sign corresponding certificates or forms for the purpose of issuing disabled person placards, certify licensees to drive standard commercial vehicles, school buses, general public transportation vehicles, and farm labor vehicles. PAs are also authorized to conduct physical examinations and sign corresponding forms or certificates for those seeking employment in school districts or with the county superintendent of schools.

Under existing law, PAs can certify some claims of temporary disability including Paid Family Leave (PFL). The PFL insurance provides up to six weeks of benefits for individuals who must take time off to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child.

State Disability Insurance (SDI) programs. According to information obtained from EDD, SDI programs offer affordable, short-term benefits to eligible workers who suffer a loss of wages when they are unable to work due to a non-work-related injury or due to pregnancy or childbirth. SDI eligible workers must not have been able to perform their daily work tasks for at least eight consecutive days.

Anyone who is considered under California law as a “practitioner” can sign SDI forms via EDD’s online system. A “practitioner” is defined as any person who has been licensed or certified in California as a dentist, podiatrist, or NP who collaborates with a physician and surgeon. In the case of signing forms for an individual who is determined to have a normal pregnancy or childbirth; a midwife, nurse midwife, or NP can perform a physical examination to determine whether or not the patient is eligible for SDI. Additionally, a medical officer of a U.S. Government facility, chiropractor, or psychologist is also authorized to certify claims for SDI. However, because PAs are not recognized as a practitioner, they are not permitted to certify claims for SDI.

Comments

According to the author, “Physician assistants are licensed health care professionals who practice medicine as members of a physician-led team, delivering a broad range of medical and surgical services to diverse populations in rural, urban and suburban settings...SB 1083 would include physician assistants as recognized practitioners who may certify disability insurance with EDD.” The author believes, “...this bill closes a loophole in the law that currently allows PAs to certify some claims of temporary disability, such as Paid Family Leave, but not others such as claims for disability insurance with the EDD.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- One-time contract costs to EDD of approximately \$4 million to modify and test existing Information Technology (IT) systems (Unemployment Compensation Disability Fund). Ongoing costs are likely minor. EDD indicates in order to comply with this bill, it will need to reprogram several systems, and that programming also requires testing to ensure all interfaces work properly.
- Minor costs, likely under \$100,000 annually, to Department of Consumer Affairs to update an existing interface with EDD to share PA licensure data (Physician Assistant Fund).

SUPPORT: (Verified 8/26/14)

California Academy of Physician Assistants (source)
Kaiser Permanente
Medical Board of California

CONTINUED

Physician Assistant Board

ARGUMENTS IN SUPPORT: The bill's sponsor, the California Academy of Physician Assistants, notes, "The restrictions related to EDD forms are inconsistent with the scope of practice of a physician assistant, which allows them to act as an agent of their supervising physician in performing medical examinations as well as most other medical services. The law pertaining to DI is also inconsistent with a physician assistants' ability to certify other claims of temporary disability, such as Paid Family Leave under the Family Medical Leave Act and the California Family Rights Act, but not claims for Disability Insurance."

Kaiser Permanente writes, "This bill would align PA's scope of practice with authority nurse practitioners gained under SB 819 (Yee) in 2009. Kaiser Permanente supports this bill as it would reduce confusion, expand the pool of medical professionals who can certify disability, and ensure appropriate physician supervision."

ASSEMBLY FLOOR: 79-0, 8/25/14

AYES: Achadjian, Alejo, Allen, Ammiano, Bigelow, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Dababneh, Dahle, Daly, Dickinson, Donnelly, Eggman, Fong, Fox, Frazier, Beth Gaines, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gorell, Gray, Grove, Hagman, Hall, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Mansoor, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Pan, Patterson, Perea, John A. Pérez, V. Manuel Pérez, Quirk, Quirk-Silva, Rendon, Ridley-Thomas, Rodriguez, Salas, Skinner, Stone, Ting, Wagner, Waldron, Weber, Wieckowski, Wilk, Williams, Yamada, Atkins

NO VOTE RECORDED: Vacancy

MW:de 8/26/14 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

SB

1091



California
LEGISLATIVE INFORMATION

SB-1091 Administrative procedures: California Regulatory Notice Register: proposed rulemaking activities. (2013-2014)

Senate: 1st Cmt

Assembly:

Bill Status	
Measure:	SB-1091
Lead Authors:	Galgiani (S)
Principal Coauthors:	-
Coauthors:	-
Topic:	Administrative procedures: California Regulatory Notice Register: proposed rulemaking activities.
31st Day in Print:	03/22/14
Title:	An act to amend Section 11344.1 of, and to add Section 11344.15 to, the Government Code, relating to administrative procedures.
House Location:	Senate
Introduced Date:	02/19/14
Committee Location:	Sen Appropriations

Type of Measure
Active Bill - In Committee Process
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
05/23/14	Held in committee and under submission.
05/16/14	Set for hearing May 23.
04/07/14	Placed on APPR. suspense file.
03/28/14	Set for hearing April 7.
03/25/14	From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0. Page 2977.) (March 25). Re-referred to Com. on APPR.

Senate Appropriations Committee Fiscal Summary
Senator Kevin de León, Chair

SB 1091 (Galgiani) – Administrative procedures.

Amended: As introduced

Policy Vote: GO 8-0

Urgency: No

Mandate: No

Hearing Date: April 7, 2014

Consultant: Mark McKenzie

This bill meets the criteria for referral to the Suspense File.

