MEETING NOTICE
October 30, 2017
PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
8:30 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 (Caldwell)
3. Approval of August 11, 2017 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. Nomination and Election of Physician Assistant Board Officers (Forsyth)
6. Reports
   a. President's Report (Sachs)
      i. Report on CAPA Conference Activities and August 11th Board Meeting
      ii. Board Member Recognition
   b. Executive Officer's Report (Forsyth)
      i. Update on Negotiations for Board Office Lease
      ii. Staff Update
   c. Licensing Program Activity Report (Winslow)
   d. Diversion Program Activity Report (Winslow)
   e. Enforcement Program Activity Report (Firdaus)
7. Department of Consumer Affairs – Director's Update (DCA Staff) – May include updates pertaining
   to the Department's Administrative Services, Human Resources, Enforcement, Information
   Technology, Communications and Outreach, as well as Legislative, Regulatory and Policy Matters
8. Approval of Passing Score for 2018 PA Initial Licensing Examination and 2018 Dates and
   Locations for PA Initial Licensing Examination (Sachs)
9. Schedule of 2018 Board Meeting Dates and Locations (Sachs)
10. Discussion Regarding Nationwide Trends Related to Optimal Team Practice of Physician
    Assistants (Sachs)

*TIME CERTAIN 10:00 AM – Petition Hearing

   A. Petition for Early Termination of Probation – MariJo Hanson, PA 16359

11. CLOSED SESSION:
A. Pursuant to Section 11126(c)(3) of the Government Code, the Board will move into closed session to deliberate and take action on disciplinary matters, including the above petition for early termination of probation.

B. Pursuant to Section 11126(a)(1) of the Government Code, the Board will move into closed session to conduct the annual evaluation of performance of the Executive Officer.

RETURN TO OPEN SESSION

12. California Highway Patrol Presentation “Safety in the Workplace” – Officer Parker

13. Regulations – Update, Discussion, and Possible Action (Sachs/Schieldge/Winslow)
   a. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.514 - Renewal of License (Update)
   b. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.515 - Retirement Status for Physician Assistant Licenses (Update)
   c. Proposed Repeal of Title 16, California Code of Regulations, Sections 1399.531 - Curriculum Requirements for an Approved Program for Primary Care Physician Assistants and 1399.532 - Board Requirements for Approving Specialty Training for Physician Assistants (Update)
   d. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations, Section 1399.545 – Supervision Required
   e. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.573 – Citations for Unlicensed Practice (Update)
   f. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16 California Code of Regulations, Section 1399.617 – Audit and Sanctions for Noncompliance

Lunch break will be taken at some point during the day’s meeting.

14. Discussion and Possible Action regarding Seeking Legislative Amendment to Increase License Application Fee or Initial License Fee (Winslow)

15. Developments Since the February 2015 United States Supreme Court decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission (FTC): Update (Schieldge)

16. Report on Medical Board of California Activities

17. Budget Update (Rumbaca, DCA Budget Analyst)

18. Report by the Legislative Committee; Discussion and Possible Action (Hazelton/Valencia)
   a. AB 12 (Cooley) State government: administrative regulations: review
   b. AB 40 (Santiago) CURES database: health information technology system
   c. AB 44 (Reyes) Worker’s compensation: medical treatment: terrorist attacks: workplace violence
   d. AB 77 (Fong) Regulations: effective dates and legislative review
   e. AB 349 (McCarty) Department of Consumer Affairs: Civil service: veterans’ preferences: special immigrant visas
   f. AB 387 (Thurmond) Minimum wage: health professionals: interns
   g. AB 508 (Santiago) Health care practitioners: student loans
   h. AB 703 (Flora) Professions and vocations: licensees: fee waiver
   i. AB 710 (Wood) Department of Consumer Affairs: boards: meetings
   j. AB 715 (Wood) Workgroup review of opioid Pain reliever use and abuse
   k. AB 767 (Quirk-Silva) Master Business License Act
   l. SB 27 (Morrell) Professions and vocations: licensees: military service
   m. SB 34 (Bates) Substance Abuse
   n. SB 43 (Hill) Antimicrobial resistant infection: reporting
   o. SB 244 (Lara) Privacy: Agencies: Personal Information
   p. SB 419 (Portantino) Oxycodone: prescriptions
   q. SB 572 (Stone) Healing Arts Licensees: violations: grace period
19. Agenda Items for Next Meeting (Sachs)

20. 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. Action may be taken on any item on the agenda. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as “time certain”. The meeting may be canceled without notice. For meeting verification, call (916) 561-8780 or access the Board’s website at http://www.pac.ca.gov. Public comments will be taken on agenda items at the time the item is heard and prior to the Board taking any action on said items. Agenda items may be taken out of order and total time allocated for public comment on particular issues may be limited at the discretion of the President.

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 Julie Caldwell at (916) 561-8781 or email Julie.Caldwell@mcb.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

ITEM 3
MEETING MINUTES

August 11, 2017
PHYSICIAN ASSISTANT BOARD
Sheraton San Diego Hotel & Marina
1380 Harbor Island Drive
San Diego, CA 92101
8:00 A.M. – 5:00 P.M.

1. Call to Order by President

President Sachs called the meeting to order at 8:07 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present:
- Charles Alexander, PhD.
- Jennifer Carlquist, PA-C
- Sonya Earley, PA-C
- Javier Esquivel-Acosta, PA-C
- Jed Grant, PA-C
- Catherine Hazelton
- Xavier Martinez
- Robert Sachs, PA
- Mary Valencia

Staff Present:
- Maureen L. Forsyth, Executive Officer
- Krisly Schieldge, Attorney III
- Julie Caldwell, Administrative Analyst
- Rozana Firdaus, Enforcement Analyst

3. Approval of April 24, 2017, Meeting Minutes

M/ ____________ Sony Earley S/ ____________ Jed Grant

Approve the January 23, 2017, Meeting Minutes.

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Motion approved with the condition to correct line item 623 to read "honorably discharged veterans".

4. Public Comment on items not on the Agenda

There was no public comment.

5. Reports

a. President's Report

Mr. Sachs reported that the Supreme Court of Pennsylvania decided that informed consent can only be given by the physician in the state of Pennsylvania. Ms. Schieldge stated that the decision by the Supreme Court of Pennsylvania has no legal effect on our interpretation of California law.

b. Executive Officer's Report

Ms. Forsyth welcomed Rozana Firdaus, the new Enforcement Coordinator for the Physician Assistant Boards (PAB), and reported that the PAB office is now fully staffed.

Ms. Forsyth reported that the PAB budget reflects a positive 4.2% at the end of month 12; final figures for month 13 are not available at this time. She reported investigative costs, performed by the Medical Board of California (MBC), totaled $144,000 and the Attorney General costs totaled $480,000. Ms. Forsyth reported that these costs are rising due to both the number of complaints filed and the complexity of the complaints.

In response to Ms. Earley’s question on whether or not the board anticipates receiving additional funds to offset future costs, Ms. Forsyth stated that she hoped so.

In response to Mr. Sachs question on whether or not the Budget Change Proposal (BCP) has been filed, Ms. Forsyth stated that the BCP is being reviewed.

c. Licensing Program Activity Report

Ms. Caldwell reported the licensing activity between April 10, 2017 and July 28, 2017, to be:

- Initial applications received – 415
- New licenses issued – 328
- Renewal applications processed – 1,564
- Total licenses renewed and current – 11,581
- Inactive licenses – 38
- Family Support – 2
- Current probation – 3
Ms. Schieldge requested clarification regarding the family support title in the report. It is for those licensees who haven’t paid their child support; their licenses are suspended until they pay their outstanding child support.

d. Diversion Program Activity Report

Ms. Caldwell reported as of June 1, 2017, total licensees participating in the drug and alcohol diversion program are:

- Voluntary referrals - 4
- Board referrals - 13
- Total participants - 17

e. Enforcement Program Activity Report

Ms. Firdaus reported the following statistics from April 1, 2017 through June 30, 2017:

- Six licensees on probation;
- One public letter of reprimand;
- Two licenses were surrendered;
- Two probationary licenses issued;
- One cease practice order issued;
- Eleven accusations filed;
- Two interim suspension orders issued;
- Six new cases initiated with the Attorney General’s office;
- Fifty-one cases pending with the Attorney General’s office;
- Two citations pending and $500 in fines pending from the last fiscal year, payments received this quarter: $250;
- Fifty-one active probationers;
- Seven probationers who are tolling;
- Ninety-nine complaints received;
- One complaint closed without investigation;
- One hundred twelve complaints assigned for investigation.

In response to the Ms. Earley’s question of a reason for the increase in complaints received, Ms. Forsyth responded that there seems to be an increase in complaints filed online. In response to Mr. Grant’s question of if an initial screening is completed before the complaint is assigned for investigation, Ms. Forsyth stated, yes. The complaint is initially reviewed by an analyst who then asks for Ms. Forsyth’s recommendation and then the complaint will either be closed without merit, sent to a medical consultant for further review or to the field for further investigation. Ms. Firdaus stated that complaints filed related to overprescribing have increased.

In response to Mr. Martinez’s question on whether or not the costs for the fifty-one pending cases at the Attorney General’s office are included in the current budget, Mr. Forsyth stated yes.

Mr. Grant asked if staff could produce a graph or chart depicting the reason complaints are filed, Ms. Forsyth stated yes, Ms. Firdaus would work on this and report back to the board.
6. Presentation by American Academy of Physician Assistants

Gail Curtis, President and Chair of the Board of Directors of American Academy of Physician Assistants (AAPA) thanked the board for the opportunity to speak with them. Ms. Curtis reported that her presentation would cover the following information: where the PA profession is now, what the AAPA envisions for the future, how the practice environment in California compares to other states and how AAPA’s new policies aim to ensure that the PA profession will continue to thrive amongst the various advancements and changes in the way that healthcare is being delivered. She stated the goal of the AAPA is to ensure that state laws and regulations allow for optimal PA utilization.

Except for the state of New York, California has the highest number of PAs in the nation, more than 36% of the California PAs specialize in primary care (above the national average), over half of California’s PAs practice in an outpatient setting (above the national average) and about 27% of PAs practice in hospitals.

The AAPA is committed to assuring that the profession keeps pace with the modern advances and delivery of healthcare. Currently there are 224 PA programs and about 115,000 PAs in the nation. PAs are educated in the medical model at master’s level accredited programs. The typical PA program is about 27 continuous months and consists of the didactic (classroom) and clinical phases; graduating students will have completed 2,000 hours of supervised clinical experiences. PAs provide safe, high-quality, patient care and over the years the profession has been well studied.

In 2014 a study by the California Office of State Wide Health Planning and Development showed that PAs are vital health care team members and provide comprehensive care to patients including care to rural an underserved areas that lack physicians. A study by the Peterson Center on health and Stanford University’s Clinical Excellence Research Center, found that practices that ensure PAs are able to work to the full extent of their education and experience are ranked the highest. A 2015 a cost analysis published in the Nursing Economics found that restrictive state laws lead to underutilization of both PAs and NPs and that this negatively affects and impacts the cost of care. The AAPA encourages states to revive and update laws and rules that are standing in the way of optimal PA utilization.

The AAPA understands the mission of the board is to protect the public and the AAPA has a deep appreciation of the role of regulators. As PAs we are equally committed to protecting our patients and the public which goes hand in hand to improving the health of our patients. In 2016 the Federal Trade Commission (FTC) recommended that state legislators, regulators and policy decision-makers carefully evaluate whether purported safety justifications are well-founded. They recommend considering whether less restrictive alternatives would protect patients without imposing undue burdens on competition and undue limits on patient care access to health care services. The FTC also noted that state laws requiring PAs to practice under the supervision of physicians inherently give supervising physicians control over the PAs ability to access the healthcare marketplace.
Ms. Curtis itemized the following key elements of modern PA practice as a partial way to measure how well each state allows full utilization of PAs: using licensure as a regulatory term for the profession, authorizing full prescriptive authority for PAs, allowing scope and collaboration details and chart review policies to be determined at the practice level and allowing physicians to work with the number of PAs that is appropriate for the practice setting. To date seven states have enacted all key elements and more than thirty states have enacted at least four of the key elements. California has enacted four key elements licensure, full prescriptive authority and scope and collaboration or supervision are determined at the practice level. California statutes restrict physicians to working with up to four PAs at one time as well as contain chart co-signature and chart review requirements which takes away important time from the ability to care for patients.

AAPA’s new policy seeks changes to laws and regulations that would emphasize PAs commitment to team practice with the degree of collaboration determined at the practice level, that would eliminate legal requirements for a PA to have a specific relationship with a physician in order to practice, that would authorize PAs to be directly reimbursed by all public and private insurers and that would create autonomous majority PA boards to regulate PA practice or give that authority to healing arts and medical boards with PAs as members. The adoption of the new AAPA policy in May of 2017 resulted in several questions one of which is whether the new policy will allow an inexperienced PA to practice independently. AAPA responded that these guidelines describe a system that requires PAs to practice within the limits of their education, experience and standard of care, and to collaborate, consult with and refer to physicians and others as required. The regulation of PA practice is best served by state regulatory boards where a majority of the board members are also members of the profession. Twenty-six states currently have separate PA boards or PAs as voting members on the state medical board. The FTC has responded positively to AAPA’s new policy.

California does not meet AAPAs recommended policy that PAs be responsible for the care they provide as California regulations state that supervising physicians are responsible for all medical services provided by a PA nor does California state law authorize direct reimbursement for PAs.

Modernizing PA practice laws and regulations is one of AAPA’s main priorities other issues include: 1) actively working with the Federation of State Licensing Boards to enhance license portability for PAs by exploring development of interstate medical licensure compact and launching a uniform licensure application for PAs, 2) harmonization acts which is legislation that adds PAs to areas of law where physicians and other providers are currently included and PAs should be specifically named and 3) working with partner organizations to assure accountability for promises that they’ve made to our profession.

AAPA remains in communication with NCCPA on two important issues 1) finding alternatives to high-stakes recertification testing and 2) repealing state laws and regulations that tie a PA’s current certification to license renewal. AAPA has both contracted with a highly respected unbiased independent research organization to identify evidence-based alternatives to high-stakes PA recertification testing and researched establishing an alternative certifying body for PAs. After a significant amount of research and evaluation, listening to our PA colleagues, our members
and our delegates at our House of Delegates, the AAPA has decided not to pursue establishing an alternate certifying organization at this time.

In response to Mr. Martinez's question of why AAPA decided not to pursue an alternative certifying body Ms. Curtis responded that it was a yearlong process of studying what it took to set up a new agency, how long it would take for a new agency to be up and running and were there opportunities to work with the already established agency. She said the NCCPA backed down from all of their proposed changes, communication continued and the NCCPA is hearing what PAs across the nation are saying and how they feel so the AAPA decided to take no action at this time.

In response to Mr. Grant's question of if data exists showing any adverse effect on patient safety or any positive effect on patient access to care for the states that changed their co-signature requirements, Ms. Curtis responded that there isn't any evidence-based data that shows that co-signature improves patient safety or patient care and she isn't aware of any adverse effects. Studies are available on the AAPA's website regarding the actual metrics and data.

In response to Ms. Earley's question on whether the AAPA's published their study findings regarding their decision, Ms. Curtis stated that the AAPA met with the National Commission for Certifying Agencies (NCCA), which certifies certifying bodies, and discussed what it takes to stand up a new body, calls were made to AAPA members, discussions were held in the House of Delegates, AAPA provided an opportunity for people to comment on their website but other than a membership study it was mostly discussions and no written documentation.

In response to Mr. Alexander question regarding the diversity make up of AAPA and what efforts are being made by the AAPA to encourage states, schools and organizations to increase diversity of PAs within our nation, Ms. Curtis stated AAPA has a very active diversity caucus and is one of the strategic elements in the strategic plan for AAPA.

PETITION FOR EARLY TERMINATION HEARING

The following petition hearing was held before the Board:

Petition for Early Termination of Probation – James Paul Ressler, PA 11610, Case No.950-2016-001018

7. CLOSED SESSION:

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

RETURN TO OPEN SESSION

8. Discussion and Possible Action Regarding Amending Title 16, California Code of Regulations, Section 1399.507 – Examination Required; Additional Certification National Agency
Mr. Sachs stated that during a previous California Academy of PAs (CAPA) conference, the president of the American Academy of Physician Assistants (AAPA) announced that the AAPA was going to explore creating a new certifying organization to remove the monopoly by the National Commission on Certification of Physician Assistants (NCCPA); AAPA has decided not pursue this avenue.

Mr. Grant stated that he is in favor of changing the current regulation language to allow for another certifying body if one becomes available in the future. Ms. Earley also supports this idea.

Ms. Schieldge stated that the way the statutory and regulatory processes work together is that a statute gives you a grant of general authority and then the regulation explains which examination the board designates as the examination to be taken. Criteria for adopting regulations includes meeting a standard called the "necessity standard"; the board needs to be able to meet a requirement that is currently in existence. Ms. Schieldge stated the problem she is seeing with the proposed change is there isn't a necessity at this point because there isn't another examination that the board can designate; the only entity that has developed an examination is the NCCPA.

Ms. Schieldge explained that the California Business and Professions Code requires that all professional examinations meet certain legal requirements, one of which is that the examination is valid, the examination is validated by a psychometrician to demonstrate that it is legally defensible. She stated that in order to adopt a regulation that states "or other examination" the board would first 1) have to have another examination and 2) have the examination validated. Ms. Schieldge advised that it may be premature to amend the language in Title 16, California Code of Regulations (CCR) section 1399.507 until the board has another validated examination option.

Public comment: Gaye Breyman, Executive Director, California Academy of PAs (CAPA) commented that there is a need to get this done now to protect consumers and licensees. Due to the length of time it takes for regulations to be reviewed why not get the regulation ready so everyone is protected if something happens with the NCCPA.

Denis Heitich, Psychiatric PA, CAQ Psychiatry in Northern California, Mt. Shasta, and agrees with Gaye Breyman's comments regarding a backup plan. He stated while on a voluntary advisement committee to the NCCPA, the NCCPA stated that there is a vast difference between nurse practitioners (NP) and PAs. He graduated from UC Davis with classmates who are nurse practitioners; there is not a vast difference. He is interested in having another plan in the chamber and ready to go.

Brian O'Bannon, PA and former Board member, stated it definitely seems like there is room for growth. As it's a challenge to find a new organization, he would strongly encourage the board to look and cultivate that in our local organizations and AAPA.

Teresa Anderson, Public Policy Director, California Academy of PAs (CAPA) questioned that the language of BPC 3517 states "the board may make those arrangements with organizations furnishing examination" and questioned if an alternative examination, other than the NCCPA, were to become available and meets the current law requirements would it be permissible and fall under the
umbrella of BPC 3517. Ms. Anderson commented that BPC 3517 authorizes an organization that has met those standards whereas the regulation specifies the organization. Ms. Anderson asked what would happen if the NCCPA was no longer available to offer the examination, would the test then be valid.

Ms. Schieldge responded that the section on validation is in section 139 of the BPC and states that all of the examinations in the department have to go through a rigorous validation process which includes a psychometrician evaluation. BPC 3517 provides a general grant of authority to do the designation at any time. In an emergency situation, there is power to adopt emergency regulations that are effective within 10 days of filing with the Office of Administrative Law (OAL). Ms. Schieldge advised another option for the board to consider is developing their own exam. She stated the board would need to review any examination to determine if the exam meets their needs for validating an individual's competency for practicing at the minimum level and then move forward with a regulatory proposal that would include substituting the new examination for the current examination.

Mr. Grant stated his understanding of section 1399.50 and the underlying BPC is that the board is accepting the NCCPA as the organization that administers the test, a test that the board voted on and accepted the psychometric data; he is hopeful to not change the examination but the organization that administers the examination. He expressed concern for the monopoly that the NCCPA has and their inordinate amount of control over California licensees and how they are practicing medicine. He would like to open the door so if another organization does develop an examination the board would be able to evaluate its psychometric viability. Mr. Grant stated he would like the opportunity to talk to the OAL and explain the board’s position as he feels it would enhance consumer protection because the board would have options if the test becomes unavailable.

Ms. Schieldge stated that there isn’t a preclusion in BPC 3517. There is a provision in the Open Meeting Act that allows the board to have closed session discussion about examinations; so, if another examination becomes available the board could discuss it in closed session to see if it meets their needs. Ms. Schieldge stated she is concerned about amending the regulatory language to state “or other national certifying agency approved by the board” because there isn’t another agency. There would also be a clarity problem because people would be confused and misled into believing that there is another pathway besides the NCCPA examination when in fact there is not. Ms. Schieldge explained that under those two standards the board probably would not get a regulatory change through at this time.

Ms. Schieldge stated that statutes can be vague and broad; whereas, regulations cannot be general, vague, unclear or uncertain. She stated the statute allows for another examining organization and when another organization becomes available then the regulation can be amended.

Ms. Hazelton stated that she doesn’t support moving forward with changing the regulation until a new examining body or examination becomes available. Based on legal counsel’s advice she is less inclined to designate a notable amount of staff’s time to an activity that is unlikely to result in a change.

Mr. Sachs expressed concern regarding the length of time it takes to move both new regulations and amended regulations through the department for approval. He
stated that moving forward with amending the regulation may impact the NCCPA regarding the board's position.

In response to Mr. Martinez's question regarding the emergency process to change the regulation, Ms. Schieldge stated text would be drafted to initiate an emergency rulemaking, it is filed and OAL has five days to review it and either approve or disapprove the text. If approved, it becomes effective ten days later. The board then has 180 days to begin the regular rulemaking process. An additional option is to request an urgency bill through the Legislature.

M/ Jed Grant S/ Jennifer Carlquist to:

To amend the current regulation to read "or another board approved certifying body".

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Motion fails for lack of a majority.

Mr. Martinez requested to have the subject matter of agenda item eight added to a future agenda to allow for additional discussion.

9. Education/Workforce Development Advisory Committee

Mr. Grant reported that currently there are fourteen PA programs in California, one additional PA program is in development and one existing PA program is on probation.

California offers fourteen accredited programs of the 250 programs available in the United States; nine of the California PA programs are located in the Los Angeles area, four of the PA programs are located in the Bay Area and two of the PA programs are located in the Sacramento area which includes the Central Valley and rural areas.

The average cost for a PA program is $101,533, all of the programs are graduate degree programs that offer master’s degrees, the programs are operating at capacity and graduate 603 new PAs in California every year. This gives an idea of the workforce growing within the state and that individuals who train here tend to stay in California. Accreditation is a rigorous process that involves many requirements. During provisional accreditation programs can't add seats, once the program is no longer provisional the decision to add additional seats is up to the accrediting body but there is no guarantee.
10. Discussion and Possible Action Regarding Change the October 16th Meeting Date

Ms. Forsyth asked the board to consider changing the October 2017 board meeting from October 16th to either Monday, October 30th or Monday, November 6th. The Medical Board of California’s next board meeting is currently scheduled for October 26th and 27th and usually PAB meeting is held after the Medical Board’s meeting.

M/ Jed Grant S/ Catherine Hazelton to:

To move the October 16, 2017 Board meeting to October 30, 2017.

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<th>No</th>
<th>Abstain</th>
<th>Absent</th>
<th>Recusal</th>
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</tr>
<tr>
<td>Jennifer Carlquist</td>
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<td>Jed Grant</td>
<td>X</td>
<td></td>
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<tr>
<td>Catherine Hazelton</td>
<td>X</td>
<td></td>
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<td>Xavier Martinez</td>
<td>X</td>
<td></td>
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<td>Robert Sachs</td>
<td>X</td>
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</tr>
<tr>
<td>Mary Valencia</td>
<td>X</td>
<td></td>
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</tr>
</tbody>
</table>

Motion approved.

11. Department of Consumer Affairs – Directors Update
No update.

12. Regulations
Ms. Forsyth stated that currently the Board is currently processing seven regulations the majority of which are at the Department of Consumer Affairs, the following updates were provided:

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.545 – Supervision Required

The proposed language is being tabled to allow the Board’s new legal counsel an opportunity to perform a review.

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.573 – Citations for Unlicensed Practice.

Ms. Schieldge stated that Business, Consumer Services, and Housing Agency (BCSHA) had concerns with the language which was resolved; approval has been given to file the package once the initial statement of reasons is amended and resubmitted.
Discussion and Possible Action Regarding Failure to Respond to Board’s Continuing Medical Education (CME) Audit Letter, and Proposed Amendments to Title 16, California Code of Regulations, Section 1399.617

Ms. Schieldge stated that the board’s options are to either initiate a rulemaking based on the suggested language or table it until the board has another nationally recognized certifying body.

Additional discussion prompted the Board to request that staff bring this item back to the Board with a thorough explanation of the changes which would include what issues caused the changes, summarizes each subdivision change and options for what to do with the regulation package.

13. Developments Since the February 2015 United States Supreme Court decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission (FTC)

Ms. Schieldge stated that in March the Federal Trade Commission announced the creation of an Economic Liberty Task Force that is designed to examine and review major issues resulting from this Supreme Court decision and also to examine ways for helping boards in various states address competition issues. The task force first met on July 27, 2017, in Washington DC, to highlight approaches that make it easier for workers and state laws licensed occupations to offer their services across state lines or move between states. The portability issue discussed at the first roundtable included barriers to entry raised by cross state occupational licensing requirements, the laws of interstate compacts, licensing portability mechanisms, the status and effectiveness of interstate licensing compacts, state based initiatives to improve the portability of licenses held by military service members and their spouses and the potential impact of portability measures on licensing mobility on market entry provider supply and competition. Additional roundtables are planned. Ms. Schieldge stated she will continue to monitor the roundtable discussions.

14. Medical Board of California Activities

Mr. Sachs announced that Dr. Bishop would no longer be a Board member of the Physician Assistant Board as a result of his retirement from the University of San Diego. The position he held on the California Medical Board was a physician in academic medicine so as a result he was not reappointed by the Governor’s office and subsequently can no longer serve on the Physician Assistant Board. Mr. Sachs stated that the Governor’s office has yet to appoint a new physician member from the California Medical Board to the Physician Assistant Board. Mr. Sachs praised Dr. Bishop service to the Physician Assistant Board and stated that he was a wonderful advocate for the Physician Assistant Board with the California Medical Board.

15. Report by the Legislative Committee; Discussion and Possible Action

Ms. Hazelton stated of the bills discussed in the prior Board meeting three continue to move forward:

- AB 40 (Santiago) CURES database: health information technology system
  This bill would make it easier for PA and other medical professionals to access CURES by allowing for the integration of CURES information into
existing software that is used or the creation of new software. A number of amendments have been made to the bill to address privacy protection. This bill remains on track.

- **AB 44 (Reyes) Worker’s compensation: medical treatment: terrorist attacks: workplace**
  No update but this remains on track.

- **AB 508 (Santiago) Health care practitioners: student loans**
  This bill would repeal an existing authority that any licensing board has to cite and fine a practitioner for being in default of their federal education loans. According to staff this bill would not affect our board.

In response to Mr. Martinez’s question on how the board determines which bills to review, Ms. Hazelton stated bills are identified by staff and staff’s primary source is DCA but other sources include CAPA, allies and colleagues.

In response to Ms. Schieldge’s request for a status update on SB 554 Buprenorphine prescriptions, Ms. Hazelton stated that the bill is almost ready to be reviewed by the Governor. Ms. Schieldge stated that if this bill is signed it would change the PAB’s statutory requirements and advanced approval would not be required.

Public comment: Teresa Anderson, Public Policy Director, California Academy of PAs (CAPA) stated that CAPA is in support of SB 544; the bill aligns federal and state laws regarding Buprenorphine.

**16. Agenda Items for Next Meeting**

1) SB 244; if the bill continues to move forward
2) Business and Professions Code 3517
3) Budget Update
4) Medical Board Activities
5) North Carolina State Board of Dental Examiners v. Federal Trade Commission update
6) Elections
7) Department of Consumer Affairs report
8) Education Workforce Committee update
9) Meeting locations for the 2018 Board meetings

**17. Adjournment**

With no further business the meeting was adjourned at 1:37 P.M.

Minutes do not reflect the order in which agenda items were presented at the Board meeting.
AGENDA
ITEM 6
### Date Range: Between Jul 28, 2017 12:00 AM and Oct 10, 2017 11:59 PM

Run Date: Oct 11, 2017

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<th>Transaction Description</th>
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<tr>
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Pending Application Workload

Physician Assistant Board

Application Deficiency: Show All
Paid Applications Only: No
Include External Staff: Yes

Click here for complete raw data extract

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<td>128</td>
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<td>192</td>
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<tr>
<td>Overall - Total</td>
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Application Age (Days)

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<tr>
<td>Overall - Total</td>
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<td>116</td>
<td>29</td>
<td>17</td>
<td>31</td>
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Oct 11, 2017
PHYSICIAN ASSISTANT BOARD
DIVERSION PROGRAM

ACTIVITY REPORT

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

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<th>As of October 1, 2017</th>
<th>As of October 1, 2016</th>
<th>As of October 1, 2015</th>
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<td>Voluntary referrals</td>
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<td>05</td>
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<tr>
<td>Total number of</td>
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HISTORICAL STATISTICS
(Since program inception: 1990)

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<td>Total intakes into program as of October 1, 2017:</td>
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<td>Closed Cases as of January 1, 2017</td>
<td></td>
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<tr>
<td>• Applicant Not Accepted</td>
<td>2</td>
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<tr>
<td>• Applicant Public Risk</td>
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<tr>
<td>• Applicant Withdrawn</td>
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<tr>
<td>• Clinically Inappropriate</td>
<td>21</td>
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<tr>
<td>• Completed</td>
<td>48</td>
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<tr>
<td>• Not eligible</td>
<td>2</td>
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<tr>
<td>• Terminated</td>
<td>25</td>
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<td>• Withdrawn</td>
<td>13</td>
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<td>Total closed cases</td>
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<td>Complaints - Intake</td>
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<tr>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td>89 RECEIVED</td>
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<tr>
<td>0 CLOSED WITHOUT REFERRAL FOR INVESTIGATION</td>
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</tr>
<tr>
<td>90 REFERRED FOR INVESTIGATION</td>
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<tr>
<td>10 PENDING</td>
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<th>Office of Attorney General Cases</th>
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<tr>
<td>6 CASES INITIATED</td>
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<td>41 CASES PENDING</td>
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<th>Current Probationers</th>
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<td>53 ACTIVE</td>
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<td>7 TOLLING</td>
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<th>Formal Actions Filed/Withdrawn/Dismissed</th>
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<td>0 ACCUSATION AND/OR PETITION TO REVOKE PROB. FILED</td>
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<tr>
<td>0 PETITION TO COMPEL PHYSICAL/PSYCHIATRIC EXAM</td>
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<table>
<thead>
<tr>
<th>Administrative Outcomes/Final Order</th>
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<tbody>
<tr>
<td>0 LICENSE APPLICATION DENIED</td>
</tr>
<tr>
<td>3 PROBATION</td>
</tr>
<tr>
<td>1 PUBLIC REPRIMAND/REPROVAL</td>
</tr>
<tr>
<td>0 REVOCATION</td>
</tr>
<tr>
<td>2 SURRENDER</td>
</tr>
<tr>
<td>2 PROBATIONARY LICENSE ISSUED</td>
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<tr>
<td>0 PETITION FOR REINSTATEMENT DENIED</td>
</tr>
<tr>
<td>0 PETITION FOR REINSTATEMENT GRANTED</td>
</tr>
<tr>
<td>0 PETITION FOR TERMINATION OF PROB. DENIED</td>
</tr>
<tr>
<td>0 PETITION FOR TERMINATION OF PROB. GRANTED</td>
</tr>
<tr>
<td>0 OTHER</td>
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<table>
<thead>
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<th>Citations and Fines</th>
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<tr>
<td>$500 FINES DUE FROM PREVIOUS QTR.</td>
</tr>
<tr>
<td>5 ISSUED</td>
</tr>
<tr>
<td>3 CLOSED</td>
</tr>
<tr>
<td>0 WITHDRAWN</td>
</tr>
<tr>
<td>0 SENT TO AG/NONCOMPLIANCE</td>
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<tr>
<td>4 PENDING</td>
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<td>$600 FINES RECEIVED</td>
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<td>$1,350 FINES DUE</td>
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### Physician Assistant Board
#### Complaints Received by Type and Source

#### Fiscal Year 2016-2017

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<th>Health &amp; Safety</th>
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<th>Gross Negligence/Incompetence</th>
<th>Other Category</th>
<th>Personal Conduct</th>
<th>Unprofessional Conduct</th>
<th>Unlicensed/Unregistered</th>
<th>Total</th>
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<td>0</td>
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#### Fiscal Year 2015-2016

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<th>Personal Conduct</th>
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#### Fiscal Year 2014-2015

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<th>Other Category</th>
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NCCPA Exam Development and Scoring

NCCPA's exam questions are developed by committees comprising 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 80.

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.
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 2018 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 2018.

Dates: The examination is given on a year-round basis. There will be no testing December 17-31, 2018.

Locations: Pearson VUE Professional Centers.
AGENDA

ITEM 9
### PHYSICIAN ASSISTANT BOARD TENATIVE MEETING DATES FOR 2018

<table>
<thead>
<tr>
<th>Date and Day</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday - January 22</td>
<td>Sacramento</td>
</tr>
<tr>
<td>Monday - April 23</td>
<td>Sacramento</td>
</tr>
<tr>
<td>Monday - July 30</td>
<td>Los Angeles</td>
</tr>
<tr>
<td>Friday - August 10</td>
<td>San Diego</td>
</tr>
<tr>
<td>Monday - October 29</td>
<td>Sacramento</td>
</tr>
<tr>
<td>Monday - November 5</td>
<td>Sacramento</td>
</tr>
</tbody>
</table>

### MEDICAL BOARD OF CALIFORNIA MEETING DATES FOR 2018

<table>
<thead>
<tr>
<th>Date and Day</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 18-19</td>
<td>Sacramento</td>
</tr>
<tr>
<td>April 19-20</td>
<td>Los Angeles</td>
</tr>
<tr>
<td>July 26-27</td>
<td>San Francisco</td>
</tr>
<tr>
<td>October 18-19</td>
<td>San Diego</td>
</tr>
</tbody>
</table>
AGENDA
ITEM 10
Financial Incentives for Physicians to Supervise PAs are Changing

Less than Half of Physicians Own Practices

- 76.1% of Physicians Were Practice Owners in 1983
- 47.1% of Physicians Were Practice Owners in 2016

38% Decrease in % of Physicians Who Own Practices from 1983 to 2016

Physicians Are Increasingly Reluctant to Enter Into Supervisory Agreements With PAs

Physicians who are employees don’t want to accept liability for the PA because...

- PA brings in more business
- Having a PA in the practice brings no personal financial benefit to them as employees

Laws in Many States Do Not Require NPs to Have a Supervisory Agreement

<table>
<thead>
<tr>
<th>Number of States Where NPs Have Full Practice Authority by Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
</tr>
<tr>
<td>2014</td>
</tr>
<tr>
<td>2012</td>
</tr>
<tr>
<td>1998</td>
</tr>
<tr>
<td>1990</td>
</tr>
</tbody>
</table>

Community Health Center CEOs Make PA vs NP Hiring Decisions Based on Practice Laws

- Broader PA and NP Authority
- Increases Access to Care
- Doesn’t Diminish Quality of Care
- Can Reduce Cost of Healthcare

PA Experiences Validate Marketplace Obstacles

45% of PAs say they have personally experienced NPs being hired over PAs due to supervision requirements

©American Academy of PAs 2017
AAPA
The New Policy Calls for Laws and Regulations that:

- **Emphasize PAs' commitment to team practice** with the degree of collaboration determined at the practice level.
- **Eliminate legal requirements** for PAs to have a specific relationship with a physician in order to practice.
- **Authorize PAs to be directly reimbursed** by all public and private insurers.
- **Create autonomous majority-PA boards** to regulate PAs, or give that authority to healing arts or medical boards that have as members both PAs and physicians who practice with PAs.

The updates to AAPA policy represent a natural evolution of the PA profession. Patients, especially in rural and underserved areas, will benefit from greater access to the high quality care that PAs provide.

~ Bill Finerfrock, Executive Director, National Association of Rural Health Clinics

**New Policy is Good for Everyone**

- **Patients** will have greater access to healthcare.
- **Physicians** will be relieved of unnecessary administrative and legal burdens.
- **PAs** will be able to practice to the full extent of their education, training, and experience.

**Next Steps?**

- State PA chapters will decide whether and when to pursue changes to state laws and regulations.
- AAPA will lay the groundwork and advocate for statutory changes to Medicare to authorize direct PA reimbursement and eliminate physician supervision language in the definition of PA services.

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Discussion Regarding Proposed Language
CCR Section 1399.545 - Supervision Required

Presented by: Anita Winslow, Analyst
Date: October 30, 2017

Purpose of the Item

The purpose of this agenda item is to present the Physician Assistant Board (Board) with information regarding proposed language to amend section 1399.545 of Article 1 of Division 13.8 of the California Code of Regulations regarding supervision requirements for physician assistants.

Action Needed

Staff is seeking the Board's approval of the proposed language and to begin the rulemaking process.

Background/Problem Addressed

Existing regulations at Title 16, California Code of Regulations section 1399.545 set forth the minimum requirements for adequate supervision by a supervising physician. Business and Professions Code (BPC) sections 3502 and 3502.1 were amended in 2016 with the implementation of SB 337, which included changes to supervision requirements for physician assistants. Among other things, this bill recast requirements for documenting supervision by the supervising physician using one or more mechanisms, and recast prescribing provisions, including setting forth a new mechanism for how a supervising physician ensures adequate supervision of the administration, provision or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances.

Staff have received numerous questions from licensees regarding the apparent inconsistencies between Section 1399.545's requirements and BPC 3502's standards. In comparing the amendments enacted by SB 337 to the current regulatory requirements, staff have determined that Section 1399.545 needs to be amended to eliminate duplicative and inconsistent provisions and to reflect all mechanisms available under current law for supervising a physician assistant. The proposed text is being provided as an attachment to this memo.

Changes

Based upon the foregoing issues, staff propose the following changes:

New subsection (e)(1) added the supervising mechanisms for PAs who have been delegated authority to administer, provide, or issue a Schedule II drug order in accordance with BPC section 3502.1.
New subsection (e)(2) one or more of the following mechanisms:
New subsection (e)(2)(A) existing sentence “Examination of the patient...”
New subsection (e)(2)(B) existing sentence “Countersignature and dating of all medical records...”
New subsection (e)(2)(C) add sentence “Any mechanism authorized by Section 3502 of the Code; or”
Subsection (4) changed to subsection (e)(2)(D) and add the words “and in writing” to ensure that the board can evaluate other mechanisms the supervising physician might want to use.

Fiscal/Economic Impact Considerations

Current law at BPC sections 3502 and 3502.1 has already been enacted to implement the substantive changes to supervision requirements reflected in this proposal. As this proposal is only eliminating
duplicative and inconsistent provisions and updating the current regulation to reflect these already enacted requirements, there is no fiscal or economic impact expected.

Recommendation

Staff recommends that the Board approve the proposed language and have staff start the rulemaking process. However, if the Board would like to make any suggestions or changes regarding the proposal, Staff will incorporate those changes and bring the revised proposal to the Board for consideration.

Motion

Option #1:

Approve the proposed regulatory text for section 1399.545, direct staff to submit the text to the Director of the Department of Consumer Affairs and the business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

OR

Option #2:

Approve the proposed regulatory text as amended

For section 1399.545, direct staff to submit the text to the Director of the Department of Consumer Affairs and the business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.
Proposed Language (with changes incorporated)

1399.545 Supervision Required
(a) A supervising physician shall be available in person or by electronic communication at all times when the physician assistant is caring for patients.
(b) A supervising physician shall delegate to a physician assistant only those tasks and procedures consistent with the supervising physician's specialty or usual and customary practice and with the patient's health and condition.
(c) A supervising physician shall observe or review evidence of the physician assistant's performance of all tasks and procedures to be delegated to the physician assistant until assured of competency.
(d) The physician assistant and the supervising physician shall establish in writing transport and back-up procedures for the immediate care of patients who are in need of emergency care beyond the physician assistant's scope of practice for such times when a supervising physician is not on the premises.
(e) A physician assistant and his or her supervising physician shall establish in writing guidelines for the adequate supervision of the physician assistant which shall include:
(1) one of the supervision mechanisms authorized by Section 3502.1 of the Code if the physician assistant has been delegated authority to administer, provide or issue a drug order to a patient for Schedule II controlled substances, and,
(2) one or more of the following mechanisms:
(A) Examination of the patient by a supervising physician the same day as care is given by the physician assistant;
(B) Countersignature and dating of all medical records written by the physician assistant within thirty (30) days that the care was given by the physician assistant;
(C) Any mechanism authorized by Section 3502 of the Code; or,
(D) Other mechanisms approved in advance and in writing by the board.
(f) The supervising physician has continuing responsibility to follow the progress of the patient and to make sure that the physician assistant does not function autonomously. The supervising physician shall be responsible for all medical services provided by a physician assistant under his or her supervision.
PROPOSED LANGUAGE

Amend section 1399.545 of Article 1 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

1399.545. Supervision Required.

(a) A supervising physician shall be available in person or by electronic communication at all times when the physician assistant is caring for patients.
(b) A supervising physician shall delegate to a physician assistant only those tasks and procedures consistent with the supervising physician’s specialty or usual and customary practice and with the patient’s health and condition.
(c) A supervising physician shall observe or review evidence of the physician assistant’s performance of all tasks and procedures to be delegated to the physician assistant until assured of competency.
(d) The physician assistant and the supervising physician shall establish in writing transport and back-up procedures for the immediate care of patients who are in need of emergency care beyond the physician assistant’s scope of practice for such times when a supervising physician is not on the premises.
(e) A physician assistant and his or her supervising physician shall establish in writing guidelines for the adequate supervision of the physician assistant which shall include:
   (1) one of the supervision mechanisms authorized by Section 3502.1 of the Code if the physician assistant has been delegated authority to administer, provide or issue a drug order to a patient for Schedule II controlled substances, and,
   (2) one or more of the following mechanisms:
      (1A) Examination of the patient by a supervising physician the same day as care is given by the physician assistant;
      (2B) Countersignature and dating of all medical records written by the physician assistant within thirty (30) days that the care was given by the physician assistant;
      (3C) Any mechanism authorized by Section 3502 of the Code; or, The supervising physician may adopt protocols to govern the performance of a physician assistant for some or all tasks. The minimum content for a protocol governing diagnosis and management as referred to in this section shall include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be given the patient. For protocols governing procedures, the protocol shall state the information to be given the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the follow-up care. Protocols shall be developed by the physician, adopted from, or referenced to, texts or other sources. Protocols shall be signed and dated by the supervising physician and the physician assistant.
      (4D) Other mechanisms approved in advance and in writing by the board.
   (f) The supervising physician has continuing responsibility to follow the progress of the patient and to make sure that the physician assistant does not function autonomously. The supervising
physician shall be responsible for all medical services provided by a physician assistant under his or her supervision.

Purpose of the Item

The purpose of this agenda item is to present the Physician Assistant Board (Board) with information regarding proposed language to amend section 1399.617 of Article 1 of Division 13.8 of the California Code Regulation, relating to audits and proof of compliance with the Board's continuing medical education requirements.

Action Needed

Staff is seeking the Board's approval of the proposed language and to begin the rulemaking process.

Background/Problem Being Addressed

Under current regulations, physician assistant continuing medical education (CME) requirements may be met by completing 50 hours of continuing medical education every two years or demonstrating certification by the National Council on Certification of Physician Assistants (NCCPA), which also requires CME to maintain. The Board is authorized by Title 16, California Code of Regulations section 1399.617 to audit a random sample of physician assistants who have reported compliance with CME. In the Board's 2012 Sunset Review response to issues raised by legislative staff in the Board's background paper, it was reported that the Board planned to conduct CME audits on a scheduled basis to ensure compliance.

Staff have since randomly selected licensees who self-certify CME compliance on their renewal applications. Staff have sent out contact letters asking the licensees to either send in their CME documentation or ask NCCPA to send a verification that they have maintained their certification. However, in the most recent audits conducted by staff, licensees have failed to respond to the audit inquiry or to provide complete or accurate information when requested, which is not expressly prohibited conduct under the current regulation. The current regulations also do not require licensees to respond to a board inquiry within a certain time frame (65 days is proposed) or make it unprofessional to fail to provide accurate or complete information in response to a board inquiry.

In addition, there appears to be confusion over how to count hours earned to make up any deficiency uncovered by an audit when hours are earned in the next renewal cycle. Section 1399.617 specifies only what the licensee must do if they have not completed the required amount of CMEs during their previous renewal cycle and directs them to "make up any deficiency during the next renewal period." It does not clarify that hours required to be earned to make up any deficiency in CME cannot be counted towards compliance with the current or next biennial renewal period. Staff are proposing that the Board amend the text as set forth in the attachment to help address these audit and compliance issues.

Proposed Changes

The following changes are being proposed to address the aforementioned issues:

- Subsection (a) – include statement that licensee must respond to the inquiry of CME compliance; include the amount of time (65 days) in which they have to comply with the request.
- Subsection (b) – include the statement for failure to provide accurate or complete compliance.
Subsection (c) – include the statement that the deficient hours made up cannot be used for the current renewal cycle.

Fiscal/Economic Impact Considerations

Current regulations at Title 16, California Code of Regulations Section 1399.571 authorize the Board’s Executive Officer to issue a citation, fine and order of abatement for violation of any board regulation. The fines may range from $100 to $5,000. Historically, the Board has issued citations with an average fine in the amount of $500 for these types of violations.

Since the implementation of the most recent audit in October 2016 through August 2017 the Board has 17 licensees who have not responded to the audit. With the implementation of this regulation the Board would have an additional estimated revenue of $8500. The Board has also issued 5 cite and fines in the amount of $500 for licensees who have failed the audit, or who completed their CMEs after they received the audit letter (which means they answered the CME question on their renewal incorrectly).

A study was done of other states and their penalties for noncompliance. The states listed are those that staff was able to obtain information from their website:

- Texas: Public Reprimand and $500 fine.
- New Mexico: Letter of Reprimand and $500 fine.
- Ohio: 1st Offense – Public Reprimand and fine from $1000-$5000; indefinitely suspend license until all CME hours are completed.
  2nd Offense – Fine from $3000-$5000; suspension of license ranging from 60-90 days.
- Maryland: Administrative fine $500.
- South Caroline: If documentation not received within 10 days of submittal deadline – issues a Cease and Desist Order.
  1st Offense – Public Reprimand, $1000 fine (can be negotiated to $500)
  2nd Offense – Public Reprimand, $2000 fine (can be negotiated to $1500)
- Kentucky: Charges licensee $100 fee to request an extension to complete CME requirement. If an extension is not requested and the licensee does not comply with the audit, the licensee is issued a fine of $200 and given 6 months to comply. If licensee fails to comply within 6 months, license is immediately suspended.

Recommendation

Staff recommends that the Board approve the proposed language and have staff start the rulemaking process. However, if the Board would like to make any suggestions or changes regarding the proposal, Staff will incorporate those changes and bring the revised proposal to the Board for consideration.
Motion

Option #1

Approve the proposed regulatory text for section 1399.617, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

OR

Option #2

Approve the proposed regulatory text as amended:

For section 1399.617, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Proposed Language (as it will read)

1399.617. Audit and Sanctions for Noncompliance
(a) The board may audit a random sample of physician assistants who have reported compliance with the continuing medical education requirement. Those physician assistants selected for audit shall be required to document their compliance with the continuing medical education requirements of this article and shall be required to respond to any inquiry by the board regarding compliance with this article or provide to the board the records retained pursuant to subdivision (e) of section 1399.615 within 65 days of the board’s request, except that a physician assistant who complies with the continuing medical education requirements of certification by the National Commission on Certification of Physician Assistants need not provide such records if the board may obtain the records directly from the Commission. If the board is unable to obtain such records from the Commission, the physician assistant shall provide the board with the certification records within 65 days of the board’s request.
(b) It shall constitute unprofessional conduct for any physician assistant to fail to provide accurate or complete information in response to a board inquiry, or to misrepresent his or her compliance with the provisions of this article.
(c) In addition to any enforcement action, any physician assistant who was found not to have completed the required number of hours of approved continuing medical education or was found not to hold a valid certification from the National Commission on Certification of Physician Assistants at the time of renewal will be required to make up any deficiency during the next biennial renewal period. The hours earned to make up the deficiency shall not be counted towards compliance with the next biennial renewal period. Such physician assistant shall document to the board the completion of any deficient hours identified by the audit. Any physician assistant who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to perform medical services until such time as the deficient hours of continuing medical education are documented to the board.
Proposed Language

1399.617. Audit and Sanctions for Noncompliance
(a) The board may audit a random sample of physician assistants who have reported compliance with the continuing medical education requirement. Those physician assistants selected for audit shall be required to document their compliance with the continuing medical education requirements of this article and shall be required to respond to any inquiry by the board regarding compliance with this article or provide to the board the records retained pursuant to subdivision (e) of section 1399.615 within 65 days of the board's request, except that a physician assistant who complies with the continuing medical education requirements of certification by the National Commission on Certification of Physician Assistants need not provide such records if the board may obtain the records directly from the Commission. If the board is unable to obtain such records from the Commission, the physician assistant shall provide the board with the certification records within 65 days of the board's request.
(b) It shall constitute unprofessional conduct for any physician assistant to fail to provide accurate or complete information in response to a board inquiry, or to misrepresent his or her compliance with the provisions of this article.
(c) In addition to any enforcement action, any physician assistant who was found not to have completed the required number of hours of approved continuing medical education or was found not to hold a valid certification from the National Commission on Certification of Physician Assistants at the time of renewal will be required to make up any deficiency during the next biennial renewal period. The hours earned to make up the deficiency shall not be counted towards compliance with the next biennial renewal period. Such physician assistant shall document to the board the completion of any deficient hours identified by the audit. Any physician assistant who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to perform medical services until such time as the deficient hours of continuing medical education are documented to the board.

<table>
<thead>
<tr>
<th>Regulation Number</th>
<th>Title</th>
<th>Action</th>
<th>Description</th>
<th>45-Day to OAH Approval</th>
<th>45-Day from Agency</th>
<th>OAH 45-day Notice</th>
<th>Hearing Date</th>
<th>Final Agency Review</th>
<th>OAH Final Filing</th>
<th>Effective Date</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1399.514</td>
<td>Renewal of License</td>
<td>Amend</td>
<td>Increases violation reporting threshold to $500.</td>
<td>5/15/2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>In review with budget and legal.</td>
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<td>1399.515</td>
<td>Retirement Status</td>
<td>Adopt</td>
<td>Allows for retirement status of PAs, including the required form.</td>
<td>4/18/2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>In budget review.</td>
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<tr>
<td>1399.531</td>
<td>Curriculum Requirements for an Approved Program</td>
<td>Repeal</td>
<td>This Is no longer needed if 1399.532 is repealed as this regulations is a list of courses for primary care PAs.</td>
<td>2/17/2017</td>
<td></td>
<td></td>
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<td>In legal review.</td>
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<tr>
<td>1399.532</td>
<td>Requirements for an Approved Program for the Specialty Training of PAs</td>
<td>Repeal</td>
<td>The board does not need to approve post-graduate programs already monitored by a national accreditation agency.</td>
<td>2/17/2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>In legal review.</td>
</tr>
<tr>
<td>1399.545</td>
<td>Supervision Required</td>
<td>Amend</td>
<td>Conform regulation to the implementation of SB337 as it relates to chart review. Define protocols and formularies for drug prescriptions.</td>
<td>2/17/2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Working on proposed language.</td>
</tr>
<tr>
<td>1399.573</td>
<td>Citations for Unlicensed Practice</td>
<td>Amend</td>
<td>Allows for the EO to issue citations and fines to those who have never been licensed, and are not exempt from licensure, and are holding or have held themselves out as a physician assistant.</td>
<td>1/4/2017 to Agency 5/12/17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Agency requested revision to the ISR. Completed and resubmitted to Agency.</td>
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<tr>
<td>1399.617</td>
<td>Audit &amp; Sanctions for Noncompliance</td>
<td>Amend</td>
<td>Includes a fine for failure to respond to the CME audit letter and defines unprofessional conduct as it relates to CME noncompliance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Return to the Board for vote on amended proposed language.</td>
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</table>
DCA Basic Rulemaking Review Process

BCSHA To DOF (Std. Form 399)

Legend
DCA – Department of Consumer Affairs
LRR – Division of Legislative and Regulatory Review
DOF – Department of Finance
BCSHA – Business, Consumer Services and Housing Agency
Std. Form 399 – Economic & Fiscal Impact Statement
OAL – Office of Administrative Law
**REGULAR RULEMAKING**

**PRELIMINARY ACTIVITIES**
- Economic Impact Assessment
- Fiscal Impact (STD 399)
- Regulation Development

**STATE AGENCY**

**PUBLICATION AND ISSUANCE OF NOTICE**

**OPEN RULEMAKING RECORD**

**MINIMUM 45-DAY PUBLIC COMMENT PERIOD**

**AGENCY RECEIVES AND CONSIDERS COMMENTS**

**CHANGES MADE TO REGULATIONS?**

**MAJOR CHANGES:**
- NEW 45-DAY NOTICE
- AGENCY HOLDS PUBLIC HEARING AS SCHEDULED OR BY REQUEST

**NO CHANGES OR NONSUBSTANTIAL AND SUFFICIENTLY RELATED**

**SUBSTANTIAL AND SUFFICIENTLY RELATED:**
- 15-DAY COMMENT PERIOD;
  - AGENCY SENDS NOTICE AND TEXT OF PROPOSED CHANGES

**UPDENTED INFORMATIVE DIGEST**

**FINAL STATEMENT OF REASONS (WITH SUMMARY AND RESPONSE TO COMMENTS)**

**FINAL TEXT OF REGULATIONS**

**AGENCY ADOPTS REGULATIONS**

**RULEMAKING RECORD CLOSED**
EMERGENCY RULEMAKING

(State agency should choose desired effective date and count backwards at least 17 days)

At least 5 working days before filing with OAL, the state agency must mail and post an emergency Notice, but 5-day Notice is not required if it is a Government Code § 11346.1(a)(3) emergency.

Notice consists of:
1. Proposed text
2. Finding of Emergency, which includes:
   - 1 CCR § 48 statement
   - Justification of emergency
   - Gov. Code § 11346.5(a)(2)-(6) information

AT LEAST 10 CALENDAR DAYS BEFORE DESIRED EFFECTIVE DATE, AGENCY MUST FILE EMERGENCY WITH OAL

Filing with OAL consists of:
1. Form 400, plus six copies
2. Proposed text, plus six copies
3. Form 399
4. Finding of Emergency
5. 1 CCR § 50(a)(5)(A) statement

During the first 5 days of OAL's review, the public may submit comments to OAL with a copy to the state agency, unless it is a Government Code § 11346.1(a)(3) emergency.

The agency generally has until the 8th day of OAL's 10-day review to submit rebuttal to any public comments to OAL (optional).

If approved, the emergency is effective upon filing with the Secretary of State and is effective for 180 days.

Up to two 90-day readoptions are allowed if the agency is making progress towards adopting permanent regulations.

To make regulations permanent, the agency must conduct a regular rulemaking, providing for a regular notice and comment period (known as a Certificate of Compliance).
AGENDA

ITEM

14
Initial Application Desk Study
Application Fee Analysis

Overview:
The Board received 1,131 initial applications during fiscal year 2016/2017 of which staff selected approximately 6% of the applications to evaluate. The evaluation samples included applications of new graduates, PAs licensed in other states, applicants with criminal history, applicants with malpractice history, and applicants who had been disciplined by another state.

Tasks Typically Performed by Staff in Processing Initial Licensing Applications:

Office Technician (OT):
- Create applicant file
- Initial review of application
- Verify/review required documents
- Verify fingerprint clearances
- Respond to applicant questions (emails/phone calls)
- Issue license
- Create and scan permanent file

Staff Services Analyst (SSA):
- Receive application and create account in Breeze
- Cashier application fee

Associate Governmental Program Analyst (AGPA):
- Initial review of application
- Verify/review required documents
- Verify fingerprints/review rap sheet
- Review applicant history
- Review certified documents pertaining to history
- Respond to applicant questions (emails/phone calls)
- Prepare applicant offer letter
- Prepare proposed settlement
- Prepare closed session items for consideration by the Board
- If accepted, issue probationary license

Executive Officer (EO):
- Review application file to determine the course of action:
  - Psychiatric Evaluation before licensure
  - Free and Clear license
  - Probationary license
  - Denial of licensure
- Review/sign decision letter to applicant
- Review/sign proposed settlement
Billing for Services of Staff:
Staff’s hourly rate was calculated using the State Administration Manual (SAM) section 8740 – Billing for Services of Employees Paid on Monthly Basis. The SAM provides the methodology and formula for determining the hourly billing rate when a department bills for services for employees paid on a monthly basis. The hourly billing rate is computed using the total actual working time per year and the state’s staff benefit contribution percentage.

Total actual working time per year:
- Calendar Year: 2920 hrs.
- Total actual working time, after deductions:
  - Weekends: 840 hrs.
  - Holidays: 96 hrs.
  - Vacation: 80 hrs.
  - Sick: 40 hrs.
  - Professional Development: 16 hrs.
- Total 1848 hrs. (FT)/924 hrs. (HT)

State’s staff benefit contribution percentages:
- Employee’s Retirement: 26.73%
- OASDI: 6.20%
- Medicare: 1.45%
- Health, Vision, Dental: 14.78%
- Total Percent: 49.16%

Staff Hourly Billing Rate Calculations:

OT Hourly Billing Rate:
- Total actual working time per year: 924/12 = 77 hrs/mth
- Monthly Salary: $1828 (HT)
- Hourly Rate: 1828 x 1.4916/77 = $35.41/hr.

SSA Hourly Billing Rate:
- Total actual working time per year: 1848/12 = 154 hrs/mth
- Monthly Salary: $4980
- Hourly Rate: 4980 x 1.4916/154 = $48.23

AGPA Hourly Billing Rate:
- Total actual working time per year: 1848/12 = 154 hrs/mth
- Monthly Salary: $5988
- Hourly Rate: 5988 x 1.4916/154 = $58.00

EO Hourly Billing Rate:
- Total actual working time per year: 1848/12 = 154 hrs/mth
- Monthly Salary: $8092
- Hourly Rate: 8092 x 1.4916/154 = $78.38
**Application Processing Cost by Position:**

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Qty</th>
<th>OT Process Time</th>
<th>SSA Process Time</th>
<th>AGPA Process Time</th>
<th>EO Process Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
<td>48</td>
<td>.75</td>
<td>.17</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Questionable*</td>
<td>5</td>
<td>.25</td>
<td>.17</td>
<td>1.07</td>
<td>.25</td>
</tr>
<tr>
<td>Probationary</td>
<td>12</td>
<td>.25</td>
<td>.17</td>
<td>5.57</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Total Time</strong></td>
<td></td>
<td>1.25</td>
<td>0.51</td>
<td>6.64</td>
<td>1.25</td>
</tr>
<tr>
<td><strong>Hourly Rate</strong></td>
<td></td>
<td>$35.41</td>
<td>$48.23</td>
<td>$56.00</td>
<td>$78.38</td>
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<tr>
<td><strong>Total Cost per Hour</strong></td>
<td>65</td>
<td>$44.26</td>
<td>$24.60</td>
<td>$385.12</td>
<td>$97.98</td>
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</tbody>
</table>

*Applications that have history, but after review are issued a free and clear license.

**Actual Processing Cost of Initial Application:**

- **OT**: 44.26
- **SSA**: 24.60
- **AGPA**: 385.12
- **EO**: 97.98

Total $551.96/9.65 = $57.20 per application

**Analysis:**

Between 2014 and 2017 the Accreditation Review Commission on Education of the Physician Assistant (ARC-PA) added seven (7) PA programs in California and forty-one (41) PA programs in other states. With the increase in PA programs throughout the country the Board experienced a 6% growth in applications received from fiscal year 2014/2015 to 2015/2016 and a 16% growth in applications received from fiscal year 2015/2016 to 2016/2017. There has been a 2% growth in applications received between the first quarters of fiscal year 2016/2017 and 2017/2018. Even though there has been only 2% growth in the first quarter of 2017/2018, data shows that there should be a continued growth in applications received due to the increase of available PA programs.

**Fiscal/Economic Impact**

Based on the analysis above staff anticipates an approximately increase of 8% in initial applications received.

<table>
<thead>
<tr>
<th>Current revenue</th>
<th>Projected revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial applications/month</td>
<td>84</td>
</tr>
<tr>
<td>Application fee</td>
<td>x 25</td>
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<tr>
<td>Total monthly revenue</td>
<td>$2,100</td>
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</table>

Based on these figures the Board can expect an increase of $3,087 per month in revenue and a yearly increase in revenue of $37,044.
Recommendation:
Staff recommends developing proposed language for Business and Professions Code section 3521.1 – Fees-Physician Assistant to have the application fee listed as $57 not to exceed $500 and amend California Code of Regulations section 1399.550 – Fees to establish a new initial application processing fee of $57.

Proposed Language Business and Professions Code Section 3521.1
The fees to be paid by physician assistants are to be set by the board as follows:
(a) An application fee of not less than fifty-seven dollars ($57) nor more than five hundred dollars ($500) not to exceed twenty-five dollars ($25) shall be charged to each physician assistant applicant.
(b) An initial license fee not to exceed two hundred fifty dollars ($250) shall be charged to each physician assistant to whom a license is issued.
(c) A biennial license renewal fee not to exceed three hundred dollars ($300).
(d) The delinquency fee is twenty-five dollars ($25).
(e) The duplicate license fee is ten dollars ($10).
(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of licensure shall be ten dollars ($10).

Proposed Language Title 16 California Code of Regulations Section 1399.550
The following fees for physician assistants are established:
(a) The application processing fee for an initial licensing application shall be $2557.00.
(b) The fee for an initial license shall be $200.00.
(c) The fee for renewal of a license shall be $300.00.
AGENDA

ITEM

17
<table>
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<tr>
<th>OBJECT DESCRIPTION</th>
<th>FY 2015-16</th>
<th>FY 2015-17</th>
<th>PERCENT</th>
<th>ACTUALS</th>
<th>UNENCUMBERED</th>
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<td>Civil Service-Perm</td>
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<td>135,642</td>
<td>79,359</td>
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<td>(6,730)</td>
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<td>Temp Help Reg (SO?)</td>
<td>21,065</td>
<td>30,000</td>
<td>200%</td>
<td>59,948</td>
<td>(29,948)</td>
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<tr>
<td>Bd / Commn (601, 620)</td>
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<td></td>
<td></td>
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<td>(2,000)</td>
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<tr>
<td>Comm Member (911)</td>
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<td>141,000</td>
<td>84%</td>
<td>118,102</td>
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<td><strong>TOTALS, PERSONNEL SVC</strong></td>
<td>383,844</td>
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<td>408,221</td>
<td>55,679</td>
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<td>24,353</td>
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<td>11,082</td>
<td>11,082</td>
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<td>434</td>
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<td>20,839</td>
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<td>145,000</td>
<td>140,718</td>
<td>140,718</td>
<td>5,262</td>
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<td>54,000</td>
<td>53,791</td>
<td>53,791</td>
<td>200</td>
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<td>Interagency</td>
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<td>0</td>
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<td>Shared Svcs - MBC Only</td>
<td>90,112</td>
<td>132,000</td>
<td>132,450</td>
<td>132,450</td>
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<tr>
<td>DOl - Pro Rata</td>
<td>983</td>
<td>1,000</td>
<td>920</td>
<td>920</td>
<td>80</td>
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<tr>
<td>Public Affairs Pro Rata</td>
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<td>7,000</td>
<td>6,741</td>
<td>6,741</td>
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<td>PCSO Pro Rato</td>
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<td>0</td>
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<td>0</td>
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<tr>
<td><strong>INTERAGENCY SERVICES:</strong></td>
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<td></td>
<td></td>
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<td>Consolidated Data Center</td>
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<td>0%</td>
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<td>DP Maintenance &amp; Supply</td>
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<td>3,000</td>
<td>763</td>
<td>763</td>
<td>2,237</td>
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<td>Statewide - Pro Rata</td>
<td>74,008</td>
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<td><strong>EXAMS EXPENSES:</strong></td>
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<td>Exam Supplies</td>
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<td>0</td>
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<td><strong>OTHER ITEMS OF EXPENSE:</strong></td>
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<td>Attorney General</td>
<td>527,401</td>
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<td>556,204</td>
<td>556,204</td>
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<td>997</td>
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<td>Evidence/Witness Fees</td>
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<td>65,875</td>
<td>(65,876)</td>
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<td>Investigative Svcs - MBC Only</td>
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<td>142,202</td>
<td>142,202</td>
<td>75,718</td>
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<td><strong>TOTALS, O&amp;E</strong></td>
<td>1,322,383</td>
<td>1,383,600</td>
<td>1,311,388</td>
<td>94%</td>
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<td><strong>TOTAL EXPENSE</strong></td>
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<td>1,807,000</td>
<td>1,637,785</td>
<td>91%</td>
<td>1,869,759</td>
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</table>

**SURPLUS/(DEFICIT):** 7.5%
<table>
<thead>
<tr>
<th>PERSONAL SERVICES</th>
<th>BUDGET</th>
<th>CURR. MONTH</th>
<th>YTD</th>
<th>ENCUMBRANCE</th>
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<th>BALANCE</th>
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<td>135,642</td>
<td>79,358</td>
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<td>2,847</td>
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<td>-29,948</td>
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<tr>
<td>063 00 STATUTORY-EXEMPT</td>
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<td>0</td>
<td>82,730</td>
<td>0</td>
<td>82,730</td>
<td>-6,730</td>
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<tr>
<td>063 01 BDICOMMSN (901.920)</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,000</td>
</tr>
<tr>
<td>063 03 COMM MEMBER (904.9)</td>
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<td>100</td>
<td>11,600</td>
<td>0</td>
<td>11,600</td>
<td>-11,600</td>
</tr>
<tr>
<td>083 00 OVERTIME</td>
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<td>0</td>
<td>399</td>
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<td>399</td>
<td>-399</td>
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**STAFF BENEFITS**

<table>
<thead>
<tr>
<th>STAFF BENEFITS</th>
<th>BUDGET</th>
<th>CURR. MONTH</th>
<th>YTD</th>
<th>ENCUMBRANCE</th>
<th>ENCUMBRANCE</th>
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<tbody>
<tr>
<td>101 00 STAFF BENEFITS</td>
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<td>43</td>
<td>43</td>
<td>0</td>
<td>43</td>
<td>-43</td>
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<tr>
<td>103 00 OASDI</td>
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<td>0</td>
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<td>104 00 DENTAL INSURANCE</td>
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<td>0</td>
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<td>-197</td>
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<td>105 00 HEALTH/WELFARE INS</td>
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<td>26,166</td>
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<td>26,166</td>
<td>14,834</td>
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<tr>
<td>106 01 RETIREMENT</td>
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<td>56,573</td>
<td>0</td>
<td>56,573</td>
<td>18,427</td>
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<td>125 00 WORKERS' COMPENSAT</td>
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<td>0</td>
<td>0</td>
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<td>4,000</td>
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<tr>
<td>125 15 SCIF ALLOCATION CO</td>
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<td>84</td>
<td>2,676</td>
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<tr>
<td>134 00 OTHER-STAFF BENEFI</td>
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<td>8,875</td>
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<td>8,875</td>
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<tr>
<td>135 00 LIFE INSURANCE</td>
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<td>0</td>
<td>76</td>
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<td>136 00 VISION CARE</td>
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**STAFF BENEFITS**

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<th>YTD</th>
<th>ENCUMBRANCE</th>
<th>ENCUMBRANCE</th>
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<tr>
<td>141,000</td>
<td>127</td>
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<td>22,898</td>
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**PERSONAL SERVICES**

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<th>YTD</th>
<th>ENCUMBRANCE</th>
<th>ENCUMBRANCE</th>
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<tbody>
<tr>
<td>464,000</td>
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<td>55,579</td>
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**OPERATING EXPENSES & EQUIPMENT**

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<th>BUDGET</th>
<th>CURR. MONTH</th>
<th>YTD</th>
<th>ENCUMBRANCE</th>
<th>ENCUMBRANCE</th>
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</thead>
<tbody>
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**FINGERPRINTS**

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<th>YTD</th>
<th>ENCUMBRANCE</th>
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## BUDGET REPORT
**AS OF 6/30/2017**

### PHYSICIAN ASSISTANT BOARD

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## DEPARTMENT OF CONSUMER AFFAIRS

### PHYSICIAN ASSISTANT BOARD

**BUDGET REPORT**

**AS OF 6/30/2017**

**FM 13**

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### DEPARTMENT OF CONSUMER AFFAIRS

#### BUDGET REPORT

**AS OF 6/30/2017**

**FM 13**

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<th>Encumbrance</th>
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AGENDA
ITEM 18
Introduced by Assembly Member Cooley  
(Principal coauthors: Assembly Members Calderon and Cunningham)

December 5, 2016

An act to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as introduced, Cooley. State government: administrative regulations: review.