Bill Summary: SB 1091 would require state agencies to provide advance notice of specified meetings and hearings that occur prior to publication of formal notice of proposed regulatory action in the California Regulatory Notice Register (Register). The new notice must be published in the Register at least 15 days in advance of the meeting or hearing. The bill would also require the Office of Administrative Law (OAL) to make the Register available in an electronically searchable web-based format and provide for specified subscription services related to the Register by January 1, 2017.

Fiscal Impact:

- Estimated one-time information technology costs of \$975,000 (General Fund) to make the Register available in a web-based searchable format and provide for subscription services by January 1, 2017. Additional ongoing IT support costs of approximately \$410,000 annually (General Fund).
- OAL costs of approximately \$61,000 annually for the addition of one permanent staff services analyst position to manage the publication of the new notices and administer activities related to the web-based Register (General Fund).
- Reduction in contract revenues related to publication of the Register, likely in the range of \$50,000 to \$100,000 annually related to the new notice requirements (General Fund). Additional reductions in contract revenues are expected as a result of the requirements for the Register to include web-based search functionality. (See staff comments)
- Unknown potentially significant aggregate impact on over 200 state agencies related to the increased notice publication requirements. (General Fund and Various Special Funds).

Background: The OAL is charged with ensuring that agency regulations are clear, necessary, legally valid, and available to the public. OAL is responsible for reviewing administrative regulations proposed by over 200 state regulatory agencies for compliance with the standards set forth in California's Administrative Procedure Act (APA), for transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations (CCR). OAL oversees the publication and distribution, in print and on the Internet, of the CCR and the California Regulatory Notice Register. Existing law requires OAL, on a weekly basis, to post a copy of the Register and links to regulations proposed by state agencies on its website.

Existing law requires all state agencies to provide public notice of proposed action at least 45 days prior to a hearing and close of public comment period on the adoption,

amendment, or repeal of a regulation. State agencies considering adopting, amending, or repealing a regulation are *authorized* to consult with interested persons before initiating any formal regulatory action. When a state agency is proposing to adopt complex or numerous regulatory proposals, existing law *requires* the agency, prior to publication of a required notice of public regulations, to involve parties who would be subject to those proposed regulations in public discussions. The OAL is specifically exempted from participation in any such preliminary discussions.

Proposed Law: SB 1091 would require state agencies to publish notice of “pre-rulemaking” activities in the Register, as specified, and require OAL to make the Register available in a searchable web-based format that allows for subscription services by January 1, 2017. Specifically, this bill would:

- Require OAL to publish additional notices specified below in the Register.
- Require OAL to make the Register available in an electronically searchable Internet-Web based format by January 1, 2017, and include the ability for interested parties to subscribe to an email notification of the Register and specific notices.
- Require state agencies to submit notices of “proposed rulemaking activity” to OAL for publication in the Register at least 15 days prior to a noticed meeting or hearing date.
- Define “proposed rulemaking activity” as any meeting or activity that occurs prior to the mailing or posting of specified rulemaking notices (45-day notices of proposed action) for which an agency posts a public notice of a meeting or hearing on its website.
- Specify that “proposed rulemaking activity” includes the following: informational hearings, workshops, scoping hearings, preliminary meetings, and public and stakeholder outreach meetings.
- Require the contents of the notice of proposed rulemaking activity to include the agency organizing the meeting, logistical information about the meeting, and website links to the public meeting notice and any information connected to the meeting.
- Specify that if an agency fails to publish a proposed rulemaking activity notice, such a failure will not invalidate actions by the agency taken during the 45-day comment period, as long as the agency submits the required notice for publication in the Register and permits public comment related to the unnoticed meeting for an additional 15 days after all relevant materials are posted to its website, as specified.
- Specify that an intentional failure of the public to delay notice to an agency of a known publication oversight constitutes a waiver of the right to object and shall not invalidate an agency’s rulemaking action if the agency published the required public comment period in the Register and has made every reasonable effort to remedy the publication oversight.
- Prohibit an agency from conditioning consideration of comments received during the 45-day comment period on attendance at proposed rulemaking activities, and require an agency to consider relevant issues raised outside of those activities.

Related Legislation: SB 176 (Galgiani), which was held on the Assembly Appropriations Committee Suspense File last year, would have, among other things,

required state agencies to include parties that would be subject to a proposed regulation in public discussions prior to the publication of the rulemaking notice, regardless of the complexity of the proposal.

Staff Comments: This bill will likely cause OAL to re-negotiate the contract it currently has with the publisher (West Publishing Corporation) of the California Regulatory Notice Register. Pursuant to the terms of the current contract, West pays the state \$400,000 annually, plus 7% royalties, through the 2015 calendar year for the privilege of publishing the Register and California Code of Regulations. The contract includes a provision specifying that if there are any changes to California law that result in the alteration of publication services, and such changes result in increased costs to the contractor (West), an equitable adjustment to the compensation must be negotiated. Since this bill would likely result in a substantial increase in the number of pages in the weekly publication of the Register, as well as an increase in workload to the publisher, it is likely that the bill would result in a reduction in contract revenues that accrue to the General Fund. The publishing contract currently results in approximately \$600,000 annually in payments to the General Fund. Staff estimates that this bill would likely reduce contract revenues by up to \$100,000 annually.

OAL indicates that the bill would require the addition of one permanent staff services analyst position at a cost of approximately \$61,000 to review, process, manage, monitor, and prepare the weekly publication of additional notices required by the bill, and administer subscription services and electronic mail notifications related to the web-based Register requirements. Although the number of new notices submitted by state agencies for publication in the Register is indeterminable, it is likely that figures would range in the hundreds annually for notices of informational hearings, workshops, scoping hearings, preliminary meetings, public and stakeholder outreach meetings, and other meetings related to "proposed rulemaking activity" for which an agency posts a notice on its website.