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would require each state agency to, on or before January 1, 2020, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2021.

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

SECTION 1. Chapter 3.6 (commencing with Section 11366) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.6. REGULATORY REFORM

Article 1. Findings and Declarations

11366. The Legislature finds and declares all of the following:
(a) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)) requires agencies and the Office of Administrative Law to review regulations to ensure their consistency with law and to consider impacts on the state's economy and businesses, including small businesses.
(b) However, the act does not require agencies to individually review their regulations to identify overlapping, inconsistent, duplicative, or out-of-date regulations that may exist.
(c) At a time when the state's economy is slowly recovering, unemployment and underemployment continue to affect all Californians, especially older workers and younger workers who received college degrees in the last seven years but are still awaiting their first great job, and with state government improving but in need of continued fiscal discipline, it is important that state agencies systematically undertake to identify, publicly review, and eliminate overlapping, inconsistent, duplicative, or out-of-date regulations, both to ensure they more efficiently implement and enforce laws and to reduce unnecessary and outdated rules and regulations.

Article 2. Definitions

11366.1. For the purposes of this chapter, the following definitions shall apply:
(a) "State agency" means a state agency, as defined in Section 11000, except those state agencies or activities described in Section 11340.9.
(b) "Regulation" has the same meaning as provided in Section 11342.600.

Article 3. State Agency Duties

11366.2. On or before January 1, 2020, each state agency shall do all of the following:

(a) Review all provisions of the California Code of Regulations adopted by that state agency.

(b) Identify any regulations that are duplicative, overlapping, inconsistent, or out of date.

(c) Adopt, amend, or repeal regulations to reconcile or eliminate any duplication, overlap, inconsistencies, or out-of-date provisions, and shall comply with the process specified in Article 5 (commencing with Section 11346) of Chapter 3.5, unless the addition, revision, or deletion is without regulatory effect and may be done pursuant to Section 100 of Title 1 of the California Code of Regulations.

(d) Hold at least one noticed public hearing, which shall be noticed on the Internet Web site of the state agency, for the purposes of accepting public comment on proposed revisions to its regulations.

(e) Notify the appropriate policy and fiscal committees of each house of the Legislature of the revisions to regulations that the state agency proposes to make at least 30 days prior to initiating the process under Article 5 (commencing with Section 11346) of Chapter 3.5 or Section 100 of Title 1 of the California Code of Regulations.

(g) (1) Report to the Governor and the Legislature on the state agency's compliance with this chapter, including the number and content of regulations the state agency identifies as duplicative, overlapping, inconsistent, or out of date, and the state agency's actions to address those regulations.

(2) The report shall be submitted in compliance with Section 9795 of the Government Code.

11366.3. (a) On or before January 1, 2020, each agency listed in Section 12800 shall notify a department, board, or other unit within that agency of any existing regulations adopted by that department, board, or other unit that the agency has determined may be duplicative, overlapping, or inconsistent with a regulation.
adopted by another department, board, or other unit within that agency.

(b) A department, board, or other unit within an agency shall notify that agency of revisions to regulations that it proposes to make at least 90 days prior to a noticed public hearing pursuant to subdivision (d) of Section 11366.2 and at least 90 days prior to adoption, amendment, or repeal of the regulations pursuant to subdivision (c) of Section 11366.2. The agency shall review the proposed regulations and make recommendations to the department, board, or other unit within 30 days of receiving the notification regarding any duplicative, overlapping, or inconsistent regulation of another department, board, or other unit within the agency.

11366.4. An agency listed in Section 12800 shall notify a state agency of any existing regulations adopted by that agency that may duplicate, overlap, or be inconsistent with the state agency’s regulations.

11366.45. This chapter shall not be construed to weaken or undermine in any manner any human health, public or worker rights, public welfare, environmental, or other protection established under statute. This chapter shall not be construed to affect the authority or requirement for an agency to adopt regulations as provided by statute. Rather, it is the intent of the Legislature to ensure that state agencies focus more efficiently and directly on their duties as prescribed by law so as to use scarce public dollars more efficiently to implement the law, while achieving equal or improved economic and public benefits.

Article 4. Chapter Repeal

11366.5. This chapter shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.
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2  REVISIONS:
3  Heading—Line 2.
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SUMMARY: This bill requires, by January 1, 2020, every state agency to review all provisions of the California Code of Regulations (CCR) it has adopted, and to adopt, amend or repeal any regulations identified as duplicative, overlapping, inconsistent, or out of date. An agency acting on this requirement must hold at least one noticed public hearing to accept public comment on proposed revisions, notify the appropriate policy and fiscal committees of the Legislature of the proposed revisions, and report to the Governor and the Legislature. The bill's provisions sunset on January 1, 2021.

FISCAL EFFECT:

1) Office of Administrative Law (OAL) costs of approximately $928,000 (GF) in the 2018 calendar year and approximately $885,000 in 2019 for seven PY of full-time, limited-term staff and associated costs to manage a significant increase in workload over two years.

2) Unknown, but significant aggregate state costs, likely in the millions annually for two years, for over 200 state agencies to review all current regulations, make necessary revisions to identified regulations through the Administrative Procedure Act (APA) process, coordinate with other agencies and departments, and report to the Governor and Legislature. (GF and various special funds)

COMMENTS:

1) Purpose. The author states, "...numerous economists and business leaders agree that one of the greatest obstacles to California job growth is the 'thicket' of government regulations that constrain business owners. Duplicative and inconsistent regulations leave business owners confused and often times out of compliance despite their best efforts. In addition, the burdensome regulatory scheme often discourages innovation and new business ventures."

Under current law, any state agency may review, adopt, amend or repeal any regulation within its statutory authority at any time. The OAL reports that as of December 31, 2016, the number of regulations adopted totaled 67,832. Of those, state agencies had repealed 14,146. With 53,686 regulations still active, the author believes more needs to be done. This bill requires state agencies to review their regulatory framework within a two-year timeframe.

2) Background. The APA requires the OAL to ensure that state agency regulations are clear, necessary, legally valid, and available to the public. In seeking adoption of a proposed regulation, state agencies must comply with procedural requirements that include publishing the proposed regulation along with a supporting statement of reasons, mailing and publishing a notice of the proposed action 45 days before a hearing, or before the close of the public comment period, and submitting a final statement to OAL that summarizes and responds to all
objections, recommendations and proposed alternatives raised during the public comment period. The OAL is then required to approve or reject the proposed regulation within 30 days.

The OAL is responsible for reviewing administrative regulations proposed by over 200 state regulatory agencies for compliance with the standards set forth in the APA, for transmitting these regulations to the Secretary of State and for publishing regulations in the California Code of Regulations (CCR). On average, OAL reviews nearly 700 files that affect approximately 3,200 regulations packages per year. In 2016, 3,141 proposed regulations were submitted by state agencies for APA review.

Existing law requires OAL, at the request of any standing, select, or joint committee of the Legislature, to initiate a priority review of any regulation that committee believes does not meet the standards of necessity, authority, clarity, reference, and nonduplication. If OAL is made aware of an existing regulation for which statutory authority has been repealed or becomes ineffective, it must order the agency that adopted the regulation to show cause why it should not be repealed, and notify the Legislature of the order.

The last comprehensive review of state agency regulations occurred when OAL was established in 1980. At that time there were over 125 state agencies and over 40,000 regulations printed in the CCR, and today there are over 200 agencies and nearly 54,000 regulations. In addition, OAL had a staff of 50 employees, including 17 attorneys, while they currently have a staff of 20, half of which are attorneys.

3) **Little Hoover Commission Report.** In October of 2011, the Little Hoover Commission (LHC) published a report titled, Better Regulation: Improving California's Rulemaking Process. The LHC included recommendations for improving the state's rulemaking process, including the state establishing a look-back mechanism to determine if regulations are effective and still needed.

The author's approach to this "look-back mechanism" is to create a two-year window within which agencies, and the departments, boards and other units within, must review all regulations that pertain to the mission and programs under their statutory authority.

4) **Prior Legislation.**

a) AB 12 (Cooley) of 2015 was nearly identical to this bill. It was held on the Senate Appropriations Committee's Suspense File.

b) SB 981 (Huff; 2014) would have required state agencies to review regulations adopted in the past and report specified information on each regulation to the Legislature, including whether a regulation is duplicative, still relevant, or needs to be updated to be less burdensome or more effective. That bill was held in the Senate Governmental Organization Committee.

**Analysis Prepared by:** Jennifer Swenson / APPR. / (916) 319-2081
Assembly Bill No. 40

CHAPTER 607

An act to amend Section 11165.1 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2017. Filed with Secretary of State October 9, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 40, Santiago. CURES database: health information technology system. Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a Schedule II, Schedule III, or Schedule IV controlled substance.

This bill would, no later than October 1, 2018, require the Department of Justice to make the electronic history of controlled substances dispensed to an individual under a health care practitioner’s or pharmacist’s care, based on data contained in the CURES database, available to the practitioner or pharmacist, as specified. The bill would authorize a health care practitioner or pharmacist to submit a query to the CURES database through the department’s online portal or through a health information technology system if the entity operating the system has entered into a memorandum of understanding with the department addressing the technical specifications of the system and can certify, among other requirements, that the system meets applicable patient privacy and information security requirements of state and federal law. The bill would also require an entity operating a health information technology system that is requesting to establish an integration with the CURES database to pay a reasonable system maintenance fee. The bill would prohibit the department from accessing patient-identifiable information in an entity’s health information technology system. The bill would authorize the department to prohibit integration or terminate a health information technology system’s ability to retrieve information in the CURES database if the health information technology system or the entity operating the health information technology system does not comply with specified provisions of the bill.

This bill would declare that it is to take effect immediately as an urgency statute.
Ch. 607 — 2 —

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

SECTION 1. Section 11165.1 of the Health and Safety Code, as amended by Section 2 of Chapter 708 of the Statutes of 2016, is amended to read: 11165.1. (a) (1) (A) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances pursuant to Section 11150 shall, before July 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the department to obtain approval to electronically access information regarding the controlled substance history of a patient that is maintained by the department. Upon approval, the department shall release to that practitioner the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

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

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

(i) Materially falsifying an application to access information contained in the CURES database.

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

(iii) Having his or her federal DEA registration suspended or revoked.

(iv) Violating a law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Accessing information for a reason other than to diagnose or treat his or her patients, or to document compliance with the law.

(C) An authorized subscriber shall notify the department within 30 days of any changes to the subscriber account.

(D) Commencing no later than October 1, 2018, an approved health care practitioner, pharmacist, and any person acting on behalf of a health care practitioner or pharmacist pursuant to subdivision (b) of Section 209 of the Business and Professions Code may use the department's online portal or a health information technology system that meets the criteria required in subparagraph (E) to access information in the CURES database pursuant to this section. A subscriber who uses a health information technology system that meets the criteria required in subparagraph (E) to access the CURES database may submit automated queries to the CURES database that are triggered by predetermined criteria.
(E) Commencing no later than October 1, 2018, an approved health care practitioner or pharmacist may submit queries to the CURES database through a health information technology system if the entity that operates the health information technology system can certify all of the following:

(i) The entity will not use or disclose data received from the CURES database for any purpose other than delivering the data to an approved health care practitioner or pharmacist or performing data processing activities that may be necessary to enable the delivery unless authorized by, and pursuant to, state and federal privacy and security laws and regulations.

(ii) The health information technology system will authenticate the identity of an authorized health care practitioner or pharmacist initiating queries to the CURES database and, at the time of the query to the CURES database, the health information technology system submits the following data regarding the query to CURES:

(I) The date of the query.

(II) The time of the query.

(iii) The first and last name of the patient queried.

(iv) The date of birth of the patient queried.

(v) The identification of the CURES user for whom the system is making the query.

(iii) The health information technology system meets applicable patient privacy and information security requirements of state and federal law.

(iv) The entity has entered into a memorandum of understanding with the department that solely addresses the technical specifications of the health information technology system to ensure the security of the data in the CURES database and the secure transfer of data from the CURES database. The technical specifications shall be universal for all health information technology systems that establish a method of system integration to retrieve information from the CURES database. The memorandum of understanding shall not govern, or in any way impact or restrict, the use of data received from the CURES database or impose any additional burdens on covered entities in compliance with the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal Regulations.

(F) No later than October 1, 2018, the department shall develop a programming interface or other method of system integration to allow health information technology systems that meet the requirements in subparagraph (E) to retrieve information in the CURES database on behalf of an authorized health care practitioner or pharmacist.

(G) The department shall not access patient-identifiable information in an entity's health information technology system.

(H) An entity that operates a health information technology system that is requesting to establish an integration with the CURES database shall pay a reasonable fee to cover the cost of establishing and maintaining integration with the CURES database.

(I) The department may prohibit integration or terminate a health information technology system's ability to retrieve information in the
CURES database if the health information technology system fails to meet the requirements of subparagraph (E), or the entity operating the health information technology system does not fulfill its obligation under subparagraph (H).

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

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

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the department may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

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

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

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

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

(1) "Automated basis" means using predefined criteria to trigger an automated query to the CURES database, which can be attributed to a specific health care practitioner or pharmacist.

(2) "Department" means the Department of Justice.

(3) "Entity" means an organization that operates, or provides or makes available, a health information technology system to a health care practitioner or pharmacist.

(4) "Health information technology system" means an information processing application using hardware and software for the storage, retrieval,
sharing of or use of patient data for communication, decisionmaking, coordination of care, or the quality, safety, or efficiency of the practice of medicine or delivery of health care services, including, but not limited to, electronic medical record applications, health information exchange systems, or other interoperable clinical or health care information system.

(5) "User-initiated basis" means an authorized health care practitioner or pharmacist has taken an action to initiate the query to the CURES database, such as clicking a button, issuing a voice command, or taking some other action that can be attributed to a specific health care practitioner or pharmacist.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the Department of Justice to ensure that information in the CURES database will be made available to prescribing physicians no later than October 1, 2018, so they may prevent the dangerous abuse of prescription drugs and to safeguard the health and safety of the people of this state, it is necessary that this act take effect immediately.
CONCURRENCE IN SENATE AMENDMENTS
AB 40 (Santiago)
As Amended September 8, 2017
2/3 vote. Urgency

ASSEMBLY: 77-0 (May 31, 2017) SENATE: 40-0 (September 14, 2017)

Original Committee Reference: B. & P.

SUMMARY: Requires the California Department of Justice (DOJ) to make electronic prescription drug records contained in its Controlled Substance Utilization Review and Evaluation System (CURES) accessible through integration with a health information technology system no later than October 1, 2018, if that system meets certain information security and patient privacy requirements. Specifically, this bill:

1) Requires DOJ to develop a programming interface or other method of system integration to allow health information technology systems that meet minimum security and privacy requirements to retrieve information in the CURES database on behalf of an authorized health care practitioner or pharmacist.

2) Permits prescribers and pharmacists authorized to access the CURES database to utilize an integrated health information technology system to query the system.

3) Prohibits DOJ from accessing any patient-identifiable information contained in a health information technology system integrated with CURES.

4) Requires entities operating a health information technology system wishing to integrate with CURES to certify that their system meets the following minimum security and privacy requirements:
   a) The entity will not use or disclose data received from the CURES database for any purpose other than delivering the data to an approved health care practitioner or pharmacist for lawful use;
   b) The health information technology system will authenticate the identity of all users querying CURES through the system and will report data on system usage to DOJ;
   c) The health information technology system meets all applicable patient privacy and information security requirements under both state and federal law.

5) Requires health information technology system vendors to pay a reasonable fee to cover the cost of establishing and maintaining integration with the CURES database.

6) Permits DOJ to prohibit or terminate integration when a health information technology system fails to pay the required fee or maintain security and privacy standards.

7) Delays the rollout of health information technology system integration to October 1, 2018.

8) Defines various terms relating to these provisions.
The Senate amendments recast the CURES integration language from providing DOJ with broad discretion regarding what health information technology systems to integrate with and what terms and conditions may be imposed on that agreement with a mandate that DOJ integrate with any system that meets newly codified security and privacy requirements, pays a reasonable fee for service, and enters into a memorandum of understanding; delay the rollout of integration until no later than October 1, 2018; and further clarify the ability of a prescriber or pharmacist to query CURES through a health information technology system.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, one-time costs of about $1 million per year for two years and ongoing costs of about $750,000 per year for DOJ to make system changes to CURES to allow for integration with health information technology systems, oversee agreements with participating entities, and ensure appropriate access and use.

**COMMENTS:**

**Purpose.** This bill is sponsored by the California Chapter of the American College of Emergency Physicians. According to the author, "the overuse of prescription opioids is a significant national public health problem and California communities face rising rates of opioid-related deaths. California's prescription drug monitoring program, CURES, is a critical tool that helps combat prescription drug abuse. AB 40 integrates CURES with emergency room health information technology systems. This will allow prescription information to be included in the same patient information that emergency physicians already receive. AB 40 will help reduce stress on California's overcrowded emergency departments by allowing emergency physicians to more efficiently receive information and helps fight prescription drug abuse."

**Background.** This bill would require DOJ establish a system for integrating the CURES database with third party software vendors that contract with healthcare practitioners to provide health information technology systems. These electronic systems are used as part of daily record management and often facilitate a variety of core functions in daily practice. Currently, CURES can only be accessed through a secure online portal accessed through an internet web browser. The client-facing iteration of CURES was first established in 1999 as a way to utilize existing prescription drug information gathered through the state's tripartite program to empower safe prescribing in the healthcare professional community. All Schedule II, III, and IV prescribed controlled substances must be reported to the system by dispensing pharmacists for inclusion in a searchable web portal where "patient activity reports" may be obtained by doctors and other licensed health professionals prior to issuing a new prescription. The system is also regularly accessed by regulators and law enforcement for purposes of identifying disciplinary causes of action or criminal offenses such as diversion for street sale.

In 2011, all General Fund allocations for CURES was eliminated in the Budget Act, resulting in significant reductions in accessibility and user support. In response, Attorney General Harris sponsored SB 809 (DeSaulnier), Chapter 400, Statutes of 2013, to provide new licensing fee funding for an improved and enhanced "CURES 2.0" database with greater usability and expanded features. The bill also required every healing arts licensee authorized to prescribe controlled substances to sign up for access to the system. Subsequently, legislation was enacted mandating use of the system prior to a new prescription for a Schedule II, III, or IV drug under certain circumstances (SB 482 (Lara), Chapter 708, Statutes of 2016). This new mandate will go into effect six months following certification by DOJ that it has adequate program staff to provide client support to users once the mandate is in effect.
As awareness of the opioid abuse crisis grows and in anticipation of recently enacted but yet-implemented statutory mandates on prescribers to query CURES prior to making certain prescriptions, ease of use has become a priority for physicians and other prescribers. This is particularly true for those issuing prescriptions in urgent care settings such as emergency rooms. This bill is intended to enable healthcare providers to access CURES data within their existing health information technology system, which supporters say will significantly improve querying time and allow them to more smoothly incorporate use of the system into their daily practice.

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

FN: 0002246
Assembly Bill No. 44

Passed the Assembly September 13, 2017

__________________________
Chief Clerk of the Assembly

Passed the Senate September 12, 2017

__________________________
Secretary of the Senate

This bill was received by the Governor this _____ day of ____________, 2017, at ____ o’clock ___.

__________________________
Private Secretary of the Governor
An act to add Section 4600.05 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST


Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Under existing law, an employer must provide reasonably required treatments, including, but not limited to, medical and surgical treatment, to cure or relieve an employee's injuries sustained in the course of his or her employment.

This bill would require employers to provide immediate support from a nurse case manager to employees injured in the course of employment by an act of domestic terrorism, as defined, would require employer-appointed nurse case managers to assist claimants to obtain medically necessary medical treatments, as specified, and would require an employer to provide a prescribed notice to claimants, as specified. The bill would make its provisions applicable only if the Governor declares a state of emergency, as defined, in connection with the act of domestic terrorism.

This bill would make related legislative findings and declarations.

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

SECTION 1. The Legislature finds and declares all of the following:
(a) Acts of domestic terrorism, such as the December 2, 2015, attack on the Inland Regional Center in San Bernardino, with the number and severity of the injuries inflicted upon people at work, can present unique issues for the workers' compensation system.
(b) Victims of acts of domestic terrorism, as defined by Section 2331 of Title 18 of the United States Code, whose injuries arise out of and in the course of employment, are entitled to the full
benefits of the workers' compensation laws of this state, including medically necessary medical treatment, as defined by the medical treatment utilization schedule, for all accepted, diagnosed, physical and mental injuries, which may include counseling or other mental health services.

(c) Treatment provided to all injured workers, including mental health treatment and counseling services for psychological injuries and post-traumatic stress disorder, is provided by health care providers who are trained and qualified to treat those injuries, and providers who are not competent on the basis of training and experience to treat specific patients referred to the provider have a duty under existing law to refer the patient to a qualified provider.

(d) Because of the unique circumstances surrounding the number and severity of injuries that can be caused by a single act of domestic terrorism, and the extent to which the needs to provide this treatment quickly and comprehensively in potentially small service markets, it is appropriate to provide workers with injuries that result from an act of domestic terrorism with additional advocacy services, as provided by this bill.

SEC. 2. Section 4600.05 is added to the Labor Code, to read:

4600.05. (a) An employer, as defined in Section 3300, shall provide immediate support from a nurse case manager for employees injured by an act of domestic terrorism, as defined in Section 2331 of Title 18 of the United States Code, whose injuries arise out of and in the course of employment, to assist injured employees in obtaining medically necessary medical treatment, as defined by the medical treatment utilization schedule adopted pursuant to Section 5307.27, and to assist providers of medical services in seeking authorization of medical treatment.

(b) (1) This section shall apply only if the Governor has declared a state of emergency pursuant to subdivision (b) of Section 8558 of the Government Code in connection with the act of domestic terrorism.

(2) Upon the issuance of a declaration pursuant to paragraph (1), an employer that has been notified of a claim for compensation arising out of the acts that resulted in the declaration shall provide a notice within three days to the claimant advising the claimant of medically necessary services provided pursuant to subdivision (a). In the case of a claim for compensation subject to this section that is filed after the declaration, the employer shall provide the notice
to the claimant within three days. The notice shall be in the form adopted by the administrative director pursuant to subdivision (d).

(c) This section shall not alter the conditions for compensability of an injury, as described in Sections 3208.3 and 3600.

(d) The administrative director shall adopt regulations to implement this section, including, but not limited to, the definition of a nurse case manager's qualifications, the scope and timing of immediate support from a nurse case manager, and the contents of the notice that employers shall provide to claimants.
CONCURRENCE IN SENATE AMENDMENTS
AB 44 (Reyes)
As Amended September 7, 2017
Majority vote

ASSEMBLY: 77-0 (May 11, 2017) SENATE: 40-0 (September 12, 2017)

Original Committee Reference: INS.

SUMMARY: Requires employers to provide nurse case manager services to employees who are injured as a result of an act of domestic terrorism.

The Senate amendments:

1) Add legislative findings and declarations.

2) Specify that the services to be provided to employees injured by an act of domestic terrorism must be provided by a nurse case manager.

3) Clarify the timing of notices that the employer must provide to these employees.

4) Expand the requirements on the Administrative Director of the Division of Workers' Compensation to include defining the qualifications of the nurse case manager, the scope of required nurse case manager services, and the contents of the notices.

5) Adds additional technical and conforming amendments.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS: The Senate amendments reflect refinements to the bill passed by the Assembly proposed by the Administration.

Analysis Prepared by: Mark Rakich / INS. / (916) 319-2086 FN: 0002179
AB77
An act to amend Sections 11343.4 and 11349.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 77, as amended, Fong. Regulations: effective dates and legislative review.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals estimated to exceed $50,000,000. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances, including if a regulation adopted by the Fish and Game Commission requires a different effective date to conform with federal law.
This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would eliminate the quarterly schedule pursuant to which regulations and orders of repeal become effective, as well as the provisions specifically addressing the effective dates of regulations adopted by the Fish and Game Commission. The bill would, instead, provide that a regulation or order of repeal required to be filed with the Secretary of State generally becomes effective the 90th day after the date of filing, subject to certain exceptions. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature passes a statute to override the regulation.


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

SECTION 1. Section 11343.4 of the Government Code, as amended by Section 26 of Chapter 546 of the Statutes of 2016, is amended to read:

11343.4. A regulation or an order of repeal required to be filed with the Secretary of State shall become effective on the 90th day after the date of filing unless any of the following occur:

(a) The statute pursuant to which the regulation or order of repeal was adopted specifically provides otherwise, in which event it becomes effective on the day prescribed by the statute.

(b) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(c) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

(d) The Legislature passes a statute to override the regulation.

SECTION 1. Section 11343.4 of the Government Code is amended to read:

11343.4. (a) Except as otherwise provided in subdivision (b), a regulation or an order of repeal required to be filed with the Secretary of State shall become effective on a quarterly basis as follows:

(1) January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
(2) April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.

(3) July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive.

(4) October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

(b) The effective dates in subdivision (a) shall not apply in all of the following:

(1) The effective date is specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by the statute.

(2) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(3) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

(4) (A) A regulation adopted by the Fish and Game Commission that is governed by Article 2 (commencing with Section 250) of Chapter 2 of Division 1 of the Fish and Game Code.

(B) A regulation adopted by the Fish and Game Commission that requires a different effective date in order to conform to a federal regulation.

(5) When the Legislature enacts a statute to override the regulation.

SEC. 2. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) (1) The office shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 working days after the regulation has been submitted to the office for review. If the office fails to act within 30 days, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(2) The office shall submit a copy of each major regulation submitted to the Secretary of State pursuant to paragraph (1) to each house of the Legislature for review.

(b) If the office disapproves a regulation, it shall return it to the adopting agency within the 30-day period specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval.
Within seven calendar days of the issuance of the notice, the office shall provide the adopting agency with a written decision detailing the reasons for disapproval. No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11349.1 or for failure to comply with this chapter.

(c) If an agency determines, on its own initiative, that a regulation submitted pursuant to subdivision (a) should be returned by the office prior to completion of the office's review, it may request the return of the regulation. All requests for the return of a regulation shall be memorialized in writing by the submitting agency no later than one week following the request. Any regulation returned pursuant to this subdivision shall be resubmitted to the office for review within the one-year period specified in subdivision (b) of Section 11346.4 or shall comply with Article 5 (commencing with Section 11346) prior to resubmission.

(d) The office shall not initiate the return of a regulation pursuant to subdivision (c) as an alternative to disapproval pursuant to subdivision (b).
SUMMARY:

This bill requires the Office of Administrative Law (OAL) to submit to each house of the Legislature a copy of each major regulation submitted to the Secretary of State (SOS). The bill also states that the effective date of a regulation does not apply if the Legislature enacts a statute to override the regulation.

FISCAL EFFECT:

1) Minor and absorbable costs to OAL to forward major regulations to the Legislature. OAL indicates that of the approximately 600-700 regulatory actions they receive each year, fewer than 15 would likely be impacted by this bill at the current economic impact threshold of $50 million.

2) There are typically 3 to 12 major regulations packages per year and many regulations packages exceed several hundred pages. Should the Legislature choose to review the major regulations packages, it is likely that workload requirements for the policy committees would increase. In addition, it is likely that the workload for the Legislative Analyst's Office, Legislative Counsel, and the Chief Clerk's Office would also increase.

COMMENTS:

1) Purpose. The intent of AB 77 is to increase transparency in the regulations process by requiring the Legislature to review all major regulations proposals. According to the author, this bill will "provide the process and mechanism needed for greater checks and balances to ensure elected representatives can more effectively referee state agency regulations that have significant cost implications for families and businesses in their districts."

2) Background. The Administrative Procedures Act (APA) governs the adoption of regulations by state agencies for purposes of ensuring that they are clear, necessary, legally valid, and available to the public. In seeking adoption of a proposed regulation, state agencies must comply with procedural requirements that include publishing the proposed regulation along with supporting statement of reasons; mailing and publishing a notice of the proposed action 45 days before a hearing or before the close of the public comment period; and, submitting a final statement to OAL that summarizes and responds to all objections, recommendations and proposed alternatives that were raised during the public comment period. The OAL is then required to approve or reject the proposed regulation within 30 days.
OAL is responsible for reviewing administrative regulations proposed by more than 200 state agencies. Each file submitted to OAL for review affects from 1 to 100+ individual regulation sections, meaning OAL reviews around 4,000 regulations each year. OAL is also responsible for transmitting these regulations to SOS and for publishing regulations in the California Code of Regulations. Existing law requires OAL to print a summary of all regulations filed with SOS in the previous week in the California Regulatory Notice Register.

The APA also requires an agency to determine the economic impact of that regulation, in accordance with certain procedures. The APA defines a major regulation as one with an expected economic impact on of $50 million or more. The Department of Finance (DOF) maintains a list of major regulations and related documents on its website. Existing law allows any committee of the Legislature to request that OAL conduct a priority review of any regulation of concern to the committee.

3) **Prior Legislation.**

AB 797 (Steinorth), of the 2015-16 Legislative Session, was substantially similar to this bill, but was subsequently amended in the Senate to address a different subject matter.

AB 1982 (Gorrell), of 2011-12 Legislative Session, would have extended the effective date of regulations from 30 to 90 days; required the OAL to submit a copy of all major regulations to each house of the Legislature for review; and, authorized the Legislature to enact a statute to override the regulation. That bill was held on this committee's Suspense File.

AB 2466 (Smyth), of 2009-10 Legislative Session would have extended the effective date of regulations from 30 days to 90 days, required OAL submit all regulations packages to the Legislature, and required that the appropriate legislative policy committees review those regulations. That bill was held on this committee's Suspense File.
An act to add Article 4.5 (commencing with Section 18980) to Chapter 4 of Part 2 of Division 5 of Title 2 of the Government Code, relating to civil service.

LEGISLATIVE COUNSEL'S DIGEST


Existing provisions of the State Civil Service Act require that, whenever any veteran, widow or widower of a veteran, or spouse of a 100% disabled veteran achieves a passing score on an entrance examination, he or she be ranked in the top rank of the resulting civil service eligibility list.

This bill would, except as described above, require any person who assisted the United States military and was issued a specified special immigrant visa also to and who achieves a passing score on an entrance examination to be ranked in the top of the resulting eligibility list if he or she achieves a passing score on an entrance examination: unless a veteran, widow, or widower of a veteran, or the
AB 349 — 2 —

spouse of a 100% disabled veteran is in the top rank pursuant to the provisions described above, in which case, the special immigrant visa holder shall be ranked in the next highest rank.


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

SECTION 1. Article 4.5 (commencing with Section 18980) is added to Chapter 4 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 4.5. Special Immigrant Visa Holder’s Preference

18980. For purposes of this article, “SIV holder” means any person who assisted the United States military and was issued a special immigrant visa pursuant to Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) or Section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

18981. Whenever an SIV holder achieves a passing score on an entrance examination, he or she shall be ranked in the top rank of the resulting eligibility-list unless a veteran, widow, or widower of a veteran, or the spouse of a 100 percent disabled veteran is in the top rank pursuant to Section 18973.1, in which case, the SIV holder shall be ranked in the next highest rank.

18982. (a) For purposes of this article, an entrance examination is any open competitive examination.

(b) No SIV preference under this article shall be awarded to permanent civil service employees.

18983. An SIV holder who successfully passes any state civil service examination and whose name, as a result, is placed on an employment list and who within 12 months after the establishment of the employment list for which the examination was given qualified for SIV preference as provided for in this article shall be allowed the appropriate SIV credit to the same effect as though he or she were entitled to that credit at the time of the establishment of the employment list.
1 18984. Request for and proof of eligibility for SIV holder preference shall be submitted by the SIV holder to the department or to the designated appointing authority conducting the employment examination. The procedures and time of filing the request shall be subject to rules promulgated by the department.
Bill No: AB 349
Author: McCarty
Version: 6/5/17 As amended
Urgency: No
Fiscal: Yes
Consultant: Korinne Sugasawara

SUBJECT: Civil service: preference: special immigrant visa holder

SOURCE: Author

ASSEMBLY VOTES:
Assembly Floor: 41 - 30
Assembly Appropriations Committee: 12 - 5
Assembly Rules Committee: 9 - 0

DIGEST: This bill seeks to provide that when an Iraqi or Afghan individual who has been issued a Special Immigrant Visa for their assistance to the United States passes any entrance exam for state civil service, their name shall be placed in the top rank of the resulting eligibility list, but not above an applicant with veteran’s preference.

ANALYSIS:

Existing Federal law:


1) Authorizes the Secretary of Homeland Security to issue a Special Immigrant Visa (SIV) provided the individual meets the following criteria:

   a) Is a national of Iraq or Afghanistan;
   b) Worked directly with the United States Armed Forces as a translator for at least 12 months;
   c) Received a favorable written recommendation from a general or flag officer in the chain of command in the United States Armed Forces Unit supported by the individual;
d) Before filing a petition for SIV status with the Secretary of Homeland Security, clears a background check and screening by a general or flag officer in the chain of command of the United States Armed Forces Unit supported by the individual;

e) Is otherwise eligible to receive an immigration visa;

f) Is otherwise admissible to the United States for permanent residence.

2) Authorizes the Secretary of Homeland Security to grant SIV status to the spouse or children of the principal SIV holder.

3) Allows the issuance of fifty SIVs per fiscal year for Iraqi and Afghan translators and interpreters who assisted the United States military.

Immigration and Nationality Act, Section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181)

1) Authorizes the Secretary of Homeland Security to issue a Special Immigrant Visa (SIV) provided the individual meets the following criteria:

a) Is an Iraqi citizen;

b) Was employed for at least a year by the United States government in Iraq on or after March 20, 2003;

c) Provided faithful and valuable service as documented by a favorable written recommendation from a senior supervisor, or a person currently occupying that position if the original supervisor has left the employer or Iraq;

d) Is experiencing an ongoing serious threat as consequence of their employment by the United States government;

e) Is otherwise eligible to receive an immigration visa;

f) Is otherwise admissible to the United States for permanent residence;

g) Clears a background check and appropriate screening, as specified.