Costs for state agencies to comply with the bill are unquantifiable, but likely significant. There are approximately 225 state agencies with rulemaking powers, and compliance costs would depend upon how each of these entities interprets what constitutes a "proposed rulemaking activity" that occurs in advance of publication of the current 45-day notice of proposed regulatory action in the Register. The bill requires state agencies to submit a notice to OAL for publication in the Register at least 15 days in advance of any meeting or hearing that occurs prior to the formal notice of regulatory action, for which the agency posts a public notice on its website. The bill also includes a non-exclusive list of the types of meetings or hearings that constitute a "proposed rulemaking activity" for which a notice is required. Each notice of these specified meetings and hearings that are provided to the OAL for publication in the Register is likely to involve numerous bureaucratic steps for review within each agency (legal, regulatory, and executive staff, at a minimum). Lastly, staff notes that OAL requires state agencies to submit notices for publication in the Register at least 10 days in advance of the Friday on which the Register is published. As such, the requirement in the bill that the notice of "proposed rulemaking activity" appear in the Register at least 15 days prior to the meeting or hearing is effectively a minimum of 25 day period for agency planning purposes.

SB 1091 also includes two distinct IT components that OAL must implement prior to January 1, 2017: (1) the Register must be made available in an "electronically searchable Internet-Web based format;" and (2) the functionality must include the availability for interested parties to subscribe to an electronic mail notification subscription of the Register or any specific notices contained therein. Preliminary estimates from the Department of Technology indicate that the new IT requirements would result in one-time costs of approximately \$975,000 for application development and infrastructure in the first year, and ongoing support costs of approximately \$410,000 annually. These costs do not include any pre-project approval activities, such as the development of a business analysis or feasibility study report, which are required for all new IT projects. In addition, the IT components are likely to result in new costs for West Publishing that are outside the parameters of the existing contract. Under the current contract with West, the Register is provided in hardcopy and PDF format. Depending on the specific requirements for search functionality, West would likely have to provide Register data in a new format, resulting in higher costs to West, and decreased contract payments to the General Fund.

SB

1159



California.
LEGISLATIVE INFORMATION

SB-1159 Professions and vocations: license applicants: individual tax identification number. (2013-2014)

Senate: 1st Cmt 2nd 3rd Pass Cmt Pass Chp
Assembly: 1st Cmt 2nd Cmt 2nd 3rd Cmt 2nd 3rd Pass

Bill Status	
Measure:	SB-1159
Lead Authors:	Lara (S)
Principal Coauthors:	-
Coauthors:	-
Topic:	Professions and vocations: license applicants: individual tax identification number.
31st Day in Print:	03/23/14
Title:	An act to amend Sections 30, 2103, 2111, 2112, 2113, 2115, 3624, and 6533 of, and to add Section 135.5 to, the Business and Professions Code, to amend Section 17520 of the Family Code, and to amend Section 19528 of the Revenue and Taxation Code, relating to professions and vocations.
House Location:	Secretary of State
Chaptered Date:	09/28/14
Last Amended Date:	08/22/14

Type of Measure
Inactive Bill - Chaptered
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
09/28/14	Chaptered by Secretary of State. Chapter 752, Statutes of 2014.
09/28/14	Approved by the Governor.
09/09/14	Enrolled and presented to the Governor at 11 a.m.
08/29/14	Assembly amendments concurred in. (Ayes 30. Noes 4. Page 4998.) Ordered to engrossing and enrolling.
08/29/14	From committee: That the Assembly amendments be concurred in. (Ayes 7. Noes 1. Page 5014.)

**SENATE COMMITTEE ON BUSINESS, PROFESSIONS
AND ECONOMIC DEVELOPMENT**
Senator Ted W. Lieu, Chair

Bill No: SB 1159 Author: Lara
As Amended: August 22, 2014 Fiscal: Yes

SUBJECT: Professions and vocations: license applicants: individual tax identification number.

SUMMARY: Prohibits licensing boards under the Department of Consumer Affairs (DCA) from denying licensure to an applicant based on his or her citizenship or immigration status, and requires a licensing board and the State Bar to require, by January 1, 2016, that an applicant for licensure provide his or her individual taxpayer identification number (ITIN) or a social security number (SSN) for an initial or renewal license.

NOTE: The Assembly amendments are considered as a rewrite of this bill and this measure has been referred to the Committee pursuant to Senate Rule 29.10 (d) for consideration. The Committee may, by a vote of the majority, either: (1) hold the bill, or (2) return the bill to the Senate floor for consideration of the bill as amended in the Assembly.

Existing law:

- 1) Provides that each board under the Department of Consumer Affairs, as well as the State Bar and Bureau of Real Estate shall, at the time of issuance of the license, require that the licensee provide their federal employer identification number, if the licensee is a partnership, or social security number for all others. (Business and Professions Code (BPC) § 30 (a))
- 2) Specifies that any licensee who does not provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and is subject to a penalty. (BPC § 30 (b))
- 3) Provides that in addition to a penalty, a licensing board may elect to not process any application for an original license if the applicant or licensee fails to provide its federal employer identification number or social security number where requested on the application. (BPC § 30 (c))
- 4) Requires a licensing board, upon request of the Franchise Tax Board (FTB), to furnish to the FTB specified information including the federal employer identification number if the entity is a partnership, or social security number, for all others. (BPC § 30 (d)) (Revenue and Taxation Code § 19528)
- 5) Provides that it is the intent of the Legislature to utilize the social security number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family

Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes. (BPC § 30 (j))

- 6) Provides that the Department of Child Support Services (Department) shall maintain a "certified list" that provides names of persons who are found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act. (Family Code (FC) § 17520 (a) (3))
- 7) Provides that the Department shall provide the certified list to each board that is responsible for the regulation of licenses, as specified, and that all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list to applicants and licensees and of responding to requests for this information made by child support services. (FC § 17520 (d))
- 8) Requires that promptly after receiving the certified list from the Department, and prior to issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified list provided by the Department and provides that the board shall have the authority to withhold issuance or renewal of the license of any applicant on the list. (FC § 17520 (e))
- 9) Authorizes the FTB to require any board, the State Bar, the Bureau of Real Estate, and the Insurance Commissioner to provide to the FTB specified information, including the licensee's federal employer identification number or SSN; to send a notice to any licensee failing to provide those numbers that describes the information that was missing; the penalty associated with not providing it; that the failure to provide that information within 30 days will result in the assessment of a penalty of \$100; and to assess a \$100 penalty for any licensee failing to provide its federal employer identification number or his or her social security number. (Revenue and Tax Code (RTC) § 19528)
- 10) Prohibits, under the federal Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193), certain categories of individuals not lawfully present in the United States from receiving specified public benefits, including "any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government." (8 USC Sec. 1621(c))
- 11) Authorizes states to provide that "an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible...through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility." (8 USC Sec. 1621(d))

This bill:

- 1) Requires a board, as defined, the State Bar, and the Bureau of Real Estate to require, by January 1, 2016, that an individual applicant for licensure provide either an ITIN or SSN.
- 2) Prohibits any entity within DCA from denying licensure to an applicant based on his or her citizenship or immigration status.

- 3) Requires every board to implement all required regulatory or procedural changes by January 1, 2016, and authorizes a board to implement these provisions prior to that date.
- 4) Requires that any applicant failing to provide the federal employer identification number or the federal taxpayer identification number or social security number, if one has been issued to the individual, to be reported by the licensing board to the FTB and provides if the applicant fails to provide that information they shall be subject to a penalty.
- 5) In addition to that penalty, prohibits a board from processing an application for an initial license unless the applicant provides his or her ITIN, where requested on the application.
- 6) Requires a board, upon request of the FTB, to furnish to the FTB specified information, including the licensee's ITIN.
- 7) Provides that an ITIN furnished pursuant to this bill is not deemed a public record and shall not be open to the public for inspection.
- 8) Provides that if the board uses a national examination to issue a license, and if a reciprocity agreement or comity exists between California and the state requesting release of the ITIN, the board may release the ITIN to an examination or licensing entity, only for the purpose of verification of licensure or examination status.
- 9) For purposes of enforcing child support payment provisions, requires any board, the State Bar, and the Bureau of Real Estate to require that each licensee provide the ITIN of each individual licensed on the license and any person who qualifies for the license.
- 10) Authorizes boards, as specified, to collect an ITIN instead of a SSN for purposes of existing law that requires all boards, as specified, to collect SSNs from applicants for the purposes of matching the names on a certified list, provided by the Department of Child Support Services (DCSS), of persons who are found to be out of compliance with a judgment or order for support, as specified.
- 11) Authorizes the FTB to require any board, the State Bar, the Bureau of Real Estate, and the Insurance Commissioner to provide to the FTB the licensee's ITIN, and to send a notice to any licensee failing to provide that number that describes the information that was missing; the penalty associated with not providing it, and that failure to provide that information within 30 days will result in the assessment of a penalty of \$100.
- 12) Makes conforming statutory changes to remove the requirement of citizenship, or legal admission or documentary evidence requirements thereof, for the following authorizations to practice or other licensure actions:
 - a) Allow a foreign medical graduate to be eligible for a physician's and surgeon's certificate;
 - b) Allow a foreign medical graduate to participate in professional activities in a medical school as a "visiting fellow," and to participate in a fellowship program in specified hospitals or clinics;

- c) Allow a foreign medical graduate who does not immediately qualify for a physician and surgeon's certificate of registration to practice medicine and who is offered a full-time faculty position at a medical school to be granted a certificate in connection with his or her position;
 - d) Allow the Naturopathic Medicine Committee under the Osteopathic Medical Board to grant a certificate to practice naturopathic medicine to a person who does not hold a naturopathic doctor's license, but who is offered a faculty position in a naturopathic medical education program; and,
 - e) Allow an individual to be licensed as a professional fiduciary.
- 13) Finds and declares that it is in the best interests of the state to provide persons who are not lawfully present in the United States with the state benefits provided by all licensing acts of entities within DCA.
- 14) Makes other conforming and technical amendments.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) One-time costs to the DCA of up to \$130,000 (various special funds) to update forms, publications, and information technology.
- 2) Unknown potential costs, likely minor, to DCA's boards and bureaus to ensure that new applicants using ITINs are complying with child support judgments. DCA's boards and bureau's currently perform this function using applicants' social security numbers.
- 3) The bill would likely result in an increase in individuals applying for licenses at the various boards and bureaus within DCA, leading to increased licensing revenues. The amount of the increase is unknown.

COMMENTS:

- 1. **Purpose.** According to the Author, "Many immigrants come to the [US] as children and attend California's public elementary and secondary schools, as well as public and private colleges and universities. Despite the high cost of higher education and limited resources, with hard work, a strong spirit of determination, and the assistance of state laws that provide access to nonresident tuition exemptions, state financial aid, and graduate school admissions tests, these students are now able to attend, participate in, and graduate from California colleges and universities."

"Recently, the Legislature has begun to recognize the need to address arbitrary restrictions on professional licenses with the passage of SB 1822 (Bill Berryhill) in 2012 and AB 1024 (Gonzalez) in 2013. However, ambiguity in other sections of state law, in particular [BPC] 30 pertaining to the issuance of professional licenses has created barriers to access, and created an artificial wall that deprives many Californians of their only effective means of economic mobility and self-sufficiency.

"Authorizing the use of a social security number or ITIN, if one has been issued, for the application of a professional license would ensure the collection and reporting of information to the [FTB] while clarifying inconsistent laws and removing arbitrary barriers to professional licenses.

"The provisions of SB 1159 are consistent with current law and in compliance with federal law. Additionally, recent amendments provide for a delayed implementation of the measure, allowing boards and bureaus sufficient time to comply with the provisions of the bill."

The Author states that the "recent amendments, crafted in consultation with the Department of Consumer Affairs, simply provide guidance for the boards and ensure that the bill can be implemented effectively. Specifically, these amendments clarify that otherwise eligible individuals will not be denied a license based solely on their immigration status, and provide sufficient time for successful implementation."

2. **Taxpayer Identification Numbers.** A Taxpayer Identification Number (TIN) is an identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. It is issued by the Social Security Administration (SSA) or by the IRS. A Social Security Number is issued by the SSA whereas all other TINs are issued by the IRS.

The Individual Taxpayer Identification Number, or ITIN, is a tax processing number only available for certain nonresident and resident aliens, their spouses, and dependents who cannot get a SSN. It is a 9-digit number, beginning with the number "9" and is formatted like a SSN. To obtain an ITIN, an individual must complete an IRS form. The form requires documentation substantiating foreign/alien status and true identity for the individual. The person may either mail the documentation, along with the required form, present it at the IRS office, or process the application through an acceptable agent authorized by the IRS.

3. **Federal Personal Responsibility and Work Opportunity Reconciliation Act.** Federal law, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), P.L. 104-193, prohibits certain categories of individuals not lawfully present in the United States from receiving certain public benefits, including "any grant, contract, loan, *professional license*, or commercial license *provided by an agency of a State* or local government or by appropriated funds of a State or local government." (8 USC Section 1621) (emphasis added) However, the PRWORA also authorizes a state to make those individuals eligible for any state or local public benefit for which he or she would not otherwise be eligible by affirmatively providing for those benefits through an enactment of state law.

Professional licenses issued by licensing boards under DCA constitute a public benefit, as defined under federal law, and licensing boards under DCA are considered agencies of the state, thereby triggering the federal requirement in the PRWORA for an enactment of state law to provide those benefits. Accordingly, this bill seeks to affirmatively provide this eligibility to obtain a professional license to individuals who are not lawfully present in the United States.

4. **FTB and DCSS's Ability to Identify Licensees.** The purpose of requiring an SSN or federal employer identification number is to identify persons with outstanding tax liabilities or who are out of compliance with child support orders. Existing law authorizes the suspension of a

delinquent taxpayer's occupational or professional license once a delinquency is at least five months old, and specified notices have been issued by the FTB. Existing law also authorizes license denials and suspensions for failure to pay court-ordered child support debt. According to both the FTB and DCSS, this bill would not affect the ability of the FTB or DCSS to identify persons with outstanding tax liabilities or child support payments because both entities have the capability to identify those persons using their ITIN.

5. **Arguments in Support.** The Los Angeles Area Chamber of Commerce writes in support, and states: "[This bill] would ensure that otherwise eligible applicants are not denied a professional license based solely on their immigration status...Many immigrants come to California as children and are educated in elementary and secondary schools in the state. Despite the high cost of higher education and limited resources, many of them continue on to higher education, availing themselves of state laws that offer access to in-state tuition rates and state financial aid. These young people have worked hard and overcome many obstacles to succeed. Now, they are educated and ready to contribute as professionals. Without access to a professional license, many individuals will be limited in their ability to contribute to our state."

The California Immigrant Policy Center writes in support and states: "Without access to a professional license, many individuals will be limited in their ability to participate in the workforce or start a business and thereby limit their economic contributions to the State. It is estimated that California's labor force includes 1.85 million undocumented workers and that households headed by undocumented workers contribute an estimated \$2.7 billion in state taxes. As such, we expect SB 1159 to make an impact on the economic opportunity of otherwise eligible immigrants."

The National Association of Social Workers, California Chapter, also writes in support, "It is in the best interest of our state to support efforts to educate our workforce and enable our residents, including immigrants to improve their economic mobility and self-sufficiency, which will increase their contributions back to the state."

6. **Related Legislation.** AB 1024 (Gonzalez, Chapter 573, Statutes of 2013) authorized the Supreme Court to admit to the practice of law an applicant who is not lawfully present in the United States, upon certification by the State Bar that the applicant has fulfilled those requirements for admission, as specified.

SB 1822 (Berryhill, Chapter 317, Statutes of 2012) authorized submission of an individual tax identification number or another identification number, as determined by the California Architects Board, in place of a social security number where the applicant is not eligible for a social security number and is not out of compliance with a child support judgment or order, as specified.

AB 664 (Jones, Chapter 610, Statutes of 2005) authorized, in specified circumstances, submission of a federal tax identification number or another identification number, as determined by the State Bar of California, in place of the applicant's social security number.