2) Authorizes the Secretary of Homeland Security to grant SIV status to a spouse or child who is accompanying or following to join the principal SIV holder.

3) Grants SIV status to a spouse or child of a principal SIV holder whose petition for SIV status would have been approved, but was revoked or terminated due to the death of the principal SIV holder.

4) Restricts the number of Iraqi individuals or citizens who may be provided special immigrant status to 5,000 per fiscal year, up to 5 fiscal years after the enactment of the National Defense Authorization Act (NDAA) for Fiscal Year 2008.
5) Prohibits the Secretary of State and Secretary of Homeland Security from charging any fee in connection with an application for, or issuance of, an SIV.

Existing State law:

1) Provides pursuant to Article VII, Section 1 of the California Constitution that permanent appointments and promotions of civil service workers shall be made under a competitive examination and merit-based system.

2) Provides, pursuant to Article VII, Section 6 of the California Constitution that the Legislature may provide preferences in civil service for veterans, their spouses, and widows or widowers of veterans.

3) Requires, pursuant to the Civil Service Act, that state employment be based on the merit principle; that appointments are based upon merit and fitness as ascertained through practical and competitive examination; and that tenure of civil service employment is subject to good behavior.

4) Requires the California Department of Human Resources (CalHR) and the Department of Fair Employment and Housing work cooperatively to develop uniform employment forms where possible, pursuant to the provisions of the Civil Service Act, and coordinate their enforcement of the Civil Service Act.

5) Identifies certain groups of individuals who receive additional points based on their status or prior experience after becoming eligible for inclusion on a hiring list by obtaining a passing score on an open, non-promotional examination.

6) Includes a number of provisions that provide additional entrance exam points to veterans, disabled veterans, spouses of 100 percent disabled veterans, and widows or widowers of veterans who obtain passing scores. Specifies that a veteran who has been dishonorably discharged or released does not qualify for veteran’s preference.

This bill:

1) Authorizes any person who holds an SIV, as specified, to be ranked at the top of the eligibility list for state employment if he or she achieves a passing score on the state civil service entrance exam.
2) Stipulates that an SIV holder who achieves a passing score on an entrance exam shall not be ranked on the resulting eligibility list above a United States veteran, widow or widower of a veteran, or spouse of a 100 percent disabled veteran.

3) Defines an “SIV holder” as any person who assisted the United States military and was issued a special immigration visa pursuant to Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) or Section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

4) Specifies that for the purposes of this bill, an “entrance examination” is any open competitive examination.

5) Stipulates that no SIV preference shall be awarded to current permanent civil service employees.

6) Provides that an SIV holder who successfully passes any state civil service examination; whose name is placed on an employment list; and who within 12 months after the establishment of the employment list for which the examination was given, qualified for SIV preference, as specified, shall be allotted the appropriate SIV credit as though he or she were entitled to that credit at the time of the establishment of the employment list.

7) Provides that requests for, and proof of eligibility for, SIV holder preference shall be submitted by the SIV holder to the department or the designated appointing authority conducting the employment examination. The procedures and time of filing the request shall be subject to rules promulgated by the department.

Background

SIV Applicants

Current federal law enables Iraqi and Afghan nationals who worked for the United States government or assisted the United States military to be eligible for a SIV.

SIV applicants undergo a thorough screening process that has been described by a 2016 Congressional Research Service (CRS) report as “subject to much criticism” for its opaque and lengthy procedures. Applicants must apply for Chief of Mission approval, submit a petition to the Department of Homeland Security, be otherwise eligible for an immigration visa, and admissible to the United States. Upon approval of the petition, an applicant residing abroad must have an in-person visa
interview at a U.S. consulate or embassy. Upon admission to the United States, an SIV holder is granted lawful permanent residence status, and is eligible for the same resettlement assistance and federal public benefits as refugees.

According to a 2016 CRS report, approximately 37,000 individuals have been granted SIVs through programs specific to either Iraqi or Afghan nationals. Of this number 15,000 are principal applicants; the rest are dependent spouses and children. Fiscal Year 2016 data from the California Department of Social Services record over 4,000 SIV holders in California, with the majority residing in the counties of Sacramento, San Diego, and Alameda.

Many SIV holders, despite possessing a high level of education and English fluency, face difficulties securing employment that fully utilizes their skills. A 2010 Government Accountability Office (GAO) report on Iraqi refugees and SIV holders noted “the U.S. resettlement program does not take into account refugees’ prior work experience and education in job placements. Rather, the focus of the program is on securing early employment.”

Civil Service Exam Preferences

The California Constitution provides that in the civil service, permanent appointments and promotions must be made based on merit, as ascertained by competitive examination. The Constitution also specifies that the Legislature may provide preferences for veterans and their spouses, as specified.

Clarifying Amendments

This bill’s current language is unclear as to what would occur in the event an applicant with veteran’s preference and an applicant who holds an SIV visa both obtained a passing score on a civil service entrance examination. While it is clear that the SIV holder may not be ranked above a veteran, the language does not specify if the SIV holder would continue to receive a preference. Recommended amendments would clarify the author’s intent as to where on the resulting eligibility list a SIV holder may be ranked when a veteran has also achieved a passing score.

Related/Prior Legislation

None known.
AB 349 (McCarty)

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

According to the Assembly Appropriations Committee, this bill would result in increased costs of approximately $50,000 for CalHR to update the Examination and Certification Online System.

SUPPORT:

California Immigrant Policy Center
International Rescue Committee
Nile Sisters Development Initiative
Opening Doors Inc.
World Relief

OPPOSITION:

None received.

ARGUMENTS IN SUPPORT:

According to the author's office, "A large number of individuals with SIVs have come to California... Many of these families have escaped war and persecution in order to improve the lives of their family. Many SIVs and refugees face numerous barriers assimilating in the U.S., including finding employment in a similar occupation as in their country of origin. SIVs have difficulty in navigating how to determine which parts of their education and work experience is applicable to meet the licensure requirements of California. This barrier and others force many SIVs to work in different occupations and causes financial hardships as they assimilate to the United States."

The International Rescue Committee writes, "In recent years, the state of California has welcomed over 6,000 refugees through the Special Immigration Visa program. Beneficiaries of this program have a strong command of the English language and were highly trained in their home countries... despite these skills, SIV recipients often face challenges accessing employment commensurate with their training."

California Immigrant Policy Center notes, "AB 349 will play a key role in supporting refugees as they train for and enter the U.S. workforce by expanding their access to key employment opportunities."
AB387
An act to amend Section 1182.12, and to add Section 1182.14 to the Labor Code, relating to wages.

LEGISLATIVE COUNSEL’S DIGEST

Existing law requires the minimum wage for all industries to not be less than specified amounts to be increased from January 1, 2017, to January 1, 2022, inclusive, for employers employing 26 or more employees and from January 1, 2018, to January 1, 2023, inclusive, for employers employing 25 or fewer employees, except when the scheduled increases are temporarily suspended by the Governor, based on certain determinations. Existing law defines an employer for purposes of those provisions to mean a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of another person. Payment of less than the established minimum wage is a misdemeanor.

This bill would expand the definition of “employer” for purposes of these provisions to include a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a person engaged in a period of supervised work experience longer than 100 hours to satisfy requirements for licensure, registration, or certification as an allied health professional, as defined.
AB 387 — 2 —

Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

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

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


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

SECTION 1. Section 1182.12 of the Labor Code is amended to read:

1182.12. (a) Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars ($9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars ($10) per hour.

(b) Notwithstanding subdivision (a), the minimum wage for all industries shall not be less than the amounts set forth in this subdivision, except when the scheduled increases in paragraphs (1) and (2) are temporarily suspended under subdivision (d).

(1) For any employer who employs 26 or more employees, the minimum wage shall be as follows:

(A) From January 1, 2017, to December 31, 2017, inclusive, ten dollars and fifty cents ($10.50) per hour.

(B) From January 1, 2018, to December 31, 2018, inclusive, eleven dollars ($11) per hour.

(C) From January 1, 2019, to December 31, 2019, inclusive, twelve dollars ($12) per hour.

(D) From January 1, 2020, to December 31, 2020, inclusive, thirteen dollars ($13) per hour.

(E) From January 1, 2021, to December 31, 2021, inclusive, fourteen dollars ($14) per hour.

(F) From January 1, 2022, and until adjusted by subdivision (e) of Section 1182.12 of the Labor Code.

(2) For any employer who employs 25 or fewer employees, the minimum wage shall be as follows:
(A) From January 1, 2018, to December 31, 2018, inclusive, ten dollars and fifty cents ($10.50) per hour.

(B) From January 1, 2019, to December 31, 2019, inclusive, eleven dollars ($11) per hour.

(C) From January 1, 2020, to December 31, 2020, inclusive, twelve dollars ($12) per hour.

(D) From January 1, 2021, to December 31, 2021, inclusive, thirteen dollars ($13) per hour.

(E) From January 1, 2022, to December 31, 2022, inclusive, fourteen dollars ($14) per hour.

(F) From January 1, 2023, and until adjusted by subdivision

c—fifteen dollars ($15) per hour.

(3) For purposes of this subdivision, "employer" means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person, including any person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional. For purposes of this subdivision, "employer" includes the state, political subdivisions of the state, and municipalities.

(4) For purposes of this subdivision, "allied health professional" has the same meaning as in Section 295p of Part F of Subchapter V of Chapter 6A of Title 42 of the United States Code.

(5) Employees who are treated as employed by a single qualified taxpayer under subdivision (b) of Section 23626 of the Revenue and Taxation Code, as it read on the effective date of this section; shall be considered employees of that taxpayer for purposes of this subdivision.

(c) (1) Following the implementation of the minimum-wage increase specified in subparagraph (F) of paragraph (2) of subdivision (b), on or before August 1 of that year, and on or before each August 1 thereafter, the Director of Finance shall calculate an adjusted minimum wage. The calculation shall increase the minimum wage by the lesser of 3.5 percent and the rate of change in the averages of the most recent July 1 to June 30, inclusive; period over the preceding July 1 to June 30, inclusive; period for the United States Bureau of Labor Statistics nonseasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). The result shall be rounded to the nearest ten cents ($0.10). Each adjusted minimum-wage increase
calculated under this subdivision shall take effect on the following January 1:

(2) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W is negative, there shall be no increase or decrease in the minimum wage pursuant to this subdivision on the following January 1.

(3) (A) Notwithstanding the implementation timing described in paragraph (1) of this subdivision, if the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent in the first year that the minimum wage specified in subparagraph (F) of paragraph (1) of subdivision (b) is implemented, the indexing provisions described in paragraph (1) of this subdivision shall be implemented immediately, such that the indexing will be effective on the following January 1.

(B) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent in the first year that the minimum wage specified in subparagraph (F) of paragraph (1) of subdivision (b) is implemented, notwithstanding any other law, for employers with 25 or fewer employees the minimum wage shall be set equal to the minimum wage for employers with 26 or more employees, effective on the following January 1, and the minimum wage increase specified in subparagraph (F) of paragraph (2) of subdivision (b) shall be considered to have been implemented for purposes of this subdivision.

(d) (1) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is fifteen dollars ($15) per hour pursuant to paragraph (1) of subdivision (b), to ensure that economic conditions can support a minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether each of the following conditions is met:

(A) Total nonfarm employment for California, seasonally adjusted, decreased over the three-month period from April to
(A) Total nonfarm employment in June, inclusive, prior to the July 28 determination shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in March, as reported by the Employment Development Department.

(B) Total nonfarm employment for California, seasonally adjusted, decreased over the six-month period from January to June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in December, as reported by the Employment Development Department.

(C) Retail sales and use tax cash receipts from a 3.9375 percent tax rate for the July 1 to June 30, inclusive, period ending one month prior to the July 28 determination is less than retail sales and use tax cash receipts from a 3.9375 percent tax rate for the July 1 to June 30, inclusive, period ending 13 months prior to the July 28 determination. The calculation for the condition specified in this subparagraph shall be made as follows:

(i) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the total retail sales (sales before adjustments) for the prior month derived from their daily retail sales and use tax reports.

(ii) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the monthly factor required to convert the prior month’s retail sales and use tax total from all tax rates to a retail sales and use tax total from a 3.9375 percent tax rate.

(iii) The Department of Finance shall multiply the monthly total from clause (i) by the monthly factor from clause (ii) for each month.

(iv) The Department of Finance shall sum the monthly totals calculated in clause (iii) to calculate the 12-month July 1 to June 30, inclusive, totals needed for the comparison in this subparagraph.

(2) (A) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is fifteen dollars ($15) per hour pursuant to paragraph (1) of subdivision (b), to ensure that the state General Fund fiscal condition can support the next scheduled minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether the state General Fund would be in a deficit.
in the current fiscal year, or in either of the following two fiscal years:

(B) For purposes of this subdivision, "deficit" is defined as a negative balance in the Special Fund for Economic Uncertainties, as provided for in Section 16418 of the Government Code, that exceeds, in absolute value, 1 percent of total state General Fund revenue and transfers, based on the most recent Department of Finance estimates required by Section 12.5 of Article IV of the California Constitution. For purposes of this subdivision, the estimates shall include the assumption that only the minimum wage increases scheduled for the following calendar year pursuant to subdivision (b) will be implemented.

(3) (A) (i) If, for any year, the condition in either subparagraph (A) or (B) of paragraph (1) is met, and if the condition in subparagraph (C) of paragraph (1) is met, the Governor may, on or before August 1 of that year, notify the Legislature of an initial determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year.

(ii) If the Director of Finance certifies under paragraph (2) that the state General Fund would be in a deficit in the current fiscal year, or in either of the following two fiscal years, the Governor may, on or before August 1 of that fiscal year, notify the Legislature of an initial determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year.

(B) If the Governor provides notice to the Legislature pursuant to subparagraph (A), the Governor shall, on September 1 of any such year, make a final determination whether to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year. The determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year shall be made by proclamation.

(C) The Governor may temporarily suspend scheduled minimum wage increases pursuant to clause (ii) of subparagraph (A) no more than two times.

(D) If the Governor makes a final determination to temporarily suspend the scheduled minimum wage increases pursuant to subdivision (b) for the following year, all dates specified in
subdivision (b) that are subsequent to the September 1 final
determination date shall be postponed by an additional year.

SECTION 1. Section 1182.14 is added to the Labor Code, to
read:

1182.14. (a) For purposes of Section 1182.12, an “employer”
as defined in paragraph (3) of subdivision (b) of Section 1182.12,
also means any person who directly or indirectly, or through an
agent or any other person, employs or exercises control over the
wages, hours, or working conditions of any person engaged in a
period of supervised work experience of longer than 100 hours to
satisfy hourly requirements for licensure, registration, or
certification as an allied health professional.

(b) For purposes of subdivision (a), “allied health professional”
has the same meaning as in Section 295p of Part F of Subchapter
V of Chapter 6A of Title 42 of the United States Code.

(c) The definitions contained in subdivisions (a) and (b) do not
apply to either of the following:

1. An employer offering supervised work experience if the
employer employs 25 or fewer allied health professionals.

2. A primary care clinic that is licensed under subparagraph
(A) of paragraph (1) of subdivision (a) of Section 1204 of the
Health and Safety Code, and meets the definition of a health center
pursuant to Section 330 of the Public Health Service Act (42 U.S.C.
Sec. 254b(a)).

(d) This section shall not be construed to apply to the
educational institution at which a person is enrolled to fulfill the
educational requirements for licensure, registration, or
certification as an allied health professional. Nothing in this
subdivision shall relieve hospitals or clinics or other medical
facilities licensed under Section 1250 of the Health and Safety
Code that are affiliated with or operated by educational institutions
from application of this section.

SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY: Broadens the definition of employer related to minimum wage provisions to include a person employing any person, engaged in supervised work experience to satisfy requirements for licensure, registration or certification as an allied health professional, with exceptions. Specifically, this bill:

1) Defines employer related to minimum wage provisions, for purposes of these provisions to include any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours or working conditions of any person, including any person engaged in a period of supervised work experience of longer than 100 hours to satisfy requirements for licensure, registration, or certification as an allied health professional.

2) Specifies that for purposes of these provisions, allied health professional, uses the federal definition. (42 United States Code section 295(p))

3) Specifies the definitions above do not apply to either of the following:
   a) An employer offering supervised work experience if the employer employs 25 or fewer allied health professionals.
   b) A primary care clinic, as defined.

4) Clarifies the definition of employer for purposes of these provisions shall not apply to the educational institution at which a person is enrolled to fulfill the educational requirements for licensure, registration or certification as an allied health professional.

5) Clarifies further that nothing shall relieve hospitals, clinics, or other medical facilities, as defined, that are affiliated with or operated by educational institutions from application of these provisions.

FISCAL EFFECT: According to the Assembly Committee on Appropriations,

1) Increased costs for the Department of State Hospitals (DSH) in the range of $1.5 million to $3.5 million (GF) to pay allied health trainees in 2018, with costs rising along with the
statewide minimum wage. Costs across individual hospitals will vary based on their respective staffing arrangements.

2) Administrative costs of approximately $75,000 for the Department of Industrial Relations (DIR) to implement this bill and respond to a potential increase in wage claims.

3) Indirect cost pressure to the state as a large payer of health care. Statewide, this bill is estimated to result in an increase in the aggregate wages earned by allied health trainees in the range of $200 million to $250 million in 2018. Given a significant share of state’s population is enrolled in Medi-Cal, this magnitude of health system labor costs could result in an indirect, unknown but potentially significant ongoing cost pressure on the state Medi-Cal program (GF/federal). A similar indirect effect on the state’s employee health care costs through California Public Employees Retirement System (CalPERS) is possible (various funds).

COMMENTS: The author states it is estimated that California allied health professionals contribute up to 25 million unpaid clinical hours each year. The healthcare industry receives a direct economic benefit from that labor without paying for it. This requirement creates a barrier for low-income students and working adults, which prevents them from entering into good middle-class jobs. By requiring healthcare providers to pay allied health professionals in training with at least the minimum wage, more people from underrepresented communities will be able to complete the required clinical training requirements for allied health professions, thereby increasing the overall numbers and diversity of the students in the pipeline.

See policy committee analysis for existing state and federal law.

Arguments in Support

The California Employment Lawyers Association argues in support, "AB 387 helps to address problematic practices in an industry that is predominately female, that contributes to the gender wage gap and limits job opportunities. Every year, more than 50,000 Californians train to become allied health professionals. Clinical hours required as a part of that training can vary from as few as 160 hours for medical assistants to as many as 1,850 hours for a radiologic technologist, nearly a working year. The clinical hour requirement is in addition to in-classroom course work requirements, meaning that some students are in school 30 to 50 hours a week in addition to their clinical hours and the time they spend studying. In fact, most community college programs recommend that students not work because of the programs’ heavy time demands. Requiring students to contribute substantial hours of unpaid work imposes an unrealistic burden on individuals with families to support."

Arguments in Opposition

The California Hospital Association writes in opposition, "[This bill] would result in a significant decrease in the capacity to train the allied health workforce needed to provide care for California's patients now and in the future. It would cause many clinical training slots for these critical professionals to be eliminated, which, in turn, would put allied health educational programs at risk of closure. The programs, many of which are offered by California's Community Colleges, would not be able to offer enrollment without enough clinical training placements for students at hospitals. If California Community College health professions
programs are limited by the number of clinical placements they can secure, students will have limited choices in California for education and training."

Analysis Prepared by: Taylor Jackson / L. & E. / 916-319-2091

FN: 0000834
AB508
Assembly Bill No. 508

CHAPTER 195

An act to repeal Section 685 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 1, 2017. Filed with Secretary of State September 1, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 508, Santiago. Health care practitioners; student loans.

Existing law authorizes a board, defined as a licensing board or agency having jurisdiction over a licensee, as specified, to cite and fine a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan. Existing law authorizes the board to deny a license to an applicant to become a health care practitioner or deny renewal of a license if he or she is in default on a loan until the default is cleared or until the applicant or licensee makes satisfactory repayment arrangements. Existing law requires a board, prior to taking these actions, to take into consideration the population served by the health care practitioner and his or her economic status. Existing law requires that each board that issues citations and imposes fines retain the money from these fines for deposit into its appropriate fund. This bill would repeal these provisions.

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

SECTION 1. Section 685 of the Business and Professions Code is repealed.
THIRD READING

Bill No: AB 508
Author: Santiago (D)
Introduced: 2/13/17
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/5/17
AYES: Hill, Fuller, Dodd, Galgiani, Glazer, Hernandez, Newman, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/4/17 (Consent) - See last page for vote

SUBJECT: Health care practitioners: student loans

SOURCE: Author

DIGEST: This bill repeals provisions of law authorizing boards to cite and fine, or deny licensure or licensure renewal, to a health care practitioner if he or she is in default on a United States Department of Health and Human Services education loan.

ANALYSIS:

Existing law:

1) Provides for the licensing and regulation of various professions and businesses by some 26 boards, 3 committees, 9 bureaus, 2 programs, and 1 commission (all defined as boards) within the Department of Consumer Affairs (DCA) under various licensing acts within the Business and Professions Code (BPC).

2) Authorizes a board to cite and fine a currently licensed health care practitioner if he or she is in default on a United States Department of Health and Human Services (HHS) education loan, including a Health Education Assistance Loan (HEAL). (BPC § 685)
3) Allows a board to deny a license to an applicant to be a health care practitioner or deny renewal of a license if he or she is in default on a HHS education loan, including a HEAL, until the default is cleared or until the applicant or licensee has made satisfactory repayment arrangements. (Id.)

This bill repeals BPC Section 685 which permits boards to cite and fine, or deny licensure or licensure renewal, to a health care practitioner if he or she is in default on a HHS education loan.

Background

The authority to discipline healing arts licensees and deny applicants for defaulting on an HHS loan was established by SB 2019 (Speier, Chapter 683, Statutes of 2002). At the time, the author stated that $173 million was owed nationwide by health care practitioners in defaulted educational loan debts, $40 million of which was estimated to be owed by California practitioners.

However, it is not clear that the loans targeted by that bill are the same loans currently in existence. For example, according to the U.S. Department of Education (USDE), the HEAL Program was only available from fiscal year 1978 through fiscal year 1998 (on July 1, 2014, the HEAL Program was transferred from the HHS to the USDE). It is no longer possible to obtain a new HEAL Program loan.

Currently, the loans offered by the HHS (through the Health Resources & Services Administration (HRSA)) appear to be aimed at improving health workforce shortages and providing educational opportunities for disadvantaged students from diverse backgrounds. For instance, under the Health Professions Student Loans (HPSL) program, HRSA provides “grants to participating schools to offer long-term, low interest loans to needy students, enrolled full-time or half-time in a dentistry, optometry, pharmacy, podiatric, or veterinary medicine.”

The Medical Board of California, for example, has not issued citations and fines for many years pursuant to BPC Section 685. The Board of Psychology, Board of Veterinary Medicine and Board of Optometry have also not taken any action against an applicant or licensee for being in default on a loan pursuant to this law in many years, or possibly never, as current staff had no record of action taken. It remains unclear whether any healing arts boards authorized within the BPC has
taken enforcement action or denied licensure based on HHS loan debt at all in the past many number of years, appearing to render BPC Section 685 obsolete.

The author states that the authority granted to licensing boards is unnecessarily punitive, and problematic when one considers that recent reporting from *Fortune* shows that nearly 40 percent of students are failing to make on-time payments which puts them on the road to default. The author cites information from the USDE that over 1 in 5 borrowers are in default on federal loans and the debt burden for graduate students, especially for medical professionals, is significant as well. The author also notes that the American Association of Medical Colleges reports that in the year 2013, 86 percent of medical school graduates held debt at graduation, 40 percent with over $200,000. These loans can sometimes lead to financial hardships down the line which ought not to affect someone’s ability to practice their profession.

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

**SUPPORT:** (Verified 6/28/17)

California Chapter of the American College of Emergency Physicians  
California Health+ Advocates  
California Optometric Association  
California Veterinary Medical Association  
Mental Health America of California  
Service Employees International Union Local 1000

**OPPOSITION:** (Verified 6/28/17)

The Honorable Jackie Speier, Congressmember, 14th District, California

**ARGUMENTS IN SUPPORT:** Supporters cite the high average student loan debt of health care professionals in calling this bill a welcome and necessary effort to guarantee that California continues to have the healthcare workforce it needs. Supporters note that the current ability for boards to cite and fine or deny licensure entirely is punitive and harshly punished individuals struggling to pay off their debt.

**ARGUMENTS IN OPPOSITION:** Congressmember Speier writes that HEAL loans likely remain in default and cites a 2014 ABC News story to state that “the amounts in default by California healing arts professionals ranged from a few thousand dollars to hundreds of thousands.” The Congressmember also states that existing law deals with debt-burdened practitioners by allowing health board to
take into account the economic circumstances of a licensee and the population he or she serves in determining penalties. She notes that the “obvious intent” of SB 2019 was to “permit concerns about access to care by underserved communities, and for physicians who may simply be in distress, to be explicitly taken into account. Paradoxically, the practical impact of the abolition of the existing law and authority may be to allow relatively affluent licensees serving relatively well-off communities to skirt their duty to repay student loan debt while also shortchanging the federal government of funds that might otherwise be used for similar programs.”

ASSEMBLY FLOOR: 76-0, 5/4/17
NO VOTE RECORDED: Travis Allen, Bigelow, Cristina Garcia, Patterson

Prepared by: Sarah Mason / B., P. & E.D. /
6/28/17 14:42:47

**** END ****
An act to add Section 115.7 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as introduced, Flora. Professions and vocations: licenses: fee waivers.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires a board within the department to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state if the applicant holds a current license in the same profession or vocation in another state, district, or territory. Existing law also requires a board to issue temporary licenses in specified professions to applicants as described above if certain requirements are met.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for application and issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States if the applicant holds a current license in the same profession or vocation in another state, district, or territory. The bill would require that an applicant be granted fee waivers for both the application for and issuance of a license if the board charges fees for both. The bill would prohibit fee waivers from being issued for
renewal of a license, for an additional license, a certificate, a registration, or a permit associated with the initial license, or for the application for an examination.


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

SECTION 1. Section 115.7 is added to the Business and Professions Code, to read:

115.7. (a) Notwithstanding any other law, every board within the department of Consumer Affairs shall grant a fee waiver for the application for and issuance of an initial license to an applicant who does both of the following:

1. Supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States.

2. Holds a current, active, and unrestricted license that confers upon him or her the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which he or she seeks a license from the board.

(b) If a board charges a fee for the application for a license and another fee for the issuance of a license, the applicant shall be granted fee waivers for both the application for and issuance of a license.

(c) A fee waiver shall not be issued for any of the following:

1. Renewal of an existing California license.

2. The application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license.

3. The application for an examination.
An act to amend Section 101.7 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST


Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law generally requires these boards to meet at least 3 times each calendar year, and at least once in northern California and once in southern California per calendar year.

This bill would require a board to meet once every other calendar year in rural northern California.


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

1   SECTION 1. Section 101.7 of the Business and Professions Code is amended to read:
2          101.7. (a) Notwithstanding any other provision of law, boards
3          shall meet at least three times each calendar year. Boards shall
meet at least once each calendar year in northern California, once
every other calendar year in rural northern California, and once
each calendar year in southern California in order to facilitate
participation by the public and its licensees.
(b) The director at his or her discretion may exempt any board
from the requirement in subdivision (a) upon a showing of good
cause that the board is not able to meet at least three times in a
calendar year.
(c) The director may call for a special meeting of the board
when a board is not fulfilling its duties.
(d) An agency within the department that is required to provide
a written notice pursuant to subdivision (a) of Section 11125 of
the Government Code, may provide that notice by regular mail,
email, or by both regular mail and email. An agency shall give a
person who requests a notice the option of receiving the notice by
regular mail, email, or by both regular mail and email. The agency
shall comply with the requester’s chosen form or forms of notice.
(e) An agency that plans to Web cast a meeting shall include in
the meeting notice required pursuant to subdivision (a) of Section
11125 of the Government Code a statement of the board’s intent
to Web cast the meeting. An agency may Web cast a meeting even
if the agency fails to include that statement of intent in the notice.
Date of Hearing: May 3, 2017

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez Fletcher, Chair
AB 710 (Wood) – As Amended April 27, 2017

Policy Committee: Business and Professions
Urgency: No
State Mandated Local Program: No
Reimbursable: No

SUMMARY:
This bill requires a board under the jurisdiction of the Department of Consumer Affairs (DCA) to meet at least once every other year in rural California.

FISCAL EFFECT:
1) Minor and absorbable costs for most boards and committees within DCA.
2) Additional travel costs per rural meeting of approximately $22,000 for three boards that could not absorb costs, including Guide Dogs for the Blind, $2,450, Naturopathic Medicine Committee, $3,850, and the Board of Registered Nursing, $15,910.

COMMENTS:
1) Purpose. According to the author, “Current law requires each board to meet at least once in Northern California and at least once in Southern California each calendar year. This requirement helps ensure that stakeholders from all over the state have an opportunity to be heard by the boards that are responsible to regulate and license them. Unfortunately, far too many times, board meetings do not take place in the rural parts of California. A board that meets in Santa Rosa, California would satisfy the northern California requirement, but there are still hundreds of miles north of Santa Rosa. If the board did not have any other planned meetings in northern California, a person from Crescent City, California would have to travel over 300 miles and over five hours to attend the board’s meeting in Santa Rosa. [This bill] requires boards within DCA to meet at least once every other year in rural California. This will ensure that our rural communities have a fair opportunity to have their voices heard at board meetings."

2) Background. The DCA issues nearly three million licenses, certificates, and approvals to individuals and businesses in over 250 categories. Within the DCA, there are 40 regulatory entities, including 26 boards, 10 bureaus, 2 committees, 1 program, and 1 commission. These entities are semiautonomous regulatory bodies with the authority to set their own priorities and policies and take disciplinary action on their licensees.

Boards usually contain both representatives of the profession and representatives of the public. The composition of each board is outlined in statute, with members appointed by the Governor and Legislature. Individuals who serve on a board are volunteers and receive a stipend of $100 for each day spent in the discharge of official duties. Board members are also reimbursed for travel and other expenses incurred to attend board meetings. Each board’s quorum requirements to conduct official board business are set forth in statute.
Existing law requires each board to meet at a minimum of three times per year; at least once in northern California and at least once in southern California. Existing law also permits the director of DCA to exempt a board from these meeting requirements upon a showing of good cause that the board is unable to meet at least three times per year.

Board meetings are subject to the Bagley-Keene Open Meeting Act (Act) which generally requires boards to publicly notice their meetings, prepare agendas, accept public testimony, and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Agendas are required to be posted at a minimum of ten days prior to the board meeting.

3) Prior Legislation. SB 1047 (Senate Committee on Business, Professions and Economic Development), Chapter 354, Statutes of 2007, required all regulatory boards under the DCA to meet at least three times per calendar year, at least once in Northern California and once in Southern California. The bill also authorized the Director of DCA to exempt any regulatory board from the three-meeting requirement, upon a showing of good cause, and to call a special meeting of any regulatory board when that board is not fulfilling its duties.

Analysis Prepared by: Jennifer Swenson / APPR / (916) 319-2081
Assembly Bill No. 715

Passed the Assembly September 11, 2017

________________________________________
Chief Clerk of the Assembly

Passed the Senate September 6, 2017

________________________________________
Secretary of the Senate

This bill was received by the Governor this _____ day of _____________, 2017, at ____ o’clock ____M.

________________________________________
Private Secretary of the Governor
An act to add and repeal Part 6.3 (commencing with Section 1179.90) of Division 1 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

AB 715, Wood. Workgroup review of opioid pain reliever use and abuse.

Existing law creates the State Department of Public Health and vests it with duties, powers, functions, jurisdiction, and responsibilities with regard to the advancement of public health. This bill would require the department to convene a workgroup, comprised of members selected by the department, to review existing prescription guidelines and develop a recommended statewide guideline addressing best practices for prescribing opioid pain relievers. The bill would require the department, on or before March 1, 2019, to report the workgroup’s conclusions and recommendations to the Legislature. The bill would repeal its provisions on January 1, 2020.

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

SECTION 1. The Legislature finds and declares all of the following:
(a) Opioid abuse is a serious problem that affects the health, social, and economic welfare of the state.
(b) After alcohol, prescription drugs are the most commonly abused substances by Americans over 12 years of age.
(c) Almost 2 million people in the United States suffer from substance use disorders related to prescription opioid pain relievers.
(d) Deaths involving prescription opioid pain relievers represent the largest portion of drug overdose deaths involving heroin or cocaine.
(e) The number of unintentional overdose deaths involving prescription opioid pain relievers has more than quadrupled since 1999.
(f) The federal Centers for Disease Control and Prevention recommends that healthcare providers should only use opioid pain relievers in carefully screened and monitored patients when nonopioid treatments are insufficient to manage pain.

(g) Long-lasting, nonnarcotic, local anesthetic, and multimodal alternatives for managing postsurgical acute pain have reduced, and in some instances, eliminated the need for patient dependency on opioid pain relievers.

SEC. 2. Part 6.3 (commencing with Section 1179.90) is added to Division 1 of the Health and Safety Code, to read:

PART 6.3 WORKGROUP REVIEW OF OPIOID PAIN RELIEVER USE AND ABUSE

1179.90. (a) The State Department of Public Health shall convene a workgroup to do all of the following:

(1) Review existing prescription guidelines, including, but not limited to, guidelines developed by the federal Centers for Disease Control and Prevention and the Medical Board of California.

(2) Develop a recommended statewide guideline addressing best practices for prescribing opioid pain relievers for instances of acute, short-term pain. In developing the statewide guideline, the workgroup may consider, among other things, evidence-based, peer-reviewed research, lessons learned from demonstration pilot projects, the effectiveness of long-lasting, nonnarcotic, local anesthetic alternatives for managing postsurgical acute pain, or other policies that have been successful in reducing opioid use and abuse. The guidelines shall include, but not be limited to, the appropriateness of limiting initial prescription duration and the appropriateness of a differing prescribing protocol for individuals under 21 years of age, and pregnant or lactating women.