SUPPORT AND OPPOSITION:

Support:

American Civil Liberties Union of California
California Immigrant Policy Center
California Pan-Ethnic Health Network
Central American Resource Center – Los Angeles
Coalition for Humane Immigrant Rights of Los Angeles
Councilwoman Cristina N. Carrizosa, City of Pomona
Friends Committee on Legislation
The Latino and Latina Roundtable of the San Gabriel and Pomona Valley
Los Angeles Area Chamber of Commerce
Mexican American Legal Defense and Educational Fund
National Association of Social Workers – California Chapter
Our Family Coalition
Pre-Health Dreamers
United Farm Workers (UFW)

Opposition: None on file as of August 29, 2014.

Consultant: Bill Gage and Mark Mendoza

Senate Bill No. 1159

CHAPTER 752

An act to amend Sections 30, 2103, 2111, 2112, 2113, 2115, 3624, and 6533 of, and to add Section 135.5 to, the Business and Professions Code, to amend Section 17520 of the Family Code, and to amend Section 19528 of the Revenue and Taxation Code, relating to professions and vocations.

[Approved by Governor September 28, 2014. Filed with
Secretary of State September 28, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, Lara. Professions and vocations: license applicants: individual tax identification number.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, among other licensing bodies. Existing law requires those licensing bodies to require a licensee, at the time of issuance of the license, to provide its federal employer identification number if the licensee is a partnership, or his or her social security number for all other licensees. Existing law requires those licensing bodies to report to the Franchise Tax Board any licensee who fails to provide the federal employer identification number or social security number, and subjects the licensee to a penalty for failing to provide the information after notification, as specified.

This bill, no later than January 1, 2016, would require those licensing bodies to require an applicant to provide either an individual tax identification number or social security number if the applicant is an individual. The bill would require the licensing bodies to report to the Franchise Tax Board, and subject a licensee to a penalty, for failure to provide that information, as described above. The bill would prohibit, except as specified, any entity within the department from denying licensure to an applicant based on his or her citizenship status or immigration status. The bill would require every board within the department to implement regulatory and procedural changes necessary to implement these provisions no later than January 1, 2016, and would authorize implementation at any time prior to that date. The bill would make other conforming changes.

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

SECTION 1. Section 30 of the Business and Professions Code is amended to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall, at the

time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) No later than January 1, 2016, in accordance with Section 135.5, a board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for purposes of this subdivision.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board may not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Bureau of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of his or her employment or duty, has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar, the Bureau of Real Estate, and the Department of Motor Vehicles.

SEC. 2. Section 135.5 is added to the Business and Professions Code, to read:

135.5. (a) The Legislature finds and declares that it is in the best interests of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by all licensing acts of entities within the department, and therefore enacts this section pursuant to subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding subdivision (a) of Section 30, and except as required by subdivision (e) of Section 7583.23, no entity within the department shall deny licensure to an applicant based on his or her citizenship status or immigration status.

(c) Every board within the department shall implement all required regulatory or procedural changes necessary to implement this section no later than January 1, 2016. A board may implement the provisions of this section at any time prior to January 1, 2016.

SEC. 3. Section 2103 of the Business and Professions Code is amended to read:

2103. An applicant shall be eligible for a physician's and surgeon's certificate if he or she has completed the following requirements:

(a) Submitted official evidence satisfactory to the board of completion of a resident course or professional instruction equivalent to that required in Section 2089 in a medical school located outside the United States or Canada. However, nothing in this section shall be construed to require the board to evaluate for equivalency any coursework obtained at a medical school disapproved by the board pursuant to Article 4 (commencing with Section 2080).

(b) Submitted official evidence satisfactory to the board of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

(c) Attained a score satisfactory to an approved medical school on a qualifying examination acceptable to the board.

(d) Successfully completed one academic year of supervised clinical training in a program approved by the board pursuant to Section 2104. The board shall also recognize as compliance with this subdivision the successful completion of a one-year supervised clinical medical internship operated by a medical school pursuant to Chapter 85 of the Statutes of 1972 and as amended by Chapter 888 of the Statutes of 1973 as the equivalent of the year of supervised clinical training required by this section.

(1) Training received in the academic year of supervised clinical training approved pursuant to Section 2104 shall be considered as part of the total academic curriculum for purposes of meeting the requirements of Sections 2089 and 2089.5.

(2) An applicant who has passed the basic science and English language examinations required for certification by the Educational Commission for Foreign Medical Graduates may present evidence of those passing scores along with a certificate of completion of one academic year of supervised clinical training in a program approved by the board pursuant to Section 2104 in satisfaction of the formal certification requirements of subdivision (b) of Section 2102.

(e) Satisfactorily completed the postgraduate training required under Section 2096.

(f) Passed the written examination required for certification as a physician and surgeon under this chapter.

SEC. 4. Section 2111 of the Business and Professions Code is amended to read:

2111. (a) Physicians who are not citizens but who meet the requirements of subdivision (b) and who seek postgraduate study in an approved medical school may, after receipt of an appointment from the dean of the California medical school and application to and approval by the Division of Licensing, be permitted to participate in the professional activities of the department or division in the medical school to which they are appointed. The physician shall be under the direction of the head of the department to which he or she is appointed, supervised by the staff of the medical school's medical center, and known for these purposes as a "visiting fellow." The visiting fellow shall wear a visible name tag containing the title "visiting fellow" when he or she provides clinical services.

(b) (1) Application for approval shall be made on a form prescribed by the division and shall be accompanied by a fee fixed by the division in an amount necessary to recover the actual application processing costs of the program. The application shall show that the person does not immediately qualify for a physician's and surgeon's certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements. The application shall include a written statement of the recruitment procedures followed by the medical school before offering the appointment to the applicant.