(b) The State Department of Public Health shall determine the membership of the workgroup, ensuring an open and inclusive process. Members of the workgroup shall include, but not be limited to, family practitioners, emergency room physicians, osteopathic physicians, dentists, surgeons, pain management experts, and experts in the field of substance abuse prevention and treatment.

1179.91. On or before March 1, 2019, the State Department of Public Health shall submit to the Legislature a report of the
workgroup's conclusions and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) of Section 1179.90 and any other recommendations made by the workgroup. The report shall be submitted in compliance with Section 9795 of the Government Code.

1179.92. This part shall remain in effect only until January 1, 2020, and as of that date is repealed.
Approved ________________, 2017

___________________________
Governor
CONCURRENCE IN SENATE AMENDMENTS
AB 715 (Wood)
As Amended June 8, 2017
Majority vote

ASSEMBLY:  77-0 (May 30, 2017)  SENATE:  40-0 (September 6, 2017)

Original Committee Reference: HEALTH

SUMMARY: Makes various findings and recommendations regarding opioid abuse. Requires the Department of Public Health (DPH) to convene a workgroup to review existing prescription guidelines and develop a recommended statewide guideline addressing best practices for prescribing opioid pain relievers.

The Senate amendments:

1) Add the following to be considered in developing the statewide guideline:
   a) The effectiveness of long-lasting, nonnarcotic, local anesthetic alternatives for managing postsurgical acute pain; and,
   b) The appropriateness of differing prescribing protocols for pregnant and lactating women.

2) Require the workgroup to include osteopathic physicians.

FISCAL EFFECT: According to the Senate Appropriations Committee, one-time costs of about $150,000 for DPH to contract with an outside entity to facilitate the workgroup and develop the required guideline (General Fund).

COMMENTS: According to the author, it is clear that the escalating misuse of prescriptions opioids in California has reached epidemic proportion. The crisis is particularly acute among youth and young adults. Almost 1.5 million Californians (age 12 and over) are estimated to have abused painkillers each year. Rates of nonmedical use of opioids are highest among 18-25 year olds. It is the author’s belief that while several multi-agency efforts are underway related to public education, safe storage, and opioid misuse treatment, the response to the crisis has not been sufficiently aggressive in efforts to intervene and change existing prescribing practice related to the appropriateness of use (based on the source of pain and the age of patient), and initial dosage of opioid prescriptions (both in terms of dosage strength and number of pills prescribed). Although there have been numerous guidelines and recommendations developed for prescribing opioid pain relievers, many of these efforts have focused on chronic, long-term pain, palliative care, and end-of-life considerations. The author believes insufficient attention has been given to opioid prescription guidelines for acute, short-term pain. Thus, the author believes it is prudent to form a task force inclusive of various healthcare practitioners, emergency room physicians, pain management specialists, opioid addiction specialists, and other credible stakeholders in order to develop a single set of recommendations for practitioners to use in prescribing opioids especially related to acute, short-term pain. This development of a standard set of guidelines for California should include an extensive review of related literature, evidence-based studies, and peer-reviewed articles.
Supporters of this bill, including the American Cancer Society Cancer Action Network, California Council of Community Behavioral Health Agencies, California Dental Association, California State Sheriffs’ Association, Osteopathic Physicians & Surgeons of California, and Pharmaceutical Research and Manufacturers of America, state that opioid use for non-chronic conditions has increased significantly, which has led to an increase in heroin addiction and death, as many individuals first become dependent on opioids from prescriptions from their doctors and that this bill takes steps to address the epidemic in a balanced way by involving stakeholders and other partners that have experience with existing prescribing guidelines.

In opposition, DPH argues that this bill is unnecessary and duplicative of California’s past and current work on opioid prescribing guidelines, citing both the Medical Board of California’s updated guidelines in 2014 and the federal Centers for Disease Control and Prevention’s guidelines from 2016. DPH states that it does not have the authority, expertise, or resources to develop and validate new medical practice guidelines or prescribing protocols.

Analysis Prepared by: John Gilman / HEALTH / (916) 319-2097
An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL’S DIGEST

AB 767, as amended, Quirk-Silva. Master Business License Act.

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor’s Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor’s Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small-business businesses and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor’s Office of Business and Economic Development, or its successor, a business license center to develop and administer a computerized an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and provide reasonable assistance to the office to implement these provisions.
This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows businesses to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize the office to borrow up to $140,000 from the General Fund. The bill would authorize a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system to borrow money as needed from the General Fund to support the reasonable costs of integrating into the system. The bill would require these General Fund moneys to be deposited into the Master License Fund. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies’ licenses.

The bill would require the office to establish a reasonable fee for each master license application and to collect those fees for deposit into the Master License Fund established by this bill. Funds derived from the master license application fees would be expended to administer the master business license program upon appropriation by the Legislature. The bill would require the license fees of the regulatory agencies deposited into the fund to be transferred to the appropriate accounts of the regulatory agencies, as provided.

The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.

The bill would also require the office, including the Director of Small Business Advocate, to work with small business owners and all regulatory agencies to ensure the state’s implementation of a consolidated business license and permit system.

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

SECTION 1. Part 12.5 (commencing with Section 15930) is added to Division 3 of Title 2 of the Government Code, to read:

PART 12.5. MASTER BUSINESS LICENSE ACT

CHAPTER 1. GENERAL PROVISIONS

15930. This part may be known, and may be cited as, the Master Business License Act.

15931. As used in this part, the following words shall have the following meanings:

(a) "Business license center" means the business registration and licensing center established by this part and located in and under the administrative control of the office.

(b) "Director" means the Director of the Governor’s Office of Business and Economic Development.

(c) "License information packet" means a collection of information about licensing requirements and application procedures custom assembled for each request.

(d) "License" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency regulation, to engage in any activity.

(e) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this part.

(f) "Master business license system" or "system" means the mechanism by which licenses are issued, license and regulatory information is disseminated, and account data is exchanged by state agencies.

(g) "Office" means the Governor’s Office of Business and Economic Development or its successor.

(h) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.
(i) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business activities.
(j) "Regulatory agency" means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.

CHAPTER 2. BUSINESS LICENSE CENTER

15932. (a) There is created within the office a business license center.
(b) The duties of the center shall include, but not be limited to, all of the following:
(1) Developing and administering a computerized, one-stop online master business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes.
(2) Providing a license information service detailing requirements to establish or engage in business in this state.
(3) Identifying types of licenses appropriate for inclusion in the master business license system.
(4) Recommending in reports to the Governor and the Legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing requirements.
(5) Incorporating licenses into the master business license system.

15933. (a) The director may adopt regulations as may be necessary to effectuate the purposes of this part.
(b) The director shall encourage state regulatory entities to participate in the online master business license system.

15934. Each state regulatory agency shall cooperate and provide reasonable assistance to the office in the implementation of this part.

CHAPTER 3. MASTER LICENSE

15935. (a) Any person that applies for two or more business licenses that have been incorporated into the master business license system may submit a master application to the office requesting the issuance of the licenses. The office shall develop
and adopt an Internet-based platform that allows the business to
electronically submit the master application to the office, as well
as the payment of every fee required to obtain each requested
license and a master application fee established pursuant to Section
15936.
(b) Irrespective of any authority delegated to the office to
implement this part, the authority for approving the issuance and
renewal of any requested license that requires a prelicensing or
renewal investigation, inspection, testing, or other judgmental
review by the regulatory agency otherwise legally authorized to
issue the license shall remain with that agency.
(c) Upon receipt of the application and proper fee payment for
any license for which issuance is subject to regulatory agency
action under subdivision (a), the office shall immediately notify
the business of receipt of the application and fees.
15936. (a) The office shall establish a fee for each master
application that does not exceed the reasonable costs of
administering this part and collect that fee.
(b) The office may borrow up to one hundred forty thousand
dollars ($140,000) from the General Fund in the State Treasury.
(c) A state agency that the office has determined to have a
license and fee that is appropriate for inclusion in the master
business license system may borrow money from the General Fund
in the State Treasury in an amount necessary to support the
reasonable cost of integrating into the system.
(d) The loans made pursuant to subdivisions (b) and (c) shall
be repaid with interest, calculated at the rate earned by the Pooled
Money Investment Account at the time of the transfer from the
General Fund, from the fees collected pursuant to this section.
15937. All fees collected under the master business license
system, including the master license application fee and the fees
of the regulatory agencies, and all moneys borrowed under Section
15936 shall be deposited into the Master License Fund, which is
hereby created in the State Treasury. Moneys in the fund from
master application fees may, upon appropriation by the Legislature,
be expended only to administer this part or be transferred to the
appropriate licensing agencies. Moneys in the fund from other fees
shall be transferred to the appropriate accounts under the applicable
statutes for those regulatory agencies' licenses.
CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER

15940. (a) The office, in consultation with other regulatory agencies, shall establish a uniform business identification number for each business. The uniform business identification number shall be recognized by all affected state agencies and shall be used by state agencies to facilitate information sharing between state agencies and to improve customer service to businesses.

(b) It is the intent of the Legislature that the uniform business number would permit the office to do both of the following:

1. Register a business with multiple state agencies electronically as licenses and permits are processed.
2. Input and update information regarding a business once, thereby reducing the number of duplicate or conflicting records from one state agency to another.

CHAPTER 5. OVERSIGHT

15945. The office, including the Director of Small Business Advocate from the Governor's Office of Planning and Research Business and Economic Development shall work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system under this part.
Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sharon Quirk-Silva, Chair
AB 767 (Quirk-Silva) – As Introduced February 15, 2017

SUBJECT: Master Business License Act

SUMMARY: Establishes the Master Small Business License Center (Center), within the Governor's Office of Business and Economic Development (GO-Biz), for the purpose of developing and administering an Internet-based platform that allows businesses to electronically submit a master application, including required fees. Specifically, this bill:

1) Enacts the Master Small Business License Act, which establishes the Center for the purpose of developing and administering an Internet-based platform that allows businesses to electronically submit a master application, required permit and license fees, and a fee to cover the cost of the master application system, as specified.

2) Requires GO-Biz, in consultation with other regulatory agencies, to establish a uniform business identification number for each business. The uniform business identification number is to be used by all affected state agencies for the purpose of facilitating information sharing between state agencies and to improve customer service to businesses.

3) Specifies that the Center is to be administered through GO-Biz and authorizes GO-Biz to adopt regulations necessary to operate the Center pursuant to the rules and conditions specified in this bill.

4) Requires each state agency to cooperate and provide reasonable assistance to GO-Biz to implement this bill.

5) Authorizes any person that applies for two or more business licenses that have been incorporated into the master business license system to submit a master application requesting the issuance of the licenses.

6) Specifies that the authority for approving the issuance and renewal of a license remains with the licensing agency.

7) Requires the master business license system to be capable of immediately notifying the business that the application and fees have been submitted.

8) Requires GO-Biz to establish a fee for each master application that does exceed the reasonable costs of administering the program and provides authority for its collection.

9) Establishes the Master License Fund within the State Treasury for the purpose of receiving all moneys paid into the master business license system, including those fees that will be transferred to the regulatory agency and those that are to be used to pay for the operation of the system. Moneys in the fund are subject to appropriation by the Legislature.

10) Defines the following terms:
a) "Business license center" means the business registration and licensing center established by this part and located in and under the administrative control of the office.

b) "License information packet" means a collection of information about licensing requirements and application procedures custom assembled for each request.

c) "License" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency regulation, to engage in any activity.

d) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this part.

e) "Master business license system" or "system" means the mechanism by which licenses are issued, license and regulatory information is disseminated, and account data is exchanged by state agencies.

f) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.

g) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business activities.

h) "Regulatory agency" means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.

EXISTING LAW:

1) Establishes GO-Biz to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Among other duties, GO-Biz is authorized to make recommendations to the Governor and the Legislature on new state policies, programs, and actions, or amendments to existing programs in order to advance statewide economic goals, respond to emerging economic problems, and to ensure that all state policies and programs conform to the state economic and business development goals.

2) Finds and declares that there has been an unprecedented growth in the number of administrative regulations in recent years and that correcting the problems requires the direct involvement of the Legislature, as well as that of the executive branch of the state government. Further, the statute finds and declares that the complexity and lack of clarity in many regulations put small businesses, which do not have the resources to hire experts to assist them, at a distinct disadvantage.

3) Authorizes GO-Biz to provide, including, but not limited to, all of the following:

   a) Economic and demographic data;

   b) Financial information to help link businesses with state and local public and private programs;

   c) Workforce information, including, but not limited to, labor availability, training, and education programs;

   d) Transportation and infrastructure information;

   e) Assistance in obtaining state and local permits;
f) Information on tax credits and other incentives; and

g) Permitting, siting, and other regulatory information pertinent to business operations in the state.

FISCAL EFFECT: Unknown

POLICY FRAMEWORK:

Starting and maintaining a business in California often requires an entrepreneur to apply for and annually renew a range of permits and licenses. Identifying which applications need to be completed, where to file, and what fees are necessary can be a significant challenge.

The Internet offers a useful tool for assisting businesses in navigating the required federal, state, and local permit requirements. This bill leverages an existing GO-Biz web-based platform to become a single access point for applying to and meeting existing requirements. The analysis includes background on the small business economy, GO-Biz and its existing permit assistance activities, and costs of regulatory compliance. Amendments are summarized in Comment 6.

COMMENTS:

1) The Role of Small Businesses within the California Economy: California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's $2.4 trillion economy. Two separate studies, one by the U.S. Census Bureau and another by the Kauffman Foundation, found that net job growth was strongest among businesses with less than 20 employees. Among other advantages, small businesses are crucial in the state's international competitiveness and are an important means for dispersing the positive economic impacts of trade within the California economy.

Sole proprietorships comprise the single largest component of businesses in California, 3.1 million out of an estimated 4 million firms in 2014, representing over $162 billion in revenues with the highest number of businesses (over 539,000) in the professional, scientific, and technical services industry sector.

Excluding sole proprietorships, businesses with less than 20 employees comprise over 87% of all businesses and employ approximately 18% of all workers. Businesses with less than 100 employees represent 97% of all businesses and employ 31% of the workforce. These non-employer and small employer firms create jobs, generate taxes, support important industry sectors, and revitalize communities. Since the recession, these businesses have become increasingly important because of their ability to be more flexible and adaptive to both foreign and domestic market needs.

Reflective of their important role within the economy, the JEDE Committee Members regularly hear about the challenges small businesses face meeting the implementation requirements of state, local, and federal regulations. While opponents of regulatory reform accuse small businesses of trying to avert their responsibilities, businesses that have testified before the Committee have repeatedly stated that their goal is to achieve a regulatory environment that encourages small business development, while still maintaining public health and safety standards.
AB 767 does not authorize the lowering of any regulatory standard. The bill provides an opportunity for the state to use technology to enhance customer service to the state's job creators and revenue generators.

2) The Governor's Office of Business and Economic Development: In April 2010, the Governor's Office of Economic Development was established to provide a one-stop-shop for serving the needs of businesses and economic developers. While initially established through Executive Order S-01-10, the office was later codified and renamed as GO-Biz. [AB 29 (John A. Pérez), Chapter 475, Statutes of 2010] GO-Biz carries out its mission through the activities of six GO-Biz service units: California Business Investment Services, Permit Assistance, the Office of the Small Business Advocate, International Affairs and Business Development, the California Competes Tax Credit Program, and the Innovation and Entrepreneurship Program.

Among other programs, GO-Biz provides permit and other business assistance for new and expanding businesses, as well as administering the California Innovation Hub Program and the state international trade investment program. GO-Biz also oversees the Office of the Small Business Advocate, who advocates for and provides key information to small businesses.

3) Permit Assistance Unit at GO-Biz: The Permit Assistance Unit within GO-Biz provides businesses with comprehensive permit, regulatory, and compliance assistance. Among other services, the unit schedules pre-application meetings between businesses and the appropriate regulatory agencies to help streamline the permitting process. In some instances, GO-Biz can assign a project manager to personally guide an applicant through the entire permit process. Services are confidential and provided without cost. The goal of the unit is to help businesses solve permitting and regulatory challenges.

The Office of Permit Assistance works in partnership with the California Business Investment Service, and other GO-Biz units in serving employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion.

The unit is also responsible for maintaining the California Government Online to Desktops (CalGOLD) website. At www.calgold.ca.gov businesses can obtain a list of the required federal, state, and local permits, webpage links, addresses, and other contact information.

In July 2015, GO-Biz launched the California Business Portal which expanded on the utility and availability of a searchable online application that could provide individualized information to businesses, including application forms and links to fee information.

http://www.business.ca.gov/Programs/Permits.aspx

GO-Biz also partners with the Government Operations Agency to offer Lean 6-SIGMA Training to state agencies. The 6-SIGMA training is designed to address process-based issues within state departments that were causing delays in services to both internal and external stakeholders. Over a 6 month period, participants receive training on complex analytical and statistical tools that identify waste and inefficiencies in processes. From January 2016 to July 2016, GO-Biz worked with six departments on 23 individual projects, including projects to reduce issuance time for 401 Water Quality Certificates from 273 days to 90 days and reduction of State Water Resources Control Board contract completion times from an average of 145 days to 45 days.
AB 767 would build on these efforts by allowing a business to complete an initial list of core information, which would populate the various permit and licensing forms. Fees would be itemized, aggregated, and could be paid in a single transfer from the business. Unique information to a particular permit would then be completed by the business. From the state agency’s perspective, it would receive completed forms and the payment of fees, while retaining full authority for the approval or disapproval of the application.

4) **Cost of Regulations on Business:** There are two major sources of data on the cost of regulatory compliance on businesses, the federal Small Business Administration (SBA) and the Office of the Small Business Advocate (OSBA). For the last 10 years, the federal SBA has conducted a peer reviewed study that analyzes the cost of federal government regulations on different size businesses. This research shows that small businesses continue to bear a disproportionate share of the federal regulatory burden. On a per employee basis, it costs about $2,400, or 45% more, for small firms to comply with federal regulations than their larger counterparts.

The first study on the impact of California regulations on small businesses was released by the OSBA in 2009. This first in-the-nation study found that the total cost of regulations to small businesses averaged about $134,000 per business in 2007. Of course, no one would advocate that there should be no regulations in the state. The report, however, importantly identifies that the cost of regulations can provide a significant cost to the everyday operations of California businesses and should therefore be a consideration among the state’s economic development policies.

Regulatory costs are driven by a number of factors including multiple definitions of small business in state and federal law, the lack of e-commerce solutions to address outdated paperwork requirements, procurement requirements that favor larger size bidders, and the lack of technical assistance to alleviate such obstacles that inhibit small business success.

5) **Different Approaches to Regulatory Reform:** In general, the Legislature’s engagement on regulatory reforms has taken two basic approaches. One set of policies has addressed specific regulatory challenges on a case-by-case basis. The other approach makes systemic change to the way in which rules are adopted, often adding a supplemental more targeted review pre- or post-adoption. Recommendations for systemic change has included:

a) **Dynamic Fiscal Analysis in Appropriations Committee:** These bills required an analysis of bills before the Legislature on their impact on business and the economy. Currently, the Legislature's fiscal committee reviews focus on the bills direct impact on state funds, and most specifically on the General Fund. The fiscal committee's analysis is not intended to include legislations' potential economic impact on the state.

b) **Substantive Administrative Review:** These bills shifted the review of the Office of Administrative Law from a procedural review of the regulation package to a substantive review of its impact on business and the economy, including the sufficiency of the assessment of alternatives. Alternatively, legislation has suggested that another state entity, such as the State Auditor or Legislative Analyst's Office, could be designated to undertake an expanded review of proposed regulations.

c) **Enhanced Analysis of Alternatives:** These bills required a more meaningful consideration of alternative implementation models, which could lower costs or reduce the implementation burden on small businesses.
d) **Post Implementation Analysis:** These bills required a review of a regulation's impact five-years after its implementation. Alternatively, legislation has been suggested that all regulations have a sunset date, which would allow for full review once the actual impacts could be identified.

Until now, the first approach has been the most successful, although by its nature addressing regulatory impacts on a case by case basis has had very limited overall impact on California's regulatory business climate. Due to their potential implementation costs, a majority of the bills advancing the systemic approach to regulatory reform have failed to move from the fiscal committees as illustrated in the comment on related legislation.

The most significant systemic change in recent years was approved in SB 617 (Calderon), Chapter 496, Statutes of 2011, which required an enhanced economic impact analysis for regulations with an anticipated impact of $50 million or more. The SB 617 process follows the federal regulatory model, however, it should be noted that the state process is silent as to the assessment of costs based on size of business and requires no post impact review.

AB 767 supports the ongoing challenges faced by the Legislature in simplifying and adopting regulatory implementation processes which are more business-friendly, without lowering policy standards. By streamlining the process for applying for permits and licenses, the bill could reduce the actual time and complexity in applying for multiple approvals.

6) **Amendments:** Staff understands that the author will offer the following amendments in committee.

a) Authorize GO-Biz to borrow funding to implement this bill and provides that the funding will be repaid through the payment of user fees.

b) Authorize other state agencies, with the approval of GO-Biz, to borrow funds to upgrade their application processes in order to connect to the Master License platform and provides that the funding will be repaid through the payment of user fees.

c) Make other technical and conforming changes.

7) **Related Legislation:** Below is a list of related legislation from the current and prior sessions:

a) **SB 992 (Garamendi) Office of Permit Assistance:** This bill created the Office of Permit Assistance within the Office of Planning and Research and delegated certain responsibilities, including providing information to developers and mediating disputes. Status: Signed by the Governor, Chapter 1263, Statutes of 1983.

b) **AB 2351 (Assembly Ways and Means) Permit Assistance at the Commerce Agency:** This bill, among other actions, eliminated the Office of Permit Assistance at the Governor's Office of Planning and Research and established the Department of Permit Assistance at the California Trade and Commerce Agency. The new department was vested with all of the duties and purposes of the Office of Permit Assistance. Status: Signed by the Governor, Chapter 56, Statutes of 1993.

c) **AB 2582 (Mullin) Update of CALGOLD Program:** This bill requires the CALGOLD website to be updated periodically to include permitting and regulatory compliance information relevant to emerging and evolving industries. The author was particularly interested in adding online resources for the life sciences industry. Status: Signed by the Governor, Chapter 283, Statutes of 2006.
d) **AB 978 (V. Manuel Pérez and Logue) Streamlined State Licensing**: This bill requires the State Chief Information Officer (CIO) to collaborate with the Department of Consumer Affairs to acquire a new, integrated, enterprise-wide enforcement and licensing system, that will replace the current licensing and monitoring system being used by the Department of Consumer Affairs. Status: The content of the bill was included in the 2010-11 Budget.

e) **AB 2012 (John A. Pérez) Trade and Internet-Based Permit Assistance**: Transfers the authority for undertaking international trade and foreign investment activities from the Business, Transportation and Housing Agency (BTH) to the Governor's Office of Business and Economic Development (GO-Biz). In addition, the bill transfers the responsibility for establishing an Internet-based permit assistance center from the Secretary of the California Environmental Protection Agency to GO-Biz. Status: Signed by the Governor, Chapter 294, Statutes of 2012.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association for Health Services at Home

**Opposition**

None on File

**Analysis Prepared by**: Toni Symonds/ J., E.D., & E. /
An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as amended, Morrell. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee or registrant whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license or registration without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist with, the initial licensure
process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. The bill would require that a veteran be granted only one fee waiver, except as specified.


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

SECTION I. Section 114.6 is added to the Business and Professions Code, to read:

114.6. (a) (1) Notwithstanding any other law, every board within the department shall grant a fee waiver for the application for and issuance of an initial license to an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged.

(2) For purposes of this section, "satisfactory evidence" means a completed "Certificate of Release or Discharge from Active Duty" (DD Form 214).

(b) (1) A veteran shall be granted only one fee waiver, except as specified in paragraph (2). After a fee waiver has been issued by any board within the department, the veteran is no longer eligible for a waiver.

(2) If a board charges a fee for the application for a license and another fee for the issuance of a license, the veteran shall be granted fee waivers for both the application for and issuance of a license.

(3) The fee waiver shall apply only to an application of and a license issued to an individual veteran and not to an application of or a license issued to an individual veteran on behalf of a business or other entity.

(4) A fee waiver shall not be issued for any of the following:

(A) Renewal of a license.
(B) The application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license.
(C) The application for an examination.
This bill would require every board within the Department of Consumer Affairs to grant a waiver of the application and the initial licensing fee to an honorably discharged veteran.

Fiscal Impact:
- Department-wide revenue loss of about $2 million to waive applicable fees for honorably discharged veterans (various special funds). Although most boards and bureaus indicate that the loss of revenue and any associated workload would be minor, there are several boards that would incur a substantial revenue loss. See Staff Comments.
- One-time costs of $260,000 to make system changes to the Department's online licensing and enforcement system (Consumer Affairs Fund).

Background: Current law provides for the licensure, registration, and regulation of various professions and vocations by the boards, bureaus, committees, programs, and commissions within the Department of Consumer Affairs. The Department currently oversees 39 licensing programs that issue more than two million licenses, registrations, and certifications in nearly 200 professional categories. Each of these entities is responsible for enforcing the minimum qualifications for licensure that are established by statute and regulation. Licensure requirements vary in their specificity and flexibility.

Existing law requires, after July 1, 2016, that a board within the Department expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain specified requirements are met.

Existing law provides that every board within the Department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if they are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met.

There have been several efforts to examine the impact of state licensing requirements
on military personnel (including spouses) and veterans. Generally, these reviews have found that state licensing requirements impose a burden on military personnel and their spouses, in particular because licensing requirements do not always match up well with military training, even if the military personnel are performing professional duties that are substantively similar to those performed by licensed professionals. Also, because military families often move between states, the length of time needed to acquire a professional license in a new state and variations between licensing requirements between states can limit the ability of military personnel and/or their spouses from working in their professional field in a new state.

**Proposed Law:** This bill would require every board within the Department of Consumer Affairs to grant a waiver of the application and the initial licensing fee to an honorably discharged veteran.

This bill would restrict veterans to one fee waiver and prohibit a waiver to be issued for the renewal of a license.

**Related Legislation:** SB 1155 (Morrell, 2016) was almost identical to this bill. That bill was held on the Assembly Appropriations Committee’s Suspense File.

**Staff Comments:** The impact of the fee waiver in this bill varies considerably between the various boards and bureaus within the Department of Consumer Affairs. Boards and bureaus that anticipate a significant loss of revenue include the Bureau of Real Estate ($740,000 per year), the Board of Registered Nursing ($775,000 per year), and the Bureau of Security and Investigative Services ($130,000). It is also important to note that the cost estimates above do not include lost revenue for the Medical Board of California, which does not have an estimate of the revenue loss at this time. Based on the size of the Medical Board’s licensee population and the projected revenue loss from other large boards, the likely revenue loss would be about $200,000 per year.

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SB34
An act to add Section 11834.095 11834.11 to the Health and Safety Code, relating to residential facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 34, as amended, Bates. Residential treatment facilities.
Existing law, the California Community Care Facilities Act (the act), provides for the licensing and regulation of community care facilities, as defined, by the State Department of Social Services. A violation of the act is a misdemeanor.
Existing law regulates alcoholism or drug abuse recovery or treatment facilities to provide recovery, treatment, or detoxification services within this state and makes the State Department of Health Care Services the sole authority in state government to license those facilities.
The bill would require the State Department of Health Care Services to report to the Legislature, on or before January 1, 2019, regarding the effect of the concentration of residential alcoholism or drug-abuse recovery or treatment facilities in a community on the health and recovery of residents of those facilities, as specified. The bill would also require, commencing January 1, 2019, the department to annually post on its Internet Web site information regarding the effect of the
concentration of those facilities, including the number and nature of complaints submitted to the department regarding the concentration of those facilities and the findings of completed investigations by the department regarding the complaints. The department, no later than January 1, 2019, to develop specified guidelines on how to report to the Legislature about licensed residential alcoholism or drug abuse recovery or treatment facilities. The bill would require the guidelines to address certain topics, including, among others, methods for determining whether complaints received by the department regarding facility overconcentration in communities are substantiated or unsubstantiated. The bill would require the department, no later than January 1, 2020, to complete and submit a report, using those guidelines, to the Legislature regarding its findings on licensed residential alcoholism or drug abuse recovery or treatment facilities. The bill would require the department to post the guidelines and the completed report on its Internet Web site.


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

SECTION 1. Section 11834.11 is added to the Health and Safety Code, immediately following Section 11834.09, to read:

11834.11. (a) (1) No later than January 1, 2019, the State Department of Health Care Services shall develop guidelines in consultation with the County Behavioral Health Directors Association of California, addiction medicine specialists, substance use disorder recovery or treatment providers, disability rights representatives, and other interested stakeholders, on how to report to the Legislature about licensed residential alcoholism or drug abuse recovery or treatment facilities. The guidelines shall address, at a minimum, all of the following:

(A) Methods for determining whether complaints received by the department regarding facility overconcentration in communities are substantiated or unsubstantiated, and methods for addressing those complaints.

(B) Methods for determining statewide capacity of residential alcoholism or drug abuse recovery or treatment facilities and making recommendations on how to address unmet need.
(C) Methods for identifying and mitigating barriers to siting residential alcoholism or drug abuse recovery or treatment facilities in communities.

(D) Methods for developing outcome measures for residents of residential alcoholism or drug abuse recovery or treatment facilities.

(2) The department shall post the guidelines developed pursuant to paragraph (1) on its Internet Web site.

(b) (1) (A) The department shall, no later than January 1, 2020, complete and submit a report to the Legislature, using the guidelines developed pursuant to subdivision (a), regarding its findings on licensed residential alcoholism or drug abuse recovery or treatment facilities. If the department does not complete the report by the date required, the department shall provide an update to the Legislature and a timeline for when the report is expected to be completed.

(B) The report submitted to the Legislature pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(2) The department shall post the completed report on its Internet Web site.

SECTION 1. Section 11834.095 is added to the Health and Safety Code, immediately following Section 11834.09, to read:

11834.095. (a) The State Department of Health Care Services shall report to the Legislature regarding the effect of the concentration of residential alcoholism or drug abuse recovery or treatment facilities in a community on the health and recovery of residents of those facilities. If the department determines that the concentration of residential alcoholism or drug abuse recovery or treatment facilities has a negative effect on the residents of the facilities, the report shall provide recommendations on how to mitigate the effect and address the concentration of those facilities. The report shall be completed and submitted to the Legislature on or before January 1, 2019:

(b) Commencing January 1, 2019, the department shall annually post all of the following information on its Internet Web site:

(1) The number and nature of complaints submitted to the department regarding the concentration of residential alcoholism or drug abuse recovery or treatment facilities:
(2) The findings of completed investigations by the department regarding the complaints described in paragraph (1).

(3) The methods used by the department to investigate the complaints described in paragraph (1).

(4) The efforts taken by the department to mitigate the negative effects, if any, on the residents of residential alcoholism or drug abuse-recovery or treatment facilities.

(e) The report submitted to the Legislature pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
SB 34 (Bates) - Residential treatment facilities

Version: May 1, 2017  Policy Vote: HEALTH 8 - 0
Urgency: No  Mandate: No
Hearing Date: May 22, 2017  Consultant: Brendan McCarthy

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

Bill Summary: SB 34 would require the Department of Health Care Services to develop guidelines for preparing a report to the Legislature regarding the siting of residential alcohol or drug abuse recovery or treatment facilities, and subsequently require the Department to prepare the report.

Fiscal Impact: Likely one-time costs in the low hundreds of thousands for the Department of Health Care Services to consult with stakeholders, develop the required report guidelines, and prepare the required report (Residential and Outpatient Program Licensing Fund). See below.

Background: Under current law, the Department of Health Care Services licenses residential alcoholism or drug abuse recovery or treatment facilities (residential treatment facilities). Under current law, residential treatment facilities provide individual and group counseling, education, recovery planning, and an alcohol and drug free living environment. Generally, residential treatment facilities are not allowed to provide medical services. However, an residential treatment facility can apply to the Department for an additional license to provide incidental medical services, by a licensed health care practitioner. There are 970 licensed residential treatment facilities in the state.

Under current law, residential treatment facilities that serve six or fewer persons are considered residential properties for zoning purposes. Current law treats residential treatment facilities serving six or fewer persons as single-family residences and prohibits local governments from treating them as commercial residential institutions, such as boarding houses or group homes.

Proposed Law: SB 34 would require the Department of Health Care Services to develop guidelines for preparing a report to the Legislature regarding the siting of residential alcohol or drug abuse recovery or treatment facilities.

The Department would be required to address specified topics— such as methods for determining whether complaints received regarding overconcentration of residential treatment facilities in communities are substantiated, methods for determining statewide capacity and need for residential treatment facilities, methods for mitigating barriers to siting residential treatment facilities, and methods for developing outcome measures for residential treatment facilities.

The bill would require the Department, by January 1, 2020, to report to the Legislature, using the guidelines developed.
Related Legislation:

- SB 786 (Mendoza) would require the Department of Health Care Services to deny an application for residential treatment facility if the proposed location is in proximity to an existing residential treatment facility. That bill is pending in the Senate Health Committee.
- AB 1095 (Harper) would define integral residential treatment facilities and would exclude integral residential treatment facilities from being considered residential properties. That bill failed passage in the Assembly Health Committee.
- AB 751 (Brough) would expand the list of non-medical services that can be provided by residential treatment facilities. That bill is pending in the Assembly Health Committee.

Staff Comments: For many years there have been issues relating to the siting of residential treatment facilities and other facilities that provide services to individuals in drug or alcohol recovery (such as sober living homes, which are not licensed). There have been several instances of local governments attempting to restrict the siting of residential treatment facilities. There have been several court cases decided in favor of the operators of residential treatment facilities or sober living homes, finding that local zoning restrictions are discriminatory against the disabled (in this case, those with drug or alcohol abuse problems).

The Department of Health Care Services has indicated that it would need about $1 million per year in ongoing funding to implement the bill. Based on the requirements of the bill, that cost estimate does not seem justified.

-- END --
An act to amend Sections 102825 and 102875 of, and to add Part 5.5 (commencing with Section 121565) to Division 105 of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

SB 43, as amended, Hill. Antimicrobial-resistant infection: reporting.

(1) Existing law establishes the State Department of Public Health under the direction of the State Public Health Officer. Existing law sets forth the powers and duties of the State Public Health Officer, including, but not limited to, designation as the State Registrar of Vital Statistics, having supervisory powers over local registrars and responsibility for the uniform and thorough enforcement of laws relating to the registration of certain vital statistics.