(2) Approval shall be granted only for appointment to one medical school, and no physician shall be granted more than one approval for the same period of time.

(3) Approval may be granted for a maximum of three years and shall be renewed annually. The medical school shall submit a request for renewal on a form prescribed by the division, which shall be accompanied by a renewal fee fixed by the division in an amount necessary to recover the actual application processing costs of the program.

(c) Except to the extent authorized by this section, the visiting fellow may not engage in the practice of medicine. Neither the visiting fellow nor the medical school may assess any charge for the medical services provided by the visiting fellow, and the visiting fellow may not receive any other compensation therefor.

(d) The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2102.

(e) The division shall notify both the visiting fellow and the dean of the appointing medical school of any complaint made about the visiting fellow.

The division may terminate its approval of an appointment for any act that would be grounds for discipline if done by a licensee. The division shall provide both the visiting fellow and the dean of the medical school with a written notice of termination including the basis for that termination. The visiting fellow may, within 30 days after the date of the notice of termination,

file a written appeal to the division. The appeal shall include any documentation the visiting fellow wishes to present to the division.

(f) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country and recognized by the division from participating in any program established pursuant to this section.

SEC. 5. Section 2112 of the Business and Professions Code is amended to read:

2112. (a) Physicians who are not citizens and who seek postgraduate study, may, after application to and approval by the Division of Licensing, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a hospital in this state which is approved by the Joint Committee on Accreditation of Hospitals and providing the service is satisfactory to the division. Such physicians shall at all times be under the direction and supervision of a licensed, board-certified physician and surgeon who is recognized as a clearly outstanding specialist in the field in which the foreign fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the division. The approval may not be renewed more than four times. The division may determine a fee, based on the cost of operating this program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no such visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2101 or 2102.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

SEC. 6. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of his or her duties as approved by the division in connection with the faculty position. A certificate of registration does not authorize a registrant to admit patients to a nursing or a skilled or assisted living facility unless that facility is formally affiliated with the sponsoring medical school. A clinical fellowship shall not be submitted as a faculty service appointment.

(b) Application for a certificate of registration shall be made on a form prescribed by the division and shall be accompanied by a registration fee fixed by the division in a amount necessary to recover the actual application processing costs of the program. To qualify for the certificate, an applicant shall submit all of the following:

(1) If the applicant is a graduate of a medical school other than in the United States or Canada, documentary evidence satisfactory to the division that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the division, or has been engaged in the practice of medicine in the United States for at least four years in approved facilities, or has completed a combination of that licensure and training.

(2) If the applicant is a graduate of an approved medical school in the United States or Canada, documentary evidence that he or she has completed a resident course of professional instruction as required in Section 2089.

(3) Written certification by the head of the department in which the applicant is to be appointed of all of the following:

(A) The applicant will be under his or her direction.

(B) The applicant will not be permitted to practice medicine unless incident to and a necessary part of his or her duties as approved by the division in subdivision (a).

(C) The applicant will be accountable to the medical school's department chair or division chief for the specialty in which the applicant will practice.

(D) The applicant will be proctored in the same manner as other new faculty members, including, as appropriate, review by the medical staff of the school's medical center.

(E) The applicant will not be appointed to a supervisory position at the level of a medical school department chair or division chief.

(4) Demonstration by the dean of the medical school that the applicant has the requisite qualifications to assume the position to which he or she is to be appointed and that shall include a written statement of the recruitment procedures followed by the medical school before offering the faculty position to the applicant.

(c) A certificate of registration shall be issued only for a faculty position at one approved medical school, and no person shall be issued more than one certificate of registration for the same period of time.

(d) (1) A certificate of registration is valid for one year from its date of issuance and may be renewed twice.

A request for renewal shall be submitted on a form prescribed by the division and shall be accompanied by a renewal fee fixed by the division in an amount necessary to recover the actual application processing costs of the program.

(2) The dean of the medical school may request renewal of the registration by submitting a plan at the beginning of the third year of the registrant's appointment demonstrating the registrant's continued progress toward licensure and, if the registrant is a graduate of a medical school other than in the United States or Canada, that the registrant has been issued a certificate

by the Educational Commission for Foreign Medical Graduates. The division may, in its discretion, extend the registration for a two-year period to facilitate the registrant's completion of the licensure process.

(e) If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2102 or 2135, as appropriate, in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the division may accept clinical practice in an appointment pursuant to this section as qualifying time to meet the postgraduate training requirements in Section 2102, and may, in its discretion, waive the examination and the Educational Commission for Foreign Medical Graduates certification requirements specified in Section 2102 in the event the registrant applies for a physician's and surgeon's certificate. As a condition to waiving any examination or the Educational Commission for Foreign Medical Graduates certification requirement, the division in its discretion, may require an applicant to pass the clinical competency examination referred to in subdivision (d) of Section 2135. The division shall not waive any examination for an applicant who has not completed at least one year in the faculty position.

(f) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine, bill individually for medical services provided by the registrant, or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

(g) When providing clinical services, the registrant shall wear a visible name tag containing the title "visiting professor" or "visiting faculty member," as appropriate, and the institution at which the services are provided shall obtain a signed statement from each patient to whom the registrant provides services acknowledging that the patient understands that the services are provided by a person who does not hold a physician's and surgeon's certificate but who is qualified to participate in a special program as a visiting professor or faculty member.

(h) The division shall notify both the registrant and the dean of the medical school of a complaint made about the registrant. The division may terminate a registration for any act that would be grounds for discipline if done by a licensee. The division shall provide both the registrant and the dean of the medical school with written notice of the termination and the basis for that termination. The registrant may, within 30 days after the date of the notice of termination, file a written appeal to the division. The appeal shall include any documentation the registrant wishes to present to the division.

SEC. 7. Section 2115 of the Business and Professions Code is amended to read:

2115. (a) Physicians who are not citizens and who seek postgraduate study may, after application to and approval by the Division of Licensing, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a clinic or hospital in a medically underserved area of this state that is licensed by the State Department of Health Services or is exempt from licensure pursuant

to subdivision (b) or (c) of Section 1206 of the Health and Safety Code, and providing service is satisfactory to the division. These physicians shall at all times be under the direction and supervision of a licensed, board certified physician and surgeon who has an appointment with a medical school in California and is a specialist in the field in which the fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the division. The approval may not be renewed more than four times. The division may determine a fee, based on the cost of operating this program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a clinic pursuant to this section may not be used to meet the requirements for licensure under Section 2102.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

(d) For purposes of this section, a medically underserved area means a federally designated Medically Underserved Area, a federally designated Health Professional Shortage Area, and any other clinic or hospital determined by the board to be medically underserved. Clinics or hospitals determined by the board pursuant to this subdivision shall be reported to the Office of Statewide Health Planning and Development.

SEC. 8. Section 3624 of the Business and Professions Code is amended to read:

3624. (a) The committee may grant a certificate of registration to practice naturopathic medicine to a person who does not hold a naturopathic doctor's license under this chapter and is offered a faculty position by the dean of a naturopathic medical education program approved by the committee, if all of the following requirements are met to the satisfaction of the committee:

(1) The applicant submits an application on a form prescribed by the committee.

(2) The dean of the naturopathic medical education program demonstrates that the applicant has the requisite qualifications to assume the position to which he or she is to be appointed.

(3) The dean of the naturopathic medical education program certifies in writing to the committee that the applicant will be under his or her direction and will not be permitted to practice naturopathic medicine unless incident to and a necessary part of the applicant's duties as approved by the committee.

(b) The holder of a certificate of registration issued under this section shall not receive compensation for or practice naturopathic medicine unless

it is incidental to and a necessary part of the applicant's duties in connection with the holder's faculty position.

(c) A certificate of registration issued under this section is valid for two years.

SEC. 9. Section 6533 of the Business and Professions Code is amended to read:

6533. In order to meet the qualifications for licensure as a professional fiduciary a person shall meet all of the following requirements:

(a) Be at least 21 years of age.

(b) Have not committed any acts that are grounds for denial of a license under Section 480 or 6536.

(c) Submit fingerprint images as specified in Section 6533.5 in order to obtain criminal offender record information.

(d) Have completed the required prelicensing education described in Section 6538.

(e) Have passed the licensing examination administered by the bureau pursuant to Section 6539.

(f) Have at least one of the following:

(1) A baccalaureate degree of arts or sciences from a college or university accredited by a nationally recognized accrediting body of colleges and universities or a higher level of education.

(2) An associate of arts or sciences degree from a college or university accredited by a nationally recognized accrediting body of colleges and universities, and at least three years of experience working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(3) Experience of not less than five years, prior to July 1, 2012, working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(g) Agree to adhere to the Professional Fiduciaries Code of Ethics and to all statutes and regulations.

(h) Consent to the bureau conducting a credit check on the applicant.

(i) File a completed application for licensure with the bureau on a form provided by the bureau and signed by the applicant under penalty of perjury.

(j) Submit with the license application a nonrefundable application fee, as specified in this chapter.

SEC. 10. Section 17520 of the Family Code is amended to read:

17520. (a) As used in this section:

(1) "Applicant" means a person applying for issuance or renewal of a license.

(2) "Board" means an entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Bureau of Real Estate,

the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Wildlife, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) “Certified list” means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the federal Social Security Act.

(4) “Compliance with a judgment or order for support” means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) “License” includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. “License” also includes any driver’s license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not

exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means a person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means a person holding a driver's license issued by the Department of Motor Vehicles, a person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, a person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes an individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the federal Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers or individual taxpayer identification numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board

shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of an applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file

with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of

payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

This section shall not be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (l) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(l) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to

notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative

Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to 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).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (l).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will

require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 11. Section 19528 of the Revenue and Taxation Code is amended to read:

19528. (a) Notwithstanding any other law, the Franchise Tax Board may require any board, as defined in Section 22 of the Business and Professions Code, and the State Bar, the Bureau of Real Estate, and the Insurance Commissioner (hereinafter referred to as licensing board) to provide to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number, if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number of all other licensees.

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or renewal.

(b) The Franchise Tax Board may do the following:

(1) Send a notice to any licensee failing to provide the federal employer identification number, individual taxpayer identification number, or social security number as required by subdivision (a) of Section 30 of the Business and Professions Code and subdivision (a) of Section 1666.5 of the Insurance Code, describing the information that was missing, the penalty associated with not providing it, and that failure to provide the information within 30 days will result in the assessment of the penalty.

(2) After 30 days following the issuance of the notice described in paragraph (1), assess a one-hundred-dollar (\$100) penalty, due and payable upon notice and demand, for any licensee failing to provide either its federal employer identification number (if the licensee is a partnership) or his or

her individual taxpayer identification number or social security number (for all others) as required in Section 30 of the Business and Professions Code and Section 1666.5 of the Insurance Code.

(c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished to the Franchise Tax Board pursuant to Section 30 of the Business and Professions Code or Section 1666.5 of the Insurance Code shall not be deemed to be a public record and shall not be open to the public for inspection.