Existing law designates the persons responsible for completing a certificate of death and the required contents of the certificate, including, but not limited to, the decedent’s name, sex, and birthplace, as well as the disease or conditions leading directly to death and antecedent causes. Existing law makes it a crime to refuse or fail to furnish correctly the information required to be included in a death certificate.
This bill would require the statement of the disease or conditions leading directly to death and antecedent causes on the certificate of death to include any occurrence of antimicrobial-resistant infection that was a factor in the death, in the professional judgment of the physician and surgeon last in attendance. By adding to the required contents of a certificate of death, this bill would expand the definition of existing crimes, thus imposing a state-mandated local program:

(2) Existing

Existing law also establishes the State Department of Public Health and sets forth the powers and duties of the department. Existing law requires the State Department of Public Health and general acute care hospitals to implement various measures relating to the prevention of health care associated infection, and requires that each general acute care hospital adopt and implement an antimicrobial stewardship policy, in accordance with guidelines established by the federal government and professional organizations, that includes a process to evaluate the judicious use of antibiotics, as specified.

Existing law requires the State Department of Public Health to establish a list of reportable communicable and noncommunicable diseases and conditions, including, but not limited to, diphtheria, listeria, salmonella, shigella, and streptococcal infection in food handlers or dairy workers, and typhoid. Existing law requires local health officers to report to the department any disease or condition on the list, as specified by the department.

This bill would require specified general acute care hospitals and clinical laboratories to submit a report to the department, commencing July 1, 2019, and each July 1 thereafter, containing an antibiogram of the facility for the previous year. The bill would require the Antimicrobial Stewardship and Resistance Subcommittee of the Healthcare Associated Infections Advisory Committee of the department, on or before January 1, 2019, to develop and recommend to the department, the acceptable electronic format for the report and a method for the department to accurately estimate the number of deaths that result from antimicrobial resistant infections for specified types of antimicrobial infections. The bill would require the department, commencing January 1, 2020, and each January 1 thereafter, to publish and post on its Internet Web site a report based on the data reported by hospitals and clinical laboratories, and from certificates of death, which report would include designated information relating to the incidence, type, and distribution of antimicrobial-resistant...
infections and the estimated number of deaths for which that result from antimicrobial resistance is listed on the certificate of death as the disease or condition directly leading to death, an antecedent cause, or a significant condition contributing to death: resistant infections. The bill would prohibit data collected pursuant to the bill from being disclosed to the public on a facility-specific basis, but would allow for the disclosure of case-specific information, under prescribed circumstances.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


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

SECTION 1. The Legislature finds and declares all of the following:
(a) The epidemic of antibiotic resistance is a worldwide problem and is expected to grow. The federal Centers for Disease Control and Prevention (CDC) estimates that antibiotic-resistant infections kill at least 23,000 Americans each year and sicken two million. The Review on Antimicrobial Resistance, a study commissioned by the United Kingdom, estimates that by 2050, if nothing is done, 10 million people will die worldwide from antibiotic-resistant infections, surpassing the 8.5 million people who will die from cancer.
(b) Antibiotic-resistant infections threaten modern medicine as we know it. If this epidemic is not curtailed, routine surgeries and minor infections may once again become life-threatening, jeopardizing the hard-won gains made battling infectious disease.
(c) Many leading public health organizations and world leaders have sounded the alarm about antibiotic resistance. The World Health Organization (WHO) has labeled antibiotic resistance as one of the biggest threats to global health and the CDC identifies antibiotic resistance as one of our most serious health threats. In September 2016, the United Nations (UN) convened in New York and put forward a declaration to tackle antibiotic resistance. It was
only the fourth time in history that the UN had met to tackle a
global health problem, underscoring the significance of the
problem.
(d) Monitoring and tracking antibiotic resistance is a core
component to combating antibiotic resistance, as specified by the
CDC. With appropriate surveillance of antibiotic-resistant
infections, public health leaders can develop appropriate protocols
for prevention, control, and treatment, can monitor disease trends,
assess effectiveness of prevention and control measures, identify
populations or geographic areas at high risk, and more.
(e) Despite the magnitude of this public health problem, the
State Department of Public Health does not monitor or track the
occurrence of antibiotic-resistant infections or deaths caused by
those infections. Although the department is required by law to
establish a list of reportable diseases, that list does not include the
tracking and monitoring of antibiotic-resistant infections. The
department also is mandated by existing law to track three
antibiotic-resistant infections, but only when those infections are
health care acquired and in a patient’s bloodstream.
(f) The department is the central repository of certificates of
death, which it uses to calculate state mortality statistics. An
attending physician is legally obligated to file a certificate of death;
and to record the disease or condition directly leading to death;
antecedent causes; and other significant conditions contributing
to the death.
(g) Although the department generally reports on mortality
statistics for a wide range of diseases based on information it
gathers through certificates of death, it currently does not report
on antibiotic-resistant infections as a cause of death.

SEC. 2. Section 102825 of the Health and Safety Code is
amended to read:
102825. (a) The physician and surgeon last in attendance, or
in the case of a patient in a skilled nursing or intermediate care
facility at the time of death, the physician and surgeon last in
attendance or a licensed physician assistant under the supervision
of the physician and surgeon last in attendance, or a deceased
person shall state on the certificate of death the disease or condition
directly leading to death, antecedent causes, other significant
conditions contributing to death and any other medical and health
section data as may be required on the certificate, including
information regarding the presence of any antimicrobial-resistant
infection, in accordance with paragraph (i) of subdivision (b) of
Section 102875. He or she shall also specify the time in attendance;
the time he or she last saw the deceased person alive; and the hour
and day on which death occurred, except in deaths required to be
investigated by the coroner. The physician and surgeon or physician
assistant shall specifically indicate the existence of any cancer as
defined in subdivision (b) of Section 103885, of which the
physician and surgeon or physician assistant has actual knowledge:

(b) A physician and surgeon may designate one or more other
physicians and surgeons, who have access to the physician and
surgeon’s records, to act as agent for the physician and surgeon
for purposes of the performance of his or her duties under this
section provided that any person so designated acts in consultation
with the physician and surgeon.

SEC. 3. Section 102875 of the Health and Safety Code is
amended to read:

102875. - The certificate of death shall be divided into two
sections:
(a) The first section shall contain those items necessary to
establish the fact of the death, including all of the following and
those other items as the State Registrar may designate:
(I) (A) Personal data concerning decedent including full name;
sex, color or race, marital status, name of spouse, date of birth and
age at death, birthplace, usual residence, and occupation and
industry or business.
(B) Commencing July 1, 2015, a person completing the
certificate shall record the decedent’s sex to reflect the decedent’s
gender identity. The decedent’s gender identity shall be reported
by the informant, unless the person completing the certificate is
presented with a birth certificate, a driver’s license, a social security
record, a court order approving a name or gender change, a
passport, an advanced health care directive, or proof of clinical
treatment for gender transition, in which case the person completing
the certificate shall record the decedent’s sex as that which
corresponds to the decedent’s gender identity as indicated in that
document. If none of these documents is presented and the person
with the right, or a majority of persons who have equal rights, to
the control the disposition of the remains pursuant to Section 7100 is
in disagreement with the gender identity reported by the informant,
the gender identity of the decedent recorded on the death certificate shall be as reported by that person or majority of persons.

(C) Commencing July 1, 2015, if a document specified in subparagraph (B) is not presented and a majority of persons who have equal rights to control the disposition of the remains pursuant to Section 7100 do not agree with the gender identity of the decedent as reported by the informant, any one of those persons may file a petition in the superior court in the county where the decedent resided at the time of his or her death, or where the remains are located, naming as a party to the action those persons who otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties shall determine the gender identity of the decedent.

(D) Commencing July 1, 2015, a person completing the death certificate in compliance with subparagraph (B) is not liable for any damages or costs arising from claims related to the sex of the decedent as entered on the certificate of death.

(E) Commencing July 1, 2015, a person completing the death certificate shall comply with the data and certification requirements described in Section 102800 by using the information available to him or her prior to the deadlines for completion specified in that section:

(2) Date of death, including month, day, and year.
(3) Place of death.
(4) Full name of father and birthplace of father, and full maiden name of mother and birthplace of mother.
(5) Informant.
(6) Disposition of body information including signature and license number of embalmer, if body embalmed or name of embalmer if affixed by attorney in fact; name of funeral director, or person acting as such, and date and place of interment or removal. Notwithstanding any other law to the contrary, an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar may be used in lieu of the actual signature of the embalmer.
(7) Certification and signature of attending physician and surgeon or certification and signature of coroner when required to act by law. Notwithstanding any other law to the contrary, the person completing the portion of the certificate setting forth the
cause of death may attest to its accuracy by use of an electronic
signature substitute, or some other indicator of authenticity;
approved by the State Registrar in lieu of a signature.
(8) Date accepted for registration and signature of local registrar:
Notwithstanding any other law to the contrary, the local registrar
may elect to use an electronic signature substitute, or some other
indicator of authenticity, approved by the State Registrar in lieu
of a signature:
(b) The second section shall contain those items relating to
medical and health data, including all of the following and other
items as the State Registrar may designate:
(1) Disease—or conditions—leading—directly—to death—and
antecedent causes, including, in the professional judgment of the
physician and surgeon last in attendance, the occurrence of any
antimicrobial-resistant infection that was a factor in the death:
(2) Operations and major findings thereof:
(3) Accident and injury information:
(4) Information indicating whether the decedent was pregnant
at the time of death, or within the year prior to the death, if known;
as determined by observation, autopsy, or review of the medical
record. This paragraph shall not be interpreted to require the
performance of a pregnancy test on a decedent, or to require a
review of medical records in order to determine pregnancy.
SEC. 4.
SEC. 2. Part 5.5 (commencing with Section 121565) is added
to Division 105 of the Health and Safety Code, to read:
PART 5.5. ANTIMICROBIAL-RESISTANT INFECTION
121565. The following definitions shall apply for purposes of
this part:
(a) "Antibiogram" means an annual summary of antimicrobial
susceptibility of bacterial isolates, as defined by the Clinical and
Laboratory Standards Institute (CLSI) M39 guidelines and
subsequent updates.
(b) "Antimicrobial resistance" means a bacterial infection caused
by a bacterium that demonstrates in vitro a minimum antimicrobial
inhibitory concentration that exceeds susceptibility breakpoints,
using the most recent diagnostic test standards approved by the
United States Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act.

(c) "Clinical laboratory" has the same meaning as defined in paragraph (8) of subdivision (a) of Section 1206 of the Business and Professions Code.

(d) "Department" means the State Department of Public Health.

(e) "General acute care hospital" has the same meaning as defined in subdivision (a) of Section 1250.

(f) "Subcommittee" means the Antimicrobial Stewardship and Resistance Subcommittee of the Healthcare Associated Infections Advisory Committee of the State Department of Public Health.

(a) Commencing on July 1, 2018, and each July 1 thereafter, each general acute care hospital that operates a clinical laboratory that conducts tests for antimicrobial resistance and each clinical laboratory that is not part of a hospital and that conducts tests for antimicrobial resistance shall submit a report to the department, in an acceptable electronic format, containing an antibiogram of the facility for the previous year.

(b) (1) On or before January 1, 2019, the subcommittee shall develop and recommend both of the following to the department:

(A) The acceptable electronic format for the report. The format may be updated as the subcommittee or department deems necessary as new information or data on antimicrobial resistance becomes available. In developing the acceptable electronic format, the subcommittee shall select the types of antimicrobial resistance infections that should be included in the report, which may include, but not be limited to, antimicrobial resistant infections identified by the federal Centers for Disease Control and Prevention as urgent, serious, or concerning.

(B) A method for the department to accurately estimate the number of deaths that result from antimicrobial resistant infections for the types of antimicrobial infections selected pursuant to subparagraph (A). The method may rely on data from certificates of death or other sources of data available to the subcommittee or department.

(2) The subcommittee or department may consult with any subject matter experts or stakeholders for purposes of this subdivision.

(a) Commencing on January 1, 2019, and each January 1 thereafter, based on the data reported by general acute
care hospitals and clinical laboratories pursuant to Section 121566, as well as from certificates of death, the information on deaths that result from antimicrobial resistant infections determined based on the method developed pursuant to Section 121566, the department shall publish and post on its Internet Web site a report that includes the following information:

(1) The incidence, type, and distribution of antimicrobial-resistant infections statewide, and within regions of the state, as defined by the department, and by facility type.

(2) The number of deaths for which antimicrobial resistance is listed on the certificate of death as the disease or condition directly leading to death, an antecedent cause, or a significant condition contributing to death. This shall include all of the following:

(A) The number of deaths that may be attributed to each type of antimicrobial-resistant infection, as determined by the department.

(B) The number of deaths, statewide and in each region of the state, as determined by the department.

(C) The number of deaths, by facility type.

(2) The incidence, type, and distribution of the estimated number of deaths that result from antimicrobial resistant infections, and within regions of the state, as defined by the department, and by facility type.

(b) The report shall not identify information specific to any one health facility or general acute care hospital. Data collected pursuant to this part shall not be disclosed to the public on a facility-specific basis, except that the department may release case-specific information to other facilities, physicians, and the public if the department determines, on a case-by-case basis, that the release of the information is necessary to protect persons in a public health emergency.

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

Bill No: SB 43
Author: Hill (D), et al.
Amended: 4/5/17
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 4/19/17
AYES: Hernandez, Nguyen, Atkins, Leyva, Mitchell, Monning, Newman, Nielsen, Roth

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/25/17
AYES: Lara, Bates, Beall, Bradford, Hill, Nielsen, Wiener

SUBJECT: Antimicrobial-resistant infection: reporting

SOURCE: Author

DIGEST: This bill requires general acute care hospitals and laboratories to submit annual antibiograms to the California Department of Public Health (CDPH) after July 1, 2019. Requires CDPH to, commencing January 2019, develop an appropriate format for the antibiogram report and to develop a method of estimation of the number of deaths caused by antimicrobial resistant infections. Requires CDPH to publish, commencing January 1, 2020, on an annual basis, information on incidences in hospital and deaths caused by antimicrobial organisms resistance to drugs.

ANALYSIS:

Existing law:

1) Requires CDPH to establish the Hospital Infectious Disease Control Program which implements various measures relating to disease surveillance and the prevention of healthcare-associated infection (HAI). Requires hospitals to appoint a Healthcare Associated Infection Advisory Committee (HAI-AC) that
makes recommendations related to methods of reporting cases of hospital acquired infections in general acute care hospitals.

2) Requires general acute care hospitals to prepare a written report every three years that examines the hospital’s quality and effectiveness in infection surveillance and prevention programs.

3) Requires CDPH to establish the Ken Maddy California Cancer Registry (CCR) to collect and report information on incidences and mortalities of cancer.

This bill:

1) Defines, for the purposes of this bill, the following:

   a) “Antibiogram” as an annual summary of antimicrobial susceptibility of bacterial isolates, defined by the Clinical and Laboratory Standards Institute M39 guidelines and subsequent updates;

   b) “Antimicrobial resistance” as a bacterial infection caused by a bacterium that demonstrates in vitro a minimum antimicrobial inhibitory concentration that exceeds susceptibility breakpoints, using the most recent diagnostic test standards approved by the United States Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act; and,

   c) “Subcommittee” as the Antimicrobial Stewardship and Resistance Subcommittee of the Healthcare Associated Infections Advisory Committee of the CDPH.

2) Requires each general acute care hospital that conducts tests for antimicrobial resistance, each clinical laboratory that conducts tests for antimicrobial resistance, and each clinical laboratory that is not part of a hospital and that conducts antimicrobial resistance to submit to CDPH an electronic report of an antibiogram of the facility for the previous year commencing on July 1, 2019, and each July 1 thereafter.

3) Requires CDPH’s HAI Subcommittee, by January 1, 2019, to develop and recommend an electronic format for the submission of antibiogram reports from eligible hospitals and laboratories. This includes the types of antimicrobial resistant infections to be reported on, that may include, but are not limited to, the antimicrobial resistant infections identified by the Center for Disease Control and Prevention (CDC) as urgent, serious, or concerning.
4) Requires CDPH’s HAI Subcommittee, by January 1, 2020, to develop and recommend a method of estimating the number of deaths that result from antimicrobial resistant infections as established by the Subcommittee. The method may rely on data from death certificates or other sources of data.

5) Requires CDPH, commencing on January 1, 2019, and each January 1 thereafter, based on the data reported by hospitals and labs, as well as estimates of deaths from antimicrobial resistant infections, to publish and post on its Web site a report that includes the following information:

a) Occurrence of antimicrobial-resistant infections statewide by type, incidence, and facility type; and,

b) Estimated number of deaths that result from antimicrobial resistant infections.

6) Prohibits the report from identifying information specific to any one health facility or hospital.

Comments

1) Author’s statement. According to the author, disease surveillance is a basic function of public health departments. The CDPH currently tracks 80 communicable diseases such as typhoid, the flu and HIV, and also tracks deaths based on death certificates. But despite the catastrophic nature of the antibiotic resistance crisis, California and the federal government do not track antibiotic resistant infections or deaths associated with the infections. As a result, public health leaders cannot appropriately monitor and define the problem, put forward evidence based solutions, identify emerging trends and new threats, or measure the effectiveness of interventions. SB 43 fixes the knowledge gap on antibiotic resistance by establishing a first in the nation system to monitor and track antibiotic resistant infections and deaths. The CDC estimates that at least two million Americans are infected with – and at least 23,000 Americans die as a result of – antibiotic-resistant infections every year, resulting in at least $20 billion in direct health care costs and at least $35 billion in lost productivity in the United States. In California, CDPH estimates that antibiotic-resistant infections are responsible for at least 3,000 deaths and 260,000 illnesses every year. If left unchecked the problem will grow. A 2014 study commissioned by the United Kingdom determined that by 2050, more people will die from antibiotic-resistant infections worldwide than from cancer. Underscoring the threat to global health, the United Nations (UN) took action on the issue, marking only the fourth time in history that the UN convened to confront a
health crisis. UN Secretary-General Ban Ki-moon called antimicrobial resistance “a fundamental, long-term threat to human health, sustainable food production and development.”

2) The rise of a public health problem. Since the discovery of antibiotics and similar drugs in the 1940s, also known as antimicrobials, these drugs have greatly reduced illness and death from infectious diseases. However, antimicrobials have been used so widely and for so long that the infectious organisms the drugs are designed to kill have adapted to them, making the drugs less effective. The CDC estimates that over 20,000 Americans die and more than two million fall ill each year from antibiotic-resistant infections, leading to increased healthcare costs over the coming years as infections become more difficult if not impossible to treat.

According to the World Health Organization (WHO), antimicrobial resistance occurs due to the misuse of antimicrobials in a variety of ways. They are often administered when they are not needed, continued when they are no longer necessary, or prescribed at the wrong dose. A 2015 national study published by the National Institutes of Health showed that antimicrobials have also become among the most misused medicines of those available to the practicing physician. This clinical misuse, in addition to the patient overuse, has led to the emergence of resistant microbes, which in turn has created an ever-increasing need for new drugs and faster detection of antimicrobial resistance. In some cases these pathogens have been pan-resistant, meaning that they are resistant to all available antimicrobials.

In 2015, WHO characterized antibiotic resistance as a “crisis that has been building up over decades, so that today common and life-threatening infections are becoming difficult or even impossible to treat.” Resistant infections not only result in increased morbidity and mortality, but increased economic burdens. For example, studies have shown that antibiotic-resistant infections are associated with longer lengths of stay and increased mortality, both in the hospital and in intensive care units.

3) Biggest threats. In 2013, the CDC published a report describing 18 antimicrobial resistant organisms that pose the biggest threats to Americans, categorizing them as urgent, serious, and concerning. The three urgent threats (C. difficile, Carbapenem-resistant Enterobacteriaceae (CRE), and drug-resistant Neisseria gonorrhoeae) were described as high-consequence antibiotic resistant microbes that could require urgent public health attention to identify infections and limit transmission. For example, a 2015 study published in the
Journal of American Medical Association indicated that CRE affected approximately 3 in 100,000 people in the U.S. Of the 599 cases studied, 51 patients died due to the lack of antimicrobial treatment options. The next level of 12 antibiotic resistant microbes is described as “serious hazard” that could pose significant risk, which could become urgent without ongoing public health monitoring and prevention activities. The WHO has reported that individuals with Methicillin-resistant Staphylococcus aureus (MRSA), one of bacteria in this category, have a 64% greater chance of dying than people who contract the same infection in its nonresistant form. The “concerning” category consists of three bacteria for which the threat of antibiotic resistance is low, and/or there are multiple therapeutic options for resistant infections. There bacterial pathogens cause severe illness and require monitoring and in some cases, rapid incident and outbreak response. One of those three bacteria, Erythromycin-resistant Group A Streptococcus causes 1,300 illnesses annually in the U.S, and results in approximately 160 deaths.

4) California’s antimicrobial stewardship program. In an attempt to track the state’s incidences of antimicrobial resistance in clinical facilities, the CDPH HAI Program developed a statewide antimicrobial stewardship program initiative in February 2010. It strengthened and promoted optimization of antimicrobial utilization in California health care facilities. According to CDPH, the purpose of an antimicrobial stewardship program in a healthcare facility is to measure and promote the appropriate use of antimicrobials by selecting the appropriate agent, dose, duration, and route of administration in order to improve patient outcomes, while minimizing toxicity and the emergence of antimicrobial resistance. As part of the stewardship program, the California Antibiogram Project (CAP) was created to collect information on specific antimicrobial-organism combinations across California’s general acute care hospitals. The program collected and published antibiogram data from 85 hospitals in annual reports from 2008 to 2010 and was able to confirm that there was a rise in certain antimicrobial resistant bacteria such as MRSA.

Since CAP’s conclusion in 2010, the CDPH HAI Program has convened a California Antimicrobial Resistance Laboratory Network, through which they are requesting voluntary submissions of selected antimicrobial resistant laboratory data. This data is fed into a larger, national database administered by the National Antimicrobial Resistance Laboratory Network, which aims to collect and monitor national trends in antimicrobial resistant infections. However, antibiograms from statewide clinics and laboratories are no longer collected and analyzed by CDPH.
5) **Current local efforts.** Los Angeles County Department of Public Health (LAC DPH) passed an order on January 17, 2017 that requires acute care hospitals and skilled nursing facilities to provide their annual antibiogram to the LAC DPH every year starting in 2018. It focuses especially on carbapenem-resistant Enterobacteriaceae (CRE), with the goal of guiding optimal antimicrobial treatment for patients with CRE or similar infections. LAC DPH has begun developing an antibiogram template to standardize collection, reporting, and aggregation of data.

6) **Reporting of cancer mortality.** The CCR is a legally mandated, state-wide, population-based cancer registry that was implemented in 1988. It researches and collects data on the causes, controls, and cures of cancer by monitoring the incidence and mortality rates in California. CCR reports on mortality utilizing CDPH’s Center of Health Statistics, which bases its data on the underlying causes of death reported on death certificates. CCR publishes this information in annual reports, categorizing data based on state, regional, and county levels.

7) **Reporting cause of death.** A physician in last attendance of a patient certifies the death certificate based on his or her knowledge and medical opinion. Uncertainty in determining the main and contributing factors of death for a patient can result in inconsistent data entry and collection. According to CDPH, doctors in California currently follow the CDC’s manual on the tenth revision of the International Statistical Classification of Diseases and Related Health Problems, which provides pre-established codes for hundreds of causes of death. The system has broad categories for infections, but does not allow for the reporting of specific antimicrobial resistant infections that can be coded for, and therefore collects and aggregates this data into a broad classification of infections.

8) **CDC reporting methods.** Due to the possibility of inconsistency in reporting causes of death for specific diseases, the CDC does not solely rely on death certificates for mortality data. While national cancer data utilizes death certificate data, the CDC reports that fatality statistics for infectious diseases like HIV/AIDS are determined using state and national surveillance programs to estimate annual mortality numbers. When the number of deaths caused by HIV/AIDS as estimated by the national surveillance program was compared to the number of deaths due to HIV/AIDS reported on death certificates, the CDC found that HIV/AIDS was under-reported as the cause of death on death certificates.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No
According to the Senate Appropriations Committee:

- One-time costs of $615,000 over three fiscal years and ongoing costs of $90,000 per year for the development and operation of the information technology system needed to accept and process data from hospitals and clinics by the CDPH (Licensing and Certification Fund). Because the CDPH would be receiving detailed reports from over 1,000 reporting entities, it would need to develop a system for accepting the required data electronically and processing that data for reporting.

- One-time costs of $340,000 over three fiscal years for the development of regulations to specify the manner and requirements for reporting data by hospitals and laboratories by the CDPH (Licensing and Certification Fund).

- Ongoing costs of $280,000 per year to analyze the reported data and prepare the required reports by the CDPH (Licensing and Certification Fund).

- Ongoing costs of $100,000 per year for additional licensing and enforcement activities by the CDPH (Licensing and Certification Fund). As part of its ongoing licensing and enforcement program, the CDPH would incur additional workload to ensure that hospitals and clinics are complying with the reporting requirements of the bill.

SUPPORT: (Verified 5/23/17)
California State PTA
Consumer Attorneys of California

OPPOSITION: (Verified 5/23/17)
California Hospital Association
Infectious Disease Association of California

ARGUMENTS IN SUPPORT: Supporters of this bill argue that this bill will increase patient safety by establishing a system to monitor and track antibiotic resistant infections and deaths related to those infections. A statewide public health surveillance system for tracking antibiotic resistant infections and deaths will encourage improved control of antimicrobial resistance and help save lives.

ARGUMENTS IN OPPOSITION: The Infectious Disease Association of California and the California Hospital Association are opposed, unless amended based on a prior version of the bill, and it is unclear if the most recent amendments will remove this opposition. They state that mandating inclusion of cause of death
associated with antimicrobial-resistant infections on death certificates alone may not represent a reliable way to determine causation of death and that the data may not be interpretable or actionable.

Prepared by: Bao Nguyen / HEALTH /
5/27/17 18:32:28

**** END ****
An act to amend Section 30 of the Business and Professions Code, to amend Sections 48204.1, 49073.1, 66021.6, 66021.7, 68130.5, 69508.5, 70036, and 99155 of the Education Code, to amend Section 128371 of the Health and Safety Code, to amend Sections 12800.7 and 12801.9 of, and to add Section 13005.1 to, the Vehicle Code, and to amend Sections 204 and 1905 of, and to add Section 17852 to, the Welfare and Institutions Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Lara. Privacy: agencies: personal information. (1) Existing law regulates various professions and vocations by various boards within the Department of Consumer Affairs. Existing law requires those boards, the State Bar of California, and the Department of Real Estate to require a licensee, at the time of issuance
of a license, to provide specified information, including the licensee’s federal employer identification number, if the licensee is a partnership, or his or her social security number or individual taxpayer identification number. Existing law provides that the applicant’s federal employer identification number, social security number, or individual taxpayer identification number information is not a public record and is not open to the public for inspection.

This bill would revise this provision to provide that information is not open for public inspection, is confidential, and shall not be disclosed, except as specified. The bill would require information submitted by an applicant to be collected, recorded, and used only for the purpose of determining eligibility for a license and administering the licensing program.

(2) Existing law provides for the collection of personally identifiable information by educational entities, including, but not limited to, local educational agencies, the California Community Colleges, the University of California, and the California State University, for the purposes of providing specified educational services and benefits.

This bill would establish that personal information collected or obtained pursuant to these provisions is confidential, and provide that this information would only be collected, used, and retained to administer the public services or programs for which that information was collected or obtained. The bill would prohibit disclosure of that personal information to any other person, except as provided.

By imposing new duties on local officials with respect to collecting, maintaining, and disclosing personal information, this bill would impose a state-mandated local program.

(3) Existing law establishes several education programs to promote and fund the education of health professionals. Existing law prohibits these programs from denying an application based on the citizenship status or immigration status of the applicant.

This bill would provide that information about or submitted by applicants for these programs is exempt from disclosure under the California Public Records Act and is confidential, and would require that the information be used only as required to assess eligibility for, or to administer, these programs, as specified.

(4) Existing law requires that each application for an original or a renewal of a driver’s license contain specified information. Under existing law, any document provided by the applicant to the department for purposes of proving his or her identity, true, full name, California
residency, or that the applicant's presence in the United States is authorized under federal law, is not a public record and the department is prohibited from disclosing this information except when requested by a law enforcement agency as part of an investigation.

This bill would instead prohibit the department from disclosing this information except in response to a subpoena for individual records in a state criminal proceeding or a court order.

(5) Existing law requires the Department of Motor Vehicles to issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency. Under existing law, it is a violation of specified antidiscrimination provisions for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because he or she holds or presents a license issued pursuant to these provisions.

This bill would specify that discrimination for these purposes includes notifying another law enforcement agency of the individual's identity or that the individual carries a license issued under these provisions if a notification is not required by law or would not have been provided if the individual held a license that required satisfactory proof that his or her presence in the United States is authorized under federal law.

Existing law specifies that information collected under this provision is not a public record and prohibits disclosure, except as required by law.

This bill would instead prohibit disclosure except in response to a subpoena for individual records in a state criminal proceeding or a court order.

Existing law prohibits use of a driver's license issued under these provisions to consider an individual's citizenship or immigration status as a basis for an investigation, arrest, citation, or detention.

This bill would instead prohibit use of a driver's license issued under these provisions as evidence of an individual's citizenship or immigration status for any purpose.

(6) Existing law authorizes the Department of Motor Vehicles to issue an identification card to any person attesting to the true full name, correct age, and other identifying data as certified by the applicant for
the identification card. Existing law requires that the identification card resemble in appearance, so far as is practicable, a driver's license issued pursuant to the Vehicle Code and adequately describe the applicant, bear his or her picture, and be produced in color or engraved by a process or processes that prohibit, as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

This bill would provide that information or documents obtained by a city, county, or other local agency for the purpose of issuing a local identification card may be used only for the purposes of administering the identification card program or policy. The bill would provide that this information is exempt from disclosure under the California Public Records Act and prohibit disclosure of that information, except as provided. The bill would declare that this provision addresses a matter of statewide concern and would apply to charter cities and charter counties.

(7) Existing law requires a family law court and a court hearing a probate guardianship matter, upon request from the juvenile court in any county, to provide to the court all available information the court deems necessary to make a determination regarding the best interest of the child, as specified. Existing law also requires the information to be released to a child protective services worker or a juvenile probation officer acting within the scope of his or her duties in that proceeding. Existing law provides that any information released pursuant to these provisions that is confidential pursuant to any other law shall remain confidential.

This bill would require that all confidential information be used only for the purpose of serving the best interest of the child in juvenile court.

(8) Existing law requires youth service bureaus funded by specified provisions to maintain accurate and complete case records, reports, statistics, and other information necessary for the conduct of its programs.

This bill would require these youth service bureaus to collect, use, and retain individual client information and records only for the purpose of administering youth services. The bill would provide that client information and records are exempt from disclosure under the California Public Records Act, are confidential, and may not be disclosed except as required to administer youth services or as required by law or court order.
By imposing new duties on local officials with respect to collecting, maintaining, and disclosing personal information, this bill would impose a state-mandated local program.

(9) Federal law, the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), provides that certain persons are not eligible for defined state and local public benefits unless a state law is enacted subsequent to the effective date of the act, August 22, 1996, that affirmatively provides for that eligibility. Existing law authorizes a city, county, city and county, or hospital district to provide aid, including health care, to persons who, but for the above-referred provision of the federal PRWORA, would meet the eligibility requirements for any program of that entity.

This bill would authorize a city, county, city and county, or hospital district to collect information for these purposes only as strictly required to assess eligibility for, or to administer, the public services or programs requested or used by the person seeking services, and exempt that information from disclosure under the California Public Records Act.

(10) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(11) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

(12) This bill would incorporate additional changes to Section 30 of the Business and Professions Code proposed by SB 173 to be operative only if this bill and SB 173 are enacted and this bill is enacted last.

(13) This bill would incorporate additional changes to Section 68130.5 of the Education Code proposed by SB 68 to be operative only if this bill and SB 68 are enacted and this bill is enacted last.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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


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

SECTION 1. Section 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 shall 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 or the Employment Development Department, furnish to
the board or the department, as applicable, 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 or the Employment
Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board
or the Employment Development Department the information
required by this section at a time that the board or the department,
as applicable, 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 open to the public for inspection, is confidential, and
shall not be disclosed except as required to administer the licensing
program, the requirements of this section, or as otherwise required
by California law or a state or federal court order. This subdivision
does not prohibit the disclosure of aggregate data that does not
reveal personally identifying information.
(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, shall not disclose or make known in any manner that information, except as provided pursuant to this section to the Franchise Tax Board, the Employment Development Department, or the Office of the Chancellor of the California Community Colleges, 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, for purposes of compliance with Section 17520 of the Family Code, and for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges 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.
The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

1. Name.
2. 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.
3. Date of birth.
4. Type of license.
5. Effective date of license or a renewal.
6. Expiration date of license.

The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

All of the following apply to the licensure information made available pursuant to subdivision (m):

1. It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).
2. It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.
3. Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.
4. It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect
that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(f) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

SEC. 1.5. 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 shall 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 or the Employment Development Department, furnish to the board or the department, as applicable, 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 or the Employment Development Department, as applicable.
(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, 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 open to the public for inspection, is confidential, and shall not be open to the public for inspection: disclosed except as required to administer the licensing program, the requirements of this section, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data that does not reveal personally identifying information.
(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, shall not disclose or make known in any manner that information, except as provided pursuant to this section to the Franchise Tax Board, the Employment Development Department, or the Office of the Chancellor of the California Community Colleges, 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, for purposes of compliance with Section 17520 of the Family Code, and for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges 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.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the
chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.
(2) 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.
(3) Date of birth.
(4) Type of license.
(5) Effective date of license or a renewal.
(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).
(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.
(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.
(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.
(5) It shall be immediately and securely destroyed when no
longer needed for the purpose authorized in subdivision (n).
(r) The department or the chancellor's office may share licensure
information with a third party who contracts to perform the function
described in subdivision (n), if the third party is required by
contract to follow the requirements of this section.
(s) This section shall remain in effect only until July 1, 2018,
and as of that date is repealed.
SEC. 2. Section 48204.1 of the Education Code is amended to
read:
48204.1. (a) A school district shall accept from the parent or
legal guardian of a pupil reasonable evidence that the pupil meets
the residency requirements for school attendance in the school
district as set forth in Sections 48200 and 48204. Reasonable
evidence of residency for a pupil living with his or her parent or
legal guardian shall be established by documentation showing the
name and address of the parent or legal guardian within the school
district, including, but not limited to, any of the following
documentation:
(1) Property tax payment receipts.
(2) Rental property contract, lease, or payment receipts.
(3) Utility service contract, statement, or payment receipts.
(4) Pay stubs.
(5) Voter registration.
(6) Correspondence from a government agency.
(7) Declaration of residency executed by the parent or legal
guardian of a pupil.
(b) Nothing in this section shall be construed to require a parent
or legal guardian of a pupil to show all of the items of
documentation listed in paragraphs (1) to (7), inclusive, of
subdivision (a).
(c) If an employee of a school district reasonably believes that
the parent or legal guardian of a pupil has provided false or
unreliable evidence of residency, the school district may make
reasonable efforts to determine that the pupil actually meets the
residency requirements set forth in Sections 48200 and 48204.
(d) Nothing in this section shall be construed as limiting access
to pupil enrollment in a school district as otherwise provided by
federal and state statutes and regulations. This includes immediate
enrollment and attendance guaranteed to a homeless child or youth,
as defined in Section 11434a(2) of the federal McKinney-Vento
Homeless Assistance Act (42 U.S.C. Sec. 11434a(2) et seq.),
without any proof of residency or other documentation.

(e) Consistent with Section 11432(g) of the federal
McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301
et seq.), proof of residency of a parent within a school district shall
not be required for an unaccompanied youth, as defined in Section
11434a(6) of Title 42 of the United States Code. A school district
shall accept a declaration of residency executed by the
unaccompanied youth in lieu of a declaration of residency executed
by his or her parent or legal guardian.

(f) Notwithstanding Chapter 3.5 (commencing with Section
6250) of Division 7 of Title 1 of the Government Code, evidence
provided by a parent or legal guardian of a pupil for the purpose
of establishing residency pursuant to this section is confidential,
shall be used only for the purpose of establishing that the pupil
meets the residency requirements for school attendance in the
school district as set forth in Sections 48200 and 48204, shall not
be open to the public for inspection, and shall not be disclosed
without the written consent of the parent or legal guardian of the
pupil, except as otherwise required by California law or a state or
federal court order. This subdivision does not prohibit the
disclosure of aggregate data if it is disclosed in a manner that would
prevent it from being used to determine the identities of the persons
upon whom the data is based.

SEC. 3. Section 49073.1 of the Education Code is amended to
read:

49073.1. (a) A local educational agency may, pursuant to a
policy adopted by its governing board or, in the case of a charter
school, its governing body, enter into a contract with a third party
for either or both of the following purposes:

(1) To provide services, including cloud-based services, for the
digital storage, management, and retrieval of pupil records.

(2) To provide digital educational software that authorizes a
third-party provider of digital educational software to access, store,
and use pupil records in accordance with the contractual provisions
listed in subdivision (b).

(b) A local educational agency that enters into a contract with
a third party for purposes of subdivision (a) shall ensure the
contract contains all of the following:
(1) A statement that pupil records continue to be the property of and under the control of the local educational agency.

(2) Notwithstanding paragraph (1), a description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account.

(3) A prohibition against the third party using any information in the pupil record for any purpose other than those required or specifically permitted by the contract.

(4) A description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil’s records and correct erroneous information.

(5) A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of pupil records. Compliance with this requirement shall not, in itself, absolve the third party of liability in the event of an unauthorized disclosure of pupil records.

(6) A description of the procedures for notifying the affected parent, legal guardian, or eligible pupil in the event of an unauthorized disclosure of the pupil’s records.

(7) (A) A certification that a pupil’s records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced.

(B) The requirements provided in subparagraph (A) shall not apply to pupil-generated content if the pupil chooses to establish or maintain an account with the third party for the purpose of storing that content pursuant to paragraph (2).

(8) A description of how the local educational agency and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

(9) A prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.

(c) In addition to any other penalties, a contract that fails to comply with the requirements of this section shall be rendered void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any
party to the contract. All parties subject to a contract voided under
this subdivision shall return all pupil records in their possession
to the local educational agency.
(d) For purposes of this section, the following terms have the
following meanings:
(1) "Deidentified information" means information that cannot
be used to identify an individual pupil.
(2) "Eligible pupil" means a pupil who has reached 18 years of
age.
(3) "Local educational agency" includes school districts, county
offices of education, and charter schools.
(4) "Pupil-generated content" means materials created by a
pupil, including, but not limited to, essays, research reports,
portfolios, creative writing, music or other audio files, photographs,
and account information that enables ongoing ownership of pupil
content. "Pupil-generated content" does not include pupil responses
to a standardized assessment where pupil possession and control
would jeopardize the validity and reliability of that assessment.
(5) (A) "Pupil records" means both of the following:
(i) Any information directly related to a pupil that is maintained
by the local educational agency.
(ii) Any information acquired directly from the pupil through
the use of instructional software or applications assigned to the
pupil by a teacher or other local educational agency employee.
(B) "Pupil records" does not mean any of the following:
(i) Deidentified information, including aggregated deidentified
information, used by the third party to improve educational
products, for adaptive learning purposes, and for customizing pupil
learning.
(ii) Deidentified information, including aggregated deidentified
information, used to demonstrate the effectiveness of the operator’s
products in the marketing of those products.
(iii) Deidentified information, including aggregated deidentified
information, used for the development and improvement of
educational sites, services, or applications.
(6) "Third party" refers to a provider of digital educational
software or services, including cloud-based services, for the digital
storage, management, and retrieval of pupil records.
(e) If the provisions of this section are in conflict with the terms
of a contract in effect before January 1, 2015, the provisions of
this section shall not apply to the local educational agency or the
third party subject to that agreement until the expiration,
amendment, or renewal of the agreement.

(f) Nothing in this section shall be construed to impose liability
on a third party for content provided by any other third party.

(g) (1) Notwithstanding Chapter 3.5 (commencing with Section
6250) of Division 7 of Title 1 of the Government Code, pupil
records pursuant to this section are confidential, shall be used only
to administer services provided under the applicable contract
entered into pursuant to this section, shall not be open to the public
for inspection, and shall not be disclosed without the written
consent of the parent or legal guardian of the pupil, except as to
administer services provided under the contract, or as otherwise
required by California law or a state or federal court order.

(2) This subdivision does not prohibit the disclosure of aggregate
data if it is disclosed in a manner that would prevent it from being
used to determine the identities of the persons upon whom the data
is based.

(3) This subdivision is binding upon local education agencies
and third parties who enter into contracts under this section.

SEC. 4. Section 66021.6 of the Education Code is amended to
read:

66021.6. (a) Notwithstanding any other law, and except as
provided for in subdivision (b), the Trustees of the California State
University and the Board of Governors of the California
Community Colleges shall, and the Regents of the University of
California are requested to, establish procedures and forms that
enable persons who are exempt from paying nonresident tuition
under Section 68130.5, or who meet equivalent requirements
adopted by the regents, to apply for, and participate in, all student
aid programs administered by these segments to the full extent
permitted by federal law. The Legislature finds and declares that
this section is a state law within the meaning of Section 1621(d)
of Title 8 of the United States Code.

(b) The number of financial aid awards received by California
resident students from financial aid programs administered by the
segments shall not be diminished as a result of the application of
subdivision (a). The University of California is requested to comply
with this subdivision.
(c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information provided by applicants for, or by recipients of, student aid programs to apply for, and participate in, all student aid programs administered by the segments pursuant to this section is confidential, shall be used only to administer these programs, and shall not be open to the public for inspection or disclosed without the written consent of the applicant or recipient of the aid, except as necessary to administer these programs, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

SEC. 5. Section 66021.7 of the Education Code is amended to read:

66021.7. (a) Notwithstanding any other law, on and after January 1, 2012, a student attending the California State University, the California Community Colleges, or the University of California who is exempt from paying nonresident tuition under Section 68130.5 shall be eligible to receive a scholarship that is derived from nonstate funds received, for the purpose of scholarships, by the segment at which he or she is a student. The Legislature finds and declares that this section is a state law within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information provided by an applicant for, or by a recipient of, a scholarship pursuant to this section is confidential, shall be used only to administer the scholarship, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the applicant or recipient, except as necessary to administer the scholarship, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

SEC. 6. Section 68130.5 of the Education Code, as amended by Section 1 of Chapter 675 of the Statutes of 2014, is amended to read:

68130.5. Notwithstanding any other law:
(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

(1) Satisfaction of either of the following:
   (A) High school attendance in California for three or more years.
   (B) Attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of those schools.

(2) Graduation from a California high school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information obtained in the implementation of this section is confidential, shall be used only to administer tuition payments pursuant to this section, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the student, except as necessary to administer this section, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed...
in a manner that would prevent it from being used to determine
the identities of the persons upon whom the data is based.

SEC. 6.5. Section 68130.5 of the Education Code, as amended
by Section 1 of Chapter 675 of the Statutes of 2014, is amended
to read:
68130.5. Notwithstanding any other law:
(a) A student, other than a nonimmigrant alien within the
meaning of paragraph (15) of subsection (a) of Section 1101 of
Title 8 of the United States Code, who meets all of the following
requirements shall be exempt from paying nonresident tuition at
the California State University and the California Community
Colleges: Colleges if the student meets all of the following
requirements:
(1) Satisfaction of either of the following: the requirements of
either subparagraph (A) or subparagraph (B):
(A) A total attendance of, or attainment of credits earned while
in California equivalent to, three or more years of full-time
attendance or attainment of credits at any of the following:
(i) High school attendance in California for three or more years:
California high schools.
(ii) California high schools established by the State Board of
Education.
(iii) California adult schools established by any of the following
entities:
(I) A county office of education.
(II) A unified school district or high school district.
(III) The Department of Corrections and Rehabilitation.
(iv) Campuses of the California Community Colleges.
(v) A combination of those schools set forth in clauses (i) to
(iv), inclusive.
(B) Attainment of credits earned in California from a California
high school equivalent to three Three or more years of full-time
high school coursework coursework, and a total of three or more
years of attendance in California elementary schools, California
secondary schools, or a combination of those California elementary
and secondary schools.
(C) (i) Full-time attendance at a campus of the California
Community Colleges counted towards the requirements of this
paragraph shall comprise either a minimum of 12 units of credit
per semester or quarter equivalent per year or a minimum of 420
class hours per year or semester or quarter equivalent per year
in noncredit courses authorized pursuant to Section 84757.
Attendance in credit courses at a campus of the California
Community Colleges counted towards the requirements of this
paragraph shall not exceed a total attendance of two years of
full-time attendance.
(ii) Full-time attendance at a California adult school counted
towards the requirements of this paragraph shall be a minimum
of 420 class hours of attendance for each school year in classes
or courses authorized pursuant to Section 41976 or Sections 2053
to 2054.2, inclusive, of the Penal Code.
(2) Satisfaction of any of the following:
(A) Graduation from a California high school or attainment of
the equivalent thereof.
(B) Attainment of an associate degree from a campus of the
California Community Colleges.
(C) Fulfillment of the minimum transfer requirements
established for the University of California or the California State
University for students transferring from a campus of the
California Community Colleges.
(3) Registration as an entering student at, or current enrollment
at, an accredited institution of higher education in California not
earlier than the fall semester or quarter of the 2001–02 academic
year.
(4) In the case of a person without lawful immigration status,
the filing of an affidavit with the institution of higher education
stating that the student has filed an application to legalize his or
her immigration status, or will file an application as soon as he or
she is eligible to do so.
(b) A student who is exempt from nonresident tuition under this
section may be reported by a community college district as a
full-time equivalent student for apportionment purposes.
(c) The Board of Governors of the California Community
Colleges and the Trustees of the California State University shall
prescribe rules and regulations for the implementation of this
section.
(d) Student Notwithstanding Chapter 3.5 (commencing with
Section 6250) of Division 7 of Title 1 of the Government Code,
information obtained in the implementation of this section is confidential, shall be used only to administer tuition payments pursuant to this section, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the student, except as necessary to administer this section, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

SEC. 7. Section 69508.5 of the Education Code is amended to read:

69508.5. (a) Notwithstanding any other law, and except as provided for in subdivision (c), a student who meets the requirements of subdivision (a) of Section 68130.5, or who meets equivalent requirements adopted by the Regents of the University of California, is eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. The Legislature finds and declares that this section is a state law within the meaning of Section 1621(d) of Title 8 of the United States Code.

(b) Notwithstanding any other law, the Student Aid Commission shall establish procedures and forms that enable students who are exempt from paying nonresident tuition under Section 68130.5, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student financial aid programs administered by the State of California to the full extent permitted by federal law.

(c) A student who is exempt from paying nonresident tuition under Section 68130.5 shall not be eligible for Competitive Cal Grant A and B Awards unless funding remains available after all California students not exempt pursuant to Section 68130.5 have received Competitive Cal Grant A and B Awards for which they are eligible.

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information provided by an applicant for, or by a recipient of, a student financial aid program administered by the state is confidential, shall be used only to administer the program, shall not be open to the public for inspection, and shall not be disclosed without the written consent
of the applicant or recipient of the aid, except as necessary to
administer the program, or as otherwise required by California law
or a state or federal court order. This subdivision does not prohibit
the disclosure of aggregate data if it is disclosed in a manner that
would prevent it from being used to determine the identities of the
persons upon whom the data is based.
SEC. 8. Section 70036 of the Education Code is amended to
read:
70036. Each participating institution is responsible for all the
following:
(a) The participating institution shall determine a student's
credibility for a DREAM loan.
(b) The participating institution shall award DREAM loan funds
to students.
(c) The participating institution shall provide entrance and exit
loan counseling to borrowers that is generally comparable to that
required by federal student loan programs.
(d) The participating institution shall service DREAM loans,
collect DREAM loan repayments, and perform all of the due
diligence required by the federal Fair Credit Reporting Act (15
U.S.C. Sec. 1681 et seq.).
(e) The participating institution shall establish mechanisms for
recording the annual amount of the DREAM loan borrowed by
each recipient, and the aggregate amount of DREAM loans
borrowed by each recipient, in order to comply with the annual
and aggregate borrowing limits set forth in Section 70034.
(f) Notwithstanding Chapter 3.5 (commencing with Section
6250) of Division 7 of Title 1 of the Government Code, student
information obtained through the application, receipt, or use of
DREAM loans pursuant to this article is confidential, shall be used
only to administer DREAM loans, shall not be open to the public
for inspection, and shall not be disclosed without the written
consent of the student, except as necessary to administer DREAM
loans, or as otherwise required by California law or a state or
federal court order. This subdivision does not prohibit the
disclosure of aggregate data if it is disclosed in a manner that would
prevent it from being used to determine the identities of the persons
upon whom the data is based.
SEC. 9. Section 99155 of the Education Code is amended to
read:
99155. (a) A test sponsor shall provide alternative methods to verify the identity of those test subjects who are unable to provide the required identification for purposes of admitting a test subject to take a standardized test administered by the sponsor.

(b) A test sponsor shall clearly post on the test sponsor's Internet Web site contact information for test subjects who are unable to provide the required identification and who need further assistance.

(c) Test sponsors may require test subjects to obtain approval from the test sponsor in advance of the test registration deadline in order to be admitted to the test with an alternative form of identification.

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information obtained from test subjects to verify identity is confidential, shall be used only to administer the tests, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the test subject, except as necessary to administer the tests, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

SEC. 10. Section 128371 of the Health and Safety Code is amended to read:

128371. (a) The Legislature finds and declares that it is in the best interest of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by those programs listed in subdivision (d), and therefore, enacts this section pursuant to Section 1621(d) of Title 8 of the United States Code.

(b) A program listed in subdivision (d) shall not deny an application based on the citizenship status or immigration status of the applicant.

(c) For any program listed in subdivision (d), when mandatory disclosure of a social security number is required, an applicant shall provide his or her social security number, if one has been issued, or an individual tax identification number that has been or will be submitted. Information about or provided by an applicant for a program listed in subdivision (d) is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing...
with Section 6250) of Division 7 of Title 1 of the Government Code) and is confidential, and shall be used only as required to assess eligibility for, or to administer, the programs, and may not be disclosed for any other purpose without the written consent of the applicant, except as required by California law or pursuant to court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

(d) This section shall apply to all of the following:

(1) Programs supported through the Health Professions Education Fund pursuant to Section 128355.
(2) The Registered Nurse Education Fund created pursuant to Section 128400.
(3) The Mental Health Practitioner Education Fund created pursuant to Section 128458.
(4) The Vocational Nurse Education Fund created pursuant to Section 128500.
(5) The Medically Underserved Account for Physicians created pursuant to Section 128555.
(6) Loan forgiveness and scholarship programs created pursuant to Section 5820 of the Welfare and Institutions Code.
(7) The Song-Brown Health Care Workforce Training Act created pursuant to Article 1 (commencing with Section 128200) of Chapter 4.
(8) To the extent permitted under federal law, the program administered by the office pursuant to the federal National Health Service Corps State Loan Repayment Program (42 U.S.C. Sec. 254q-1), commonly known as the California State Loan Repayment Program.
(9) The programs administered by the office pursuant to the Health Professions Career Opportunity Program (Section 127885), commonly known as the Mini Grants Program, and California’s Student/Resident Experiences and Rotations in Community Health, commonly known as the Cal-SEARCH program.

SEC. 11. Section 12800.7 of the Vehicle Code, as amended by Section 23 of Chapter 20 of the Statutes of 2017, is amended to read:

12800.7. (a) Upon application for an original, renewal, or duplicate of a driver’s license the department may require the
I applicant to produce any identification that it determines is
necessary in order to ensure that the name of the applicant stated
in the application is his or her true, full name and that his or her
residence address as set forth in the application is his or her true
residence address.
(b) Notwithstanding any other law, any document provided by
the applicant to the department for purposes of proving the
applicant's identity, true, full name, California residency, or that
the applicant’s presence in the United States is authorized under
federal law, is not a public record and may not be disclosed by the
department except in response to a subpoena for individual records
in a state criminal proceeding or a court order.

SEC. 12. Section 12801.9 of the Vehicle Code is amended to
read:

12801.9. (a) Notwithstanding Section 12801.5, the department
shall issue an original driver's license to a person who is unable
to submit satisfactory proof that the applicant’s presence in the
United States is authorized under federal law if he or she meets
all other qualifications for licensure and provides satisfactory proof
to the department of his or her identity and California residency.
(b) The department shall adopt emergency regulations to carry
out the purposes of this section, including, but not limited to,
procedures for (1) identifying documents acceptable for the
purposes of proving identity and California residency, (2)
procedures for verifying the authenticity of the documents, (3)
issuance of a temporary license pending verification of any
document’s authenticity, and (4) hearings to appeal a denial of a
license or temporary license.
(c) Emergency regulations adopted for purposes of establishing
the documents acceptable to prove identity and residency pursuant
to subdivision (b) shall be promulgated by the department in
consultation with appropriate interested parties, in accordance with
the Administrative Procedure Act (Chapter 3.5 (commencing with
Section 11340) of Part 1 of Division 3 of Title 2 of the Government
Code), including law enforcement representatives, immigrant rights
representatives, labor representatives, and other stakeholders,
which may include, but are not limited to, the Department of the
California Highway Patrol, the California State Sheriffs’
Association, and the California Police Chiefs Association. The
department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

1. A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship.

2. An original birth certificate, or other proof of age, as designated by the department.

3. A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

4. The following documents, which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:
   - A marriage license or divorce certificate.
   - A foreign federal electoral photo card issued on or after January 1, 1991.
   - A foreign driver's license.
   - An official school or college transcript that includes the applicant's date of birth, or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued.
   - A deed or title to real property.
   - A property tax bill or statement issued within the previous 12 months.

5. An income tax return.

(d) (1) A license issued pursuant to this section, including a temporary license issued pursuant to Section 12506, shall include a recognizable feature on the front of the card, such as the letters "DP" instead of, and in the same font size as, the letters "DL," with no other distinguishable feature.

(2) The license shall bear the following notice: "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

(3) The notice described in paragraph (2) shall be in lieu of the notice provided in Section 12800.5.
(e) If the United States Department of Homeland Security determines a license issued pursuant to this section does not satisfy the requirements of Section 37.71 of Title 6 of the Code of Federal Regulations, adopted pursuant to paragraph (11) of subdivision (d) of Section 202 of the Real ID Act of 2005 (Public Law 109-13), the department shall modify the license only to the extent necessary to satisfy the requirements of that section.

(f) Notwithstanding Section 40300 or any other law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under 16 years of age.

(g) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(h) It is a violation of law to discriminate against a person because he or she holds or presents a license issued under this section, including, but not limited to, the following:

1. It is a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code), for a business establishment to discriminate against a person because he or she holds or presents a license issued under this section.

2. (A) It is a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) for an employer or other covered person or entity, pursuant to Section 12940 of the Government Code and subdivision (v) of Section 12926 of the Government Code, to discriminate against a person because the person holds or presents a driver's license issued pursuant to this section, or for an employer or other covered entity to require a person to present a driver's license, unless possessing a driver's license is required by law or is required by the employer and the employer's requirement is otherwise permitted by law. This section shall not be construed to limit or expand an employer's authority to require a person to possess a driver's license.

(B) Notwithstanding subparagraph (A), this section shall not be construed to alter an employer's rights or obligations under Section 1324a of Title 8 of the United States Code regarding obtaining documentation evidencing identity and authorization for
An action taken by an employer that is required by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a) is not a violation of law.

(3) It is a violation of Section 11135 of the Government Code for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because he or she holds or presents a license issued pursuant to this section, including by notifying another law enforcement agency of the individual's identity or that the individual carries a license issued under this section if a notification is not required by law or would not have been provided if the individual held a license issued pursuant to Section 12801.

(i) Driver's license information obtained by an employer shall be treated as private and confidential, is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall not be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive.

(j) Information collected pursuant to this section is not a public record and shall not be disclosed by the department, except in response to a subpoena for individual records in a state criminal proceeding or a court order.

(k) A license issued pursuant to this section shall not be used as evidence of an individual's citizenship or immigration status for any purpose.

(l) On or before January 1, 2018, the California Research Bureau shall compile and submit to the Legislature and the Governor a report of any violations of subdivisions (h) and (k). Information pertaining to any specific individual shall not be provided in the report.

(m) In addition to the fees required by Section 14900, a person applying for an original license pursuant to this section may be required to pay an additional fee determined by the department that is sufficient to offset the reasonable administrative costs of implementing the provisions of the act that added this section. If this additional fee is assessed, it shall only apply until June 30, 2017.
(n) This section shall become operative on January 1, 2015, or
on the date that the director executes a declaration pursuant to
Section 12801.11, whichever is sooner.
(o) This section shall become inoperative on the effective date
of a final judicial determination made by any court of appellate
jurisdiction that any provision of the act that added this section,
or its application, either in whole or in part, is enjoined, found
unconstitutional, or held invalid for any reason. The department
shall post this information on its Internet Web site.

SEC. 13. Section 13005.1 is added to the Vehicle Code, to
read:

13005.1. (a) Information or documents obtained by a city,
county, or other local agency for the purpose of issuing a local
identification card shall be used only for the purposes of
administering the identification card program or policy. This
information, including the name and address of any person who
applies for or is issued a local identification card, is exempt from
disclosure under the California Public Records Act (Chapter 3.5
(commencing with Section 6250) of Division 7 of Title 1 of the
Government Code), shall not be open to the public for inspection,
and shall not be disclosed except as required to administer the
program, or as otherwise required by California law, any local law
governing the identification card program, or court order. This
section does not prohibit the disclosure of aggregate data if it is
disclosed in a manner that would prevent it from being used to
determine the identities of the persons upon whom the data is
based.

(b) The Legislature hereby finds and declares that protecting
the privacy of the residents of this state is an important matter of
statewide concern. This section shall therefore apply equally to all
cities and counties in this state, including charter cities and charter
counties.

SEC. 14. Section 204 of the Welfare and Institutions Code is
amended to read:

204. Notwithstanding any other law, except law governing the
retention and storage of data, a family law court and a court hearing
a probate guardianship matter shall, upon request from the juvenile
court in any county, provide to the court all available information
the court deems necessary to make a determination regarding the
best interest of a child, as described in Section 202, who is the
subject of a proceeding before the juvenile court pursuant to this
division. The information shall also be released to a child protective
services worker or juvenile probation officer acting within the
scope of his or her duties in that proceeding. Any information
released pursuant to this section that is confidential pursuant to
any other law shall remain confidential. All confidential
information shall be used only for the purpose of serving the best
interest of the child in juvenile court, and may not be released,
except to the extent necessary to comply with this section. No
records shared pursuant to this section may be disclosed to any
party in a case unless the party requests the agency or court that
originates the record to release these records and the request is
granted. In counties that provide confidential family law mediation,
or confidential dependency mediation, those mediations are not
covered by this section.

SEC. 15. Section 1905 of the Welfare and Institutions Code is
amended to read:

1905. (a) Each youth service bureau funded under this article
shall maintain accurate and complete case records, reports,
statistics, and other information necessary for the conduct of its
programs; establish appropriate written policies and procedures
to protect the confidentiality of individual client records; and
submit monthly reports to the Division of Juvenile Justice
concerning services and activities.

(b) Individual client information shall be collected, recorded,
and used only for the purpose of administering youth services.
Client information and records are exempt from disclosure under
the California Public Records Act (Chapter 3.5 (commencing with
Section 6250) of Division 7 of Title 1 of the Government Code),
are confidential, and may not be disclosed except as required to
administer youth services or as required by law or court order.

SEC. 16. Section 17852 is added to the Welfare and Institutions
Code, to read:

17852. (a) A city, county, city and county, or hospital district
may collect information for the purposes of this part only as
required to assess eligibility for, or to administer, the public
services or programs requested or used by the person seeking the
services.

(b) All types of information, whether written or oral, concerning
a person made or kept by any public officer or agency for the
The purpose of assessing eligibility for, or administering the services authorized by, this part are exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), are confidential, and may not be disclosed except as required to administer the services or as required by California law, or as required by a federal or state court order.

(c) This section shall not prohibit the sharing of data as long as it is disclosed in a manner that could not be used to determine the identities of the persons to whom the data pertains, alone, or in combination with other data.

(d) This section shall not prohibit the sharing of personal information when the subject of that information has provided signed, written consent allowing the information to be provided to the person requesting the information.

SEC. 17. The Legislature finds and declares that this act imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act strikes an appropriate balance between the public’s right to access information about the conduct of their government agencies and the need to protect the personal information of private individuals who participate in public programs or receive public services.

SEC. 18. The Legislature finds and declares that Sections 1 to 6, inclusive, and Sections 13 and 15 of this act, which amend Section 30 of the Business and Professions Code, amend Sections 48204.1, 49073.1, 66021.6, 66021.7, and 68130.5 of the Education Code, add Section 13005.1 to the Vehicle Code, and amend Section 1905 of the Welfare and Institutions Code, respectively, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:
This act strikes an appropriate balance between the public’s right to access information about the conduct of their government agencies and the need to protect the personal information of private individuals who participate in public programs or receive public services.

SEC. 19. Section 1.5 of this bill incorporates amendments to Section 30 of the Business and Professions Code proposed by both this bill and Senate Bill 173. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 30 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 173, in which case Section 1 of this bill shall not become operative.

SEC. 20. Section 6.5 of this bill incorporates amendments to Section 68130.5 of the Education Code proposed by both this bill and Senate Bill 68. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 68130.5 of the Education Code, and (3) this bill is enacted after Senate Bill 68, in which case Section 6 of this bill shall not become operative.

SEC. 21. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
SUMMARY: Makes a number of changes to existing laws about public records in order to protect the privacy of persons whose information is included in those records. Specifically this bill:

1) Provides that any information submitted pursuant to one of several statutes (listed below) is confidential and exempt from disclosure under the California Public Records Act (CPRA), shall be used only for the purpose of administering the relevant public program or service, shall not be open for public inspection, and shall not be disclosed without the written consent of the applicant, beneficiary, or recipient of the relevant program or service, or as otherwise required by California law or a state or federal court order. Generally permits disclosure of aggregate data if disclosed in a manner that does not reveal the identity of the applicant, beneficiary or recipient of the program or service. These exemption, nondisclosure, and confidentiality provisions apply to the following statutes and the programs or services that they authorize:

a) Education Code Section 48204.1, regarding documentation required to establish a student residency for a school district.

b) Education Code Section 49073.1, regarding student records that are stored, maintained, and managed by a third party contractor.

c) Education Code Sections 66021.6 and 68130.5, regarding information submitted to establish eligibility for exemption from paying nonresident tuition at the California State University, University of California, or California Community Colleges.

d) Education Code Sections 66021.7 and 69508.5, regarding information submitted by a student who is exempt from paying nonresident tuition to receive academic scholarship, as specified.
c) Education Code Section 70036, regarding student information obtained through the application for, or receipt or use of, a DREAM loan.

d) Education Code Section 99155, regarding information submitted in relation to standardized tests.

e) Health and Safety Code Section 128371, regarding applicants for various state health programs and benefits who are not lawfully present in the United States and who are allowed to use an individual tax identification number on the application in lieu of a social security number.

h) Vehicle Code Section 12800.7, regarding applications for driver's licenses.

i) Vehicle Code Section 12801.9, regarding driver's licenses for persons unable to submit satisfactory evidence of lawful presence in the United States.

j) Vehicle Code Section 13005.1, regarding local identification cards.

k) Welfare and Institutions Code Section 204, regarding juvenile court requests for family law and probate guardianship records.

l) Welfare and Institutions Code Section 1905, regarding information collected, recorded, and used by a youth service bureau, as specified.

m) A new provision added to the Welfare and Institutions Code, as Section 17852, regarding records submitted to a public hospital in order to determine eligibility for programs or services administered by the hospital.

2) Expands the meaning of "discriminate," for purpose of Government Code Section 11135, to include notifying a law enforcement agency that an individual holds a type of driver's license that is issued to persons who are unable to submit satisfactory proof that they are in the United States lawfully when there would not have been such a notification of a person with a standard driver's license.

3) Limits the disclosure of information submitted by an applicant to obtain an original or duplicate driver's license, allowing disclosure only in response to either a subpoena for individual records in a state criminal proceeding, or a court order.

4) Provides that information or documents obtained by a city, county, or other local agency for the purpose of issuing a local identification card shall only be used for the purpose of administering the identification card program or policy. Specifies that this information is exempt from disclosure under the CPRA, shall not be open to the public for inspection, and shall not be disclosed except as otherwise required to administer the program, or as otherwise required by state or local law, or court order. Permits disclosure of aggregate data if disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based. Specifies that this provision applies to both charter and non-charter cities and counties.

5) Makes findings and declarations, as required by the California Constitution Article I, Section 3, that the bill's restrictions on public access to government records is justified and strikes an
appropriate balance between the need to protect the privacy of persons who participate in public programs or receive public benefits.

6) Adds chaptering language to resolve conflicts between this bill and the following bills:

a) Senate Bill 173, which – like this bill – amends Section 30 of the Business and Professions Code.

b) Senate Bill 68, which – like this bill – amends Section 68130.5 of the Education Code.

**FISCAL EFFECT:** According to the Assembly Appropriations Committee:

1) Costs (Motor Vehicle Account) of $3.3 million annually to the California Highway Patrol (CHP) to obtain subpoenas or court order to access certain Department of Motor Vehicles (DMV) records.

2) Unknown potentially reimbursable mandate related to education provisions of the bill and a potential mandate related to requiring a subpoena or court order in order for law enforcement agencies to access DMV records. Whether these costs are reimbursable would be determined by the Commission on State Mandates if local agencies submit a claim.

3) Other minor to moderate costs for various state entities to make administrative changes necessary to comply with the provisions of this bill.

**COMMENTS:** The California Public Records Act (CPRA) was enacted in 1968 (Chapter 1473, Statutes of 1968) and codified as Sections 6250 through 6276.48. Similar to the federal Freedom of Information Act, the CPRA requires that the documents and "writings" of a public agency be open and available for public inspection, unless they are exempt from disclosure. (Government Code Sections 6250-6270.) The CPRA is premised on the principle that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." It defines a "public record" to mean "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." (Government Code Section 6252(e))

In order to protect the privacy and safety of persons whose personal information is included in public records, this bill proposes to make certain types of records exempt from disclosure in response to a CPRA request, except in limited circumstances. The bill no longer includes a limitation on the collection, recording and "use" of "sensitive personal information" by public agencies and their agents, or a very broad exemption in the CPRA for "sensitive personal information" that would have made broad categories of public records unavailable to the public. Instead, the amended bill either makes records about certain specified public programs, including those which are available to persons who may lack documentation of their lawful presence in the state, exempt from disclosure in response to a CPRA request, or reiterates the confidential nature of those records. The bill also makes a number of other changes to related laws about public records, limiting disclosure of certain records in order to protect the personal information within those records regarding private individuals who participate in public programs or who receive public services.

**Analysis Prepared by:** Alison Merrilees / JUD. / (916) 319-2334

FN: 0002089
SENATE BILL No. 419

Introduced by Senator Portantino

February 15, 2017

An act to add Section 2242.3 to the Business and Professions Code, relating to controlled substances; to add Section 11167.7 to the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST


Existing law, the Controlled Substances Act, prohibits a person other than a physician, dentist, podiatrist, veterinarian, or certain other health care practitioners, in specified circumstances, from writing or issuing a prescription. That act requires a prescription for specified controlled substances to be made on a specified controlled substance prescription form, to be signed and dated by the prescriber in ink, and to contain specified information. That act requires a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance to consult the Controlled Substance Utilization Review and Evaluation System database to review a patient’s controlled substance history before prescribing specified controlled substances to the patient for the first time, and at least once every 4 months thereafter if the substance remain part of the treatment of the patient, except as specified. That act prohibits a person from prescribing, administering, or dispensing a controlled substance to an addict or any person...
representing himself or herself as an addict, except as specified. That act defines "addict" for this purpose, and excludes from the definition a person whose drug-seeking behavior is primarily due to the inadequate control of pain. Existing law, the Pharmacy Law, imposes various requirements on the dispensing by prescription of dangerous drugs, including controlled substances. That law prohibits furnishing a prescription for a controlled substance transmitted by means of an oral or electronically transmitted order to any person unknown and unable to properly establish his or her identity. Existing law makes a violation of these provisions a crime.

This bill would require a specified health care practitioner, before prescribing, ordering, or furnishing specified narcotic pain medications, including controlled substances, to a minor, as defined, to educate the guardian of the minor on all other available medical treatments, specified nonopioid treatment alternatives to be tried before and alongside opioid therapy, the risks and benefits of narcotic medications and alternatives to narcotic medications, the safe storage of opioid medications, the proper disposal of unused medications, and the illegality of sharing or misusing prescribed medications. The bill would also require this discussion and counseling to be memorialized in a document printed on a secure prescription pad and signed by the minor, if he or she was counseled, the guardian, and the prescriber. The bill would require a pharmacist to review and verify the document before dispensing the medication. The bill would prohibit a subsequent prescription of those medications from being made until the minor is reevaluated by a pain management specialist or a pediatrician. By adding these new requirements to the Controlled Substances Act and the Pharmacy Law, the violation of which would be a crime, this bill would impose a state-mandated local program.

Existing law establishes the Medical Board of California within the Department of Consumer Affairs. Existing law, among other things, required the board to develop standards before June 1, 2002, to ensure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain.

This bill would require the board, on or before July 1, 2018, to update those standards. The bill would also require the board to update those standards on or before July 1 each 5th year thereafter. The bill would require the board to convene a task force to develop and recommend the updated standards to the board. The bill would require the task
force, in developing the updated standards, to consult with specified entities.

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

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

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law places oxycodone within Schedule II. Existing law requires a prescription for a controlled substance to only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice.

Existing law, the Medical Practice Act, provides for the licensing and regulation of physicians and surgeons by the Medical Board of California. Among other things, the act regulates the prescribing, dispensing, or furnishing of dangerous drugs, including oxycodone, by a licensee, and provides, under certain circumstances, for the imposition of an administrative fine pursuant to a citation by the board, or the imposition of a civil penalty for a violation of these provisions. A violation of designated provisions of the act is a crime.

This bill would prohibit a person from prescribing oxycodone, by whatever official, common, usual, chemical, or trade name designated, to a patient under 21 years of age, except as specified. The bill would make a violation of this prohibition subject to a civil penalty, as specified. The bill would also authorize a patient who was prescribed oxycodone in violation of the prohibition, and who sustained economic loss or personal injury as a result of that violation, to bring a civil action to recover compensatory damages, reasonable attorney’s fees, and litigation costs.

State-mandated local program: no-yes.
The people of the State of California do enact as follows:

SECTION 1. Section 2241.6 of the Business and Professions Code is amended to read:

2241.6. The Division of Medical Quality shall develop standards before June 1, 2002, to assure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain. The division

2241.6. (a) (1) The board shall develop standards before June 1, 2002, to ensure the competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient's pain.

(2) The board may 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, and any other medical entity specializing in pain control therapies to develop the standards utilizing, to the extent they are applicable, current authoritative clinical practice guidelines.

(b) The board shall update the standards adopted pursuant to subdivision (a) on or before July 1, 2018, and on or before July 1 each fifth year thereafter.

(c) The board shall convene a task force to develop and recommend the updated standards to the board. The task force, in developing the updated standards, shall consult with the entities specified in paragraph (2) of subdivision (a), the American Cancer Society, and specialists in pharmacology and addiction medicine.

SEC. 2. Section 4075.7 is added to the Business and Professions Code, to read:

4075.7. (a) Before dispensing a prescription for a minor for a pain medication listed in Section 11167.7 of the Health and Safety Code, the pharmacist shall review and verify the disclosure and counseling document described in subdivision (c) of Section 11167.7 of the Health and Safety Code.

(b) For purposes of this section, "minor" shall have the same meaning as in Section 11167.7 of the Health and Safety Code.

SEC. 3. Section 11167.7 is added to the Health and Safety Code, to read:
1 11167.7. (a) For purposes of this section, the following
2 definitions shall apply:
3 (1) "Minor" means a person under 18 years of age who is not
4 any of the following:
5 (A) A cancer patient.
6 (B) A patient in hospice or palliative care.
7 (C) A patient who has been diagnosed with a terminal illness.
8 (2) "Guardian" means the legal guardian of the minor.
9 (b) A health care practitioner, except a veterinarian, authorized
10 to prescribe, order, administer, or furnish oxycodone, hydrocodone,
11 hydromorphone, morphine, codeine, oxymorphone, fentanyl,
12 methadone, tramadol, or tapentadol to a minor shall, before
13 prescribing, ordering, administering, or furnishing those
14 medications, educate the guardian on all of the following:
15 (1) All other available medical treatments, other than the
16 medication to be prescribed.
17 (2) Nonopioid treatment alternatives to be tried before and
18 alongside opioid therapy, unless there is a specific adverse reaction
19 or contraindication.
20 (3) The risks and benefits of narcotic medications and
21 alternatives.
22 (4) The safe storage of opioid medications.
23 (5) The proper disposal of unused medications.
24 (6) The illegality of sharing or misusing prescribed medications.
25 (c) The discussion and counseling provided in subdivision (b)
26 shall be memorialized in a document printed on a secure
27 prescription pad and signed by the minor, if he or she was
28 counseled, the guardian, and the prescriber.
29 (d) A subsequent prescription for the pain medications listed in
30 subdivision (b) shall not be made until the minor is reevaluated
31 by a pain management specialist or a pediatrician.
32 SEC. 4. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.
SECTION 1. Section 2242.3 is added to the Business and
Professions Code, to read:

2242.3. (a) (1) Notwithstanding any other law, a person shall
not prescribe oxycodone, by whatever official, common, usual,
chemical, or trade name designated, to a patient under 21 years of
age;
(2) Paragraph (1) does not apply with respect to a patient of any
age who is any of the following:
(A) A cancer patient;
(B) A patient in hospice or palliative care;
(C) A patient who has been diagnosed with a terminal illness.
(b) (1) Notwithstanding Section 2314 or any other law, a
violation of this section may subject the person who has committed
the violation to either a fine of up to five thousand dollars ($5,000)
per violation pursuant to a citation issued by the board or a civil
penalty of up to five thousand dollars ($5,000) per violation;
(2) The Attorney General may bring an action to enforce this
section and to collect the fines or civil penalties authorized by
paragraph (1);
(e) In addition to the penalties described in paragraph (1) of
subdivision (b), a patient who was prescribed oxycodone in
violation of subdivision (a), and who sustained economic loss or
personal injury as a result of that violation, may bring an action
to recover compensatory damages, as well as reasonable attorney's
fees and costs.
Bill No: SB 419  
Author: Portantino  
Version: April 17, 2017  
Urgency: No  
Consultant: Sarah Mason and Matthew Waldron

Hearing Date: April 24, 2017  
Fiscal: Yes

Subject: Oxycodone: prescriptions

SUMMARY: Sets forth requirements for certain controlled substances prescriptions for minors, including education by a prescriber to the minor and his or her guardian prior to prescribing, prohibiting a subsequent prescription to be made until the minor is evaluated by a pain management specialist or pediatrician, and review and verification by a pharmacist of documents memorializing the education provided to a minor and guardian. Requires the Medical Board of California (MBC) to update standards to ensure competent review in cases concerning the management of a patient's pain on or before July 1, 2018, and every five years thereafter. Requires MBC to convene a task force to develop and recommend the updated standards in consultation with certain specialists.

Existing law:

1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various boards within the Department of Consumer Affairs (DCA) which provide for the licensing and regulation of health care professionals including: physicians and surgeons (under the Medical Practice Act), dentists (under the Dental Practice Act), veterinarians (under the Veterinary Medicine Practice Act); registered nurses, nurse practitioners and advanced practice nurses (under the Nursing Practice Act); physician assistants (under the Physician Assistant Practice Act); osteopathic physicians and surgeons (under the Osteopathic Medical Practice Act); naturopathic doctors (under the Naturopathic Doctors Act); optometrists (under the Optometry Practice Act); doctors of podiatric medicine (under the Podiatric Act) and; pharmacies, pharmacists and wholesalers of dangerous drugs or devices (under the Pharmacy Law).

2) Provides that a physician and surgeon may not prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose. (BPC § 2241)

3) Authorizes a physician and surgeon to prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain. Provides that a physician and surgeon shall not be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances according to
certain requirements. Authorizes MBC to take any action against a physician and surgeon who violates laws related to inappropriate prescribing. Provides that a physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient’s treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist. (BPC § 2241.5)

4) Requires the Division of Medical Quality (DMQ) within MBC, to develop standards before June 1, 2002 to ensure competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient’s pain. (BPC § 2241.6)

5) Authorizes DMQ 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, and any other medical entity specializing in pain control therapies to develop the standards utilizing, to the extent they are applicable, current authoritative clinical practice guidelines. (BPC § 2241.6)

6) Defines “dispense” as the furnishing of drugs or devices upon a prescription from a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor or upon an order to furnish drugs or transmit a prescription from a certified nurse-midwife, nurse practitioner, physician assistant, naturopathic doctor, or pharmacist acting within the scope of his or her practice. Dispense also means and refers to the furnishing of drugs or devices directly to a patient by a physician, dentist, optometrist, podiatrist, or veterinarian, or by a certified nurse-midwife, nurse practitioner, naturopathic doctor, physician assistant or pharmacist acting within the scope of his or her practice. (BPC § 4024)

7) Specifies certain requirements regarding the dispensing and furnishing of dangerous drugs and devices, and prohibits a person from furnishing any dangerous drug or device except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian or naturopathic doctor. (BPC § 4059)

8) Requires a pharmacist to provide oral consultation to his or her patient or the patient’s agent in all care settings upon request, or whenever the pharmacist deems it warranted in the exercise of his or her professional judgment. (California Code of Regulations (CCR) § 1707.2 (a))

9) Provides that the oral consultation provided shall include at least directions for the use and storage and the importance of compliance with directions and precautions and relevant warnings, including common severe side or adverse effects or interactions that may be encountered. (CCR § 1707.2 (c))

10) Provides that whenever a pharmacist deems it warranted in the exercise of his or her professional judgment, the oral consultation shall include additional information as specified. (CCR § 1707.2 (d))

11) Establishes the Uniform Controlled Substances Act which regulates controlled substances and defines opiate as any substance having an addiction-forming or
addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. (Health and Safety Code (HSC) § 11020)

12) Classifies controlled substances in five schedules according to their danger and potential for abuse. (HSC § 11054-11058)

13) Specifies that a prescription for a controlled substance shall only be issued for a legitimate medical purpose and establishes responsibility for proper prescribing on the prescribing practitioner. States that a violation shall result in imprisonment for up to one year or a fine of up to $20,000, or both. (HSC § 11153)

14) Requires special prescription forms for controlled substances to be obtained from security printers approved by DOJ, establishes certain criteria for features on the forms and requires controlled substance prescriptions to be made on the specified form. (HSC §§ 11161.5, 11162.1, 11164)

15) Requires each prescription for a controlled substance classified in Schedule II, III, IV or IV to be made on the specified form. (HSC § 11164)

16) Prohibits any person other than a physician, dentist, podiatrist, veterinarian, naturopathic doctor (according to certain supervision and protocol requirements), pharmacist (according to certain authorization and according to certain policies and procedures), certified nurse-midwife (if furnished or ordered incidentally to the provision of family planning services, routine health care or perinatal care, or care rendered consistent with the certified nurse-midwife’s practice; occurs under physician and surgeon supervision; and is in accordance with standardized procedures or protocols as specified), nurse practitioner (if it is consistent with a nurse practitioner’s educational preparation or for which clinical competency has been established and maintained; occurs under physician and surgeon supervision; and is in accordance with standardized procedures or protocols as specified); a pharmacist or registered nurse or physician assistant acting within the scope of an experimental health workforce project authorized by the Office of Statewide Health Planning and Development; an optometrist licensed under the Optometry Practice Act., or an out-of-state prescriber acting in an emergency situation from writing or issuing a prescription for a controlled substance. (HSC § 11150)

17) Requires health practitioners who prescribe or administer a controlled substance classified in Schedule II to make a record containing the name and address of the patient, date, and the character, name, strength, and quantity of the controlled substance prescribed, as well as the pathology and purpose for which the controlled substance was administered or prescribed. (HSC § 11190 (a) and (b))

18) Requires prescribers who are authorized to dispense Schedule II, III or IV controlled substances in their office or place of practice to record and maintain information for three years for each such prescription that includes the patient’s name, address, gender, and date of birth, prescriber’s license and license number, federal controlled substance registration number, state medical license number, NDC number of the controlled substance dispensed, quantity dispensed, diagnosis code,
if available, and original date of dispensing. Requires that this information be provided to the Department of Justice (DOJ) on a monthly basis. (HSC § 11190 (c))

This bill:

1) Sets forth certain requirements for controlled substances prescriptions for minors, defined as a person under the age of 18 who is not a cancer patient or patient in hospice or palliative care or patient who has been diagnosed with a terminal illness.

2) Requires health care practitioners (other than veterinarians) who are authorized to prescribe, order, administer, or furnish oxycodone, hydrocodone, hydromorphone, morphine, codeine, oxymorphone, fentanyl, methadone, tramadol, or tapentadol to a minor to educate the minor’s guardian on the following before prescribing, ordering, administering, or furnishing those medications:
   a) All other available medical treatments, other than the medication to be prescribed;
   b) Nonopioid treatment alternatives to be tried before and alongside opioid therapy, unless there is a specific adverse reaction or contraindication;
   c) The risks and benefits of narcotic medications and alternatives;
   d) The safe storage of opioid medications;
   e) The proper disposal of unused medications and;
   f) The illegality of sharing or misusing prescribed medications.

3) Requires the education above to be memorialized in a document printed on a secure prescription pad and signed by the minor, if he or she was counseled, the guardian, and the prescriber.

4) Prohibits a subsequent prescription from being made until the minor is reevaluated by a pain management specialist or pediatrician.

5) Requires a pharmacist, before dispensing a prescription for a minor in #2) above to review and verify the disclosure and counseling document the prescriber in #3) above.

6) Replaces the former DMQ with the MBC and requires MBC to update standards to ensure competent review in cases concerning the management, including, but not limited to, the undertreatment, undermedication, and overmedication of a patient’s pain on or before July 1, 2018 and on or before July 1 every five years.

7) Requires MBC to convene a task force to develop and recommend the updated standards to the MBC. Authorizes the task force to consult with the American Cancer Society, specialists in pharmacology and specialists in addiction medicine, in addition to the entities MBC may consult with in developing the standards.
COMMENTS:

1. **Purpose.** The Author is the Sponsor of this bill. The Author states "Prescription pain medication abuse has become an epidemic in the U.S. It has caused more deaths by overdose than street drugs such as cocaine, heroin and methamphetamine.

"Prescription drugs are addictive because they are made from opiates. The use of opiates affects certain areas of the brain responsible for mood and ‘reward’ behaviors. Pain medication such as codeine, oxycodone and hydrocodone are addictive because of their ability to re-wire these areas of the brain producing a heightened sense of euphoria. Like alcohol and drug abuse, pain medication abuse occurs because of the need to experience these feelings on a regular basis.

"According to the Partnership for a Drug-Free America, 1 in 5 teens has abused a prescription pain medication. The White House Office of National Drug Control Policy, stated that every day, 2,500 kids aged 12-17 abuse a prescription painkiller for the first time and more people are getting addicted to prescription drugs. Though overall teen drug use is down nationwide, more teens abuse prescription drugs than any other illicit drug except marijuana – more than cocaine, heroin, and methamphetamine combined. Drug treatment admissions for prescription painkillers increased more than 300 percent from 1995 to 2005. Teens are abusing prescription drugs because many believe the myth that these drugs provide a ‘safe’ high. Especially troubling, is that the majority of teens who abuse prescription drugs say they are easy to get and are often free.

"Furthermore, the National Institute on Drug Abuse stated that nearly half of young people who inject heroin reported abusing prescription opioids before turning to heroin. According to the U.S. Substance Abuse and Mental Health Services Administration, a full 80% of all users arrive at heroin after abusing opioid painkillers."

2. **Controlled Substances.** Through the Controlled Substances Act of 1970, the federal government regulates the manufacture, distribution and dispensing of controlled substances. The act ranks into five schedules those drugs known to have potential for physical or psychological harm, based on three considerations: (a) their potential for abuse; (b) their accepted medical use; and, (c) their accepted safety under medical supervision.

*Schedule I* controlled substances have a high potential for abuse and no generally accepted medical use such as heroin, ecstasy, and LSD.

*Schedule II* controlled substances have a currently accepted medical use in treatment, or a currently accepted medical use with severe restrictions, and have a high potential for abuse and psychological or physical dependence. Schedule II drugs can be narcotics or non-narcotic. Examples of Schedule II controlled substances include morphine, methadone, Ritalin, Demerol, Dilaudid, Percocet, Percodan, and Oxycontin.
Schedule III and IV controlled substances have a currently accepted medical use in treatment, less potential for abuse but are known to be mixed in specific ways to achieve a narcotic-like end product. Examples include drugs include Vicodin, Zanex, Ambien and other anti-anxiety drugs.

Schedule V drugs have a low potential for abuse relative to substances listed in Schedule IV and consist primarily of preparations containing limited quantities of certain narcotics.

The three classes of prescription drugs that are most commonly abused are: opioids, which are most often prescribed to treat pain; central nervous system (CNS) depressants, which are used to treat anxiety and sleep disorders; and stimulants, which are prescribed to treat the sleep disorder narcolepsy and attention-deficit hyperactivity disorder (ADHD). Each class can induce euphoria, and when administered by routes other than recommended, such as snorting or dissolving into liquid to drink or inject, can intensify that sensation. Opioids, in particular, act on the same receptors as heroin and, therefore, can be highly addictive. Common opioids are: hydrocodone (Vicodin), oxycodone (OxyContin), propoxyphene (Darvon), hydromorphone (Dilaudid), meperidine (Demerol), and diphenoxylate (Lomotil).

In August of 2014, the federal Drug Enforcement Administration (DEA) rescheduled hydrocodone combination products from Schedule III to Schedule II of the Controlled Substances Act. DEA requested a scientific and medical recommendation from the federal Health and Human Services Agency (HHS) regarding a change of schedule for hydrocodone combination products in 2009. The Food and Drug Administration (FDA), within the HHS, considered the eight statutorily required factors related to the abuse potential of hydrocodone, including questions about the products' actual or relative potential for abuse, their liability to cause psychic or physiological dependence, and dangers they might pose to public health.

According to the FDA, hydrocodone is the most prescribed opioid in the United States, including 137 million prescriptions in 2013. The FDA notes that while it is useful in the treatment of pain, it has also contributed significantly to the very serious problem of opioid misuse and abuse in the United States. HHS ultimately recommended to DEA that hydrocodone combination products be reclassified into Schedule II, a more restrictive category of controlled substances that includes other opioid drugs for pain like morphine and oxycodone. The reclassification is aimed at limiting the risks of these potentially addictive but important pain-relieving products and will result in the following: Now, if a patient needs additional medication, the prescriber must issue a new prescription. Phone-in refills for these products are no longer allowed. In emergencies, small supplies can be authorized until a new prescription can be provided for the patient. Patients will still have access to reasonable quantities of medication, generally up to a 30-day supply.

HHS also recommended including rescheduling in "a broad-based set of actions targeting abuse prevention." HHS identified a need to work with prescribers and patients to make certain that patients are prescribed the right number of doses of hydrocodone for a patient's need to avoid unused hydrocodone being available for
abuse as well as the need for. HHS advised that the use and abuse of hydrocodone combination products be monitored carefully to assess the impact of rescheduling on public health. HHS noted that based on the results of this monitoring, the agency may need to take additional actions to "support the appropriate use of hydrocodone combination products while reducing their tragic abuse."

3. **Prescription Drug Abuse.** For the past number of years, abuse of prescription drugs (taking a prescription medication that is not prescribed for you, or taking it for reasons or in dosages other than as prescribed) to get high has become increasingly prevalent. According to the 2015 National Survey on Drug Use and Health, an estimated 119.0 million Americans aged 12 or older used prescription psychotherapeutic drugs in the past year, representing 44.5 percent of the population. In 2015, 18.9 million people aged 12 or older (7.1 percent) misused prescription psychotherapeutic drugs in the past year. Additionally, 72.1 percent of past year heroin users and 5.9 percent of past year alcohol users reported misusing pain relievers in the past year.

The National Institute on Drug Abuse (NIDA) reports young adults (age 18 to 25) are the biggest abusers of prescription opioid pain relievers, ADHD stimulants, and anti-anxiety drugs. In 2014, more than 1,700 young adults died from prescription drug (mainly opioid) overdoses, more than died from overdoses of any other drug, including heroin and cocaine combined, and many more needed emergency treatment. The nonmedical use of prescription drugs is highest among young adults. Six percent of 12- to 17- year-olds, 12 percent of 18- to 25-year-olds and 5 percent of persons age 26 or older used prescription drugs nonmedically in the past year.

Abuse can stem from the fact that prescription drugs are legal and potentially more easily accessible, as they can be found at home in a medicine cabinet. Data shows that individuals who misuse prescription drugs, particularly teens, believe these substances are safer than illicit drugs because they are prescribed by a health care professional and thus are safe to take under any circumstances. NIDA data states that in actuality, prescription drugs act directly or indirectly on the same brain systems affected by illicit drugs, thus, their abuse carries substantial addiction liability and can lead to a variety of other adverse health effects.

4. **Prescription Drug Deaths and Further Problems.** Prescription opioids continue to be involved in more overdose deaths than any other drug. NIDA reports that more than 1,700 young adults died from prescription drug overdose in 2014, a 4-fold increase from 1999, that's nearly 5 persons per day. According to the Centers for Disease Control (CDC), overdose deaths involving prescription opioids have quadrupled since 1999. CDC found that from 1999 to 2015, more than 183,000 people have died in the U.S. from overdoses related to prescription opioids. CDC notes that the most common drugs involved in prescription opioid overdose deaths are methadone, oxycodone and hydrocodone. According to the CDC, among those who died from prescription opioid overdose between 1999 and 2014, overdose rates were highest among people aged 25 to 54, overdose rates were higher among non-Hispanic whites and American Indian or Alaskan Natives, compared to non-
Hispanic blacks and Hispanics and men were more likely to die from overdose, but the mortality gap between men and women is closing.

5. **MBC Guidelines for Prescribing Controlled Substances.** MBC licensees issue prescriptions to patients for medication through the course of care, according to professional judgment and within the appropriate standard of care. During the 2016-17 sunset review oversight of MBC, committee staff noted that for certain types of medication, and certain types of medication prescribed to certain types of patients, guidelines on appropriate and safe prescribing practices can serve as a helpful tools for the providers, patients and MBC alike.

As stated in the background paper prepared by committee staff for the sunset review oversight of MBC, prescription medicine used to treat pain has been the focus of ongoing discussions in the Legislature, particularly in the years since MBC’s last review as California and the nation face an epidemic of prescription drug abuse and related overdose deaths. In 1994, MBC unanimously adopted a policy statement entitled “Prescribing Controlled Substances for Pain.” Stemming from studies and discussions about controlled substances, this policy statement was designed to provide guidance to improve prescriber standards for pain management, while simultaneously undermining opportunities for drug diversion and abuse. The guidelines outlined appropriate steps related to a patient’s examination, treatment plan, informed consent, periodic review, consultation, records, and compliance with controlled substances laws. Subsequent to MBC’s 1994 action, legislation that took effect in 2002 (AB 487, Aroner, Chapter 518, Statutes of 2001) created a task force to revisit the 1994 guidelines to develop standards assuring competent review in cases concerning the under-treatment and under-medication of a patient’s pain and also required continuing education courses for physicians in the subjects of pain management and the treatment of terminally ill and dying patients. The intent of the bill was to broaden and update the knowledge base of all physicians related to the appropriate care and treatment of patients suffering from pain, and terminally ill and dying patients. The passage of AB 2198 in 2006 (Houston, Chapter 350, Statutes of 2006) updated California law governing the use of drugs to treat pain by clarifying that health care professionals with a medical basis, including the treatment of pain, for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances, may do so without being subject to disciplinary action or prosecution.

MBC currently encourages all licensees to consult the policy statement and Guidelines for Prescribing Controlled Substances for Pain which were updated in 2014 based on input from a MBC Prescribing Task Force that held multiple meetings to identify best practices. According to the MBC website, “The board strongly urges physicians and surgeons to view effective pain management as a high priority in all patients, including children, the elderly, and patients who are terminally ill. Pain should be assessed and treated promptly, effectively and for as long as pain persists. The medical management of pain should be based on up-to-date knowledge about pain, pain assessment and pain treatment. Pain treatment may involve the use of several medications and non-pharmacological treatment modalities, often in combination. For some types of pain, the use of medications is emphasized and should be pursued vigorously; for other types, the use of medications is better de-emphasized in favor of other therapeutic modalities.
Physicians and surgeons should have sufficient knowledge or utilize consultations to make such judgments for their patients. Medications, in particular opioid analgesics, are considered the cornerstone of treatment for pain associated with trauma, surgery, medical procedures, or cancer.” MBC intends for the guidelines to educate physicians on effective pain management in California by avoiding under treatment, overtreatment, or other inappropriate treatment of a patient’s pain. Reduction of prescription overdose deaths is also an objective of the updated guidelines.

6. Related Legislation This Year. AB 715 (Wood) requires the Department of Public Health to convene a workgroup to review existing prescription guidelines and develop a recommended statewide guideline addressing best practices for prescribing opioid pain relievers. (Status: The bill is pending in the Assembly Committee on Appropriations.)

AB 182 (Wood) requires the Department of Health Care Services, in consultation with the Coalition for a Drug Free California and the federal Drug Enforcement Administration, to develop, coordinate, implement, and oversee a comprehensive multicultural public awareness campaign, known as the Heroin and Opioid Public Education (HOPE) Program, to combat the growing heroin and opioid medication epidemic in the state, as specified. (Status: The bill is pending in the Assembly Committee on Appropriations.)

AB 1512 (McCarty) imposes a tax of one cent ($0.01) per milligram on the distribution of opioids and requires the amounts collected to be used for addiction prevention and rehabilitation programs. (Status: The bill is pending in the Assembly Committee on Health.)

7. Prior Related Legislation. AB 623 (Wood) of 2015 would have prohibited a health care service plan or health insurer from requiring the use of opioid drug products that have no abuse-deterrent properties in order to access abuse-deterrent opioid drug products; would have required pharmacists to provide a patient receiving an opioid drug product information about proper storage and disposal of the drug; and, would have mandated that a plan and insurer may not prevent a provider from prescribing a less than 30-day supply of opioids analgesic drugs and to provide coverage, if otherwise covered, for the less than 30-day prescription. (Status: The bill was held under submission in the Assembly Committee on Appropriations.)

SB 482 (Lara, Chapter 708, Statutes of 2016) required a health care provider authorized to prescribe, order, administer, or furnish a controlled substance to consult the Controlled Substances Utilization Review and Evaluation System (CURES) prior to prescribing a Schedule II, III or IV drug to a patient for the first and at least once every four months thereafter if the substance remains part of the patient’s treatment. The bill provided exemptions from the responsibility to consult the CURES system, including while a patient is admitted to a certain type of facility, if a patient receives a non-refillable five-day supply or less prescription in conjunction with a surgery, and in the event of a technological failure or inability to access the CURES system.
AB 831 (Bloom) of 2013 would have required the California Health and Human Services Agency (CHHSA) to convene a temporary working group to develop a state plan to reduce the rate of fatal drug overdoses and appropriates $500,000 from the General Fund to CHHSA to provide grants to local agencies to implement drug overdose prevention and response programs. (Status: The bill was held under submission in the Assembly Committee on Appropriations.)

SB 500 (Lieu) of 2014 would have required the MBC to update prescriber standards for controlled substances once every five years and add the American Cancer Society, specialists in workers compensation, specialists in pharmacology and specialists in addiction medicine to the entities the MBC may consult with in developing the standards. (Status: The bill was amended to deal with a different subject.)

SB 1258 (DeSaulnier) of 2014 would have made several changes to the ways that controlled substances are prescribed and tracked in the CURES and would have required medical providers to use electronic prescribing systems, would have required additional reporting of controlled substance prescribing, and would have placed additional restrictions on the prescribing of controlled substances. (Status: The bill was held in the Senate Committee on Appropriations.)

6. Arguments in Opposition. The California Chapter of the American College of Emergency Physicians (California ACEP) objects to the legislative practice of medicine and is deeply concerned about the impact of this bill on patients. The organization notes that this bill is not the solution to address prescription painkiller abuse. According to California ACEP, the bill poses significant obstacles to treating pain in the emergency department and “will place additional stress on California’s overcrowded and burdened emergency departments.” The group opposes this bill because it substitutes the Legislature’s judgment for the training and experience of a physician using their clinical judgment to best treat the unique circumstances of each individual patient.

The California Medical Association (CMA) writes that while the organization shares the Author’s concern about ensuring appropriate prescribing in order to reduce opioid addiction among Californians adults, young adults, and children, this bill is unnecessary, redundant, burdensome to patients and physicians, forces physicians to violate HIPPA and other patient privacy laws, and places the government between a patient and his or her physician. According to CMA, what this bill seeks to accomplish in terms of educating the patient and the guardian about opioids and pain management and encouraging a multimodal and multidisciplinary approach to pain management for minors and adults, is already the professional standard of care for physicians who treat minors for pain and other ailments. CMA also states that the bill is unclear as to which government entity is charged with developing the secure prescription pad that a prescriber must provide the counseling and education documents on.

7. Author’s Proposed Amendments. The Author has proposed an amendment to this bill to expand the list of providers eligible to evaluate a minor prior to a subsequent prescription being made by adding primary care providers.
On page 5, in line 31, add “or primary care provider”

29 (d) A subsequent prescription for the pain medications listed in line 30 subdivision (b) shall not be made until the minor is reevaluated line 31 by a pain management specialist or a pediatrician or primary care provider.

8. Policy Considerations.

a) Practical Challenges. While the bill’s goals to reduce access to dangerous opioids for minors are laudable, the language in the bill imposes a number of practical challenges for patients, prescribers, and pharmacists. It is not clear, for example, if all minors who are prescribed medications outlined in the bill which would require prescriber education and counseling are able to sign a document memorializing this education – this bill requires the minor to sign the counseling document.

The bill may also result in the unintended consequence of preventing minors from accessing necessary medication by minors by requiring the patient to be “reevaluated” prior to a subsequent prescription. Requiring a subsequent evaluation by a physician, specialist or not, in order to get another prescription may not always be medically necessary, and requiring a patient who is in pain to wait for, and pay for, another appointment poses a continuity of care issue.

The requirements in the bill may make sense for prescriptions issued in an acute care setting or hospital system, but do not necessarily reflect the realities of patients receiving prescription medication. In a hospital or closed-loop healthcare system, a minor patient may receive a prescription for medication, and all accompanying consent forms and documentation can be easily memorialized in an electronic health record, ensuring validity and portability. However, most healthcare systems do not yet work in this fashion and most individuals are examined in one office, and then travel to an unaffiliated pharmacy to pick up the prescription, making compliance with this bill a challenge.

b) Pharmacist Duties and Corresponding Responsibility. Pharmacists are required to provide consultation to a patient or the patient’s agent in all care settings upon request, or whenever the pharmacist deems it warranted in the exercise of his or her professional judgment. The oral consultation provided by a pharmacist includes information like the importance of compliance with directions and precautions and relevant warnings, including common severe side or adverse effects or interactions that may be encountered. A pharmacist is also authorized to include additional information whenever a pharmacist deems it warranted in the exercise of his or her professional judgment. Pharmacists may already be providing information outlined in this bill to patients to whom the medications outlined in this bill are being dispensed.

In August 2013, the Board of Pharmacy (BOP) made a 2012 license revocation case a “precedential decision.” In this case, BOP revoked the licenses of both a Huntington Beach pharmacy and its pharmacist because the pharmacist failed to comply with corresponding responsibility requirements in the distribution of
opioid drugs. The Decision and Order concluded that a pharmacist must inquire whenever a pharmacist believes that a prescription may not have been written for a legitimate medical purpose, and that the pharmacist must not fill the prescription when the results of a reasonable inquiry do not overcome concern about a prescription being written for a legitimate medical purpose.

The requirements in this bill for pharmacists to "review and verify the disclosure and counseling document" may not be possible without adding burdens to the dispenser and patient and may not yield additional minor patient safety and protection from the harm of certain controlled substances. It is not clear how pharmacists will be able to verify that a minor patient and his or her guardian were counseled on certain medications, particularly if the prescription is being filled in a setting that does not share electronic health records with the prescriber. The requirement that the document be physically printed out does not take into considerations the significant secure technological advances in healthcare and creates a situation in which a patient is required to physically carry a piece of paper with him/her. The verification requirement also creates liability for the pharmacist. Is the pharmacist only verifying the signatures, or is the pharmacist ensuring the comprehensiveness of the disclosures? If the pharmacist sees an error in some portion of the disclosures, for example, disposal procedures, is the patient required to go back to the physician for a third time in order to correct the error prior to getting pain medication?

The Author should consider removing the requirements for dispensers to verify the disclosure and counseling document.

NOTE: Double-referral to Senate Committee on Judiciary, second.

SUPPORT AND OPPOSITION:

Support:
None on file as of April 19, 2017.

Opposition:
California Chapter of the American College of Emergency Physicians
California Medical Association

-- END --
SB572
AMENDED IN SENATE MARCH 27, 2017

SENATE BILL No. 572

Introduced by Senator Stone

February 17, 2017

An act to add Article 16 (commencing with Section 870) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST


Existing law provides for the licensure and regulation of various healing arts professions by various boards, as defined, within the Department of Consumer Affairs. Existing law imposes certain fines and other penalties for, and authorizes these boards to take disciplinary action against licensees for, violations of the provisions governing those professions.

This bill would prohibit the boards from taking disciplinary action against, or otherwise penalizing, healing arts licensees who violate those provisions but correct the violations within 15 days and who are not currently on probation at the time of the violations, if the violations did not cause irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.

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

SECTION 1. Article 16 (commencing with Section 870) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 16. Grace Period for Violations

870. Notwithstanding any other law, a person with a license issued pursuant to this division shall not be subject to disciplinary action by, or otherwise penalized by, the board that issued the license for a violation of a provision applicable to the license if all of the following apply:

(a) The violation did not cause any irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.
(b) The licensee corrects the violation within 15 days.
(c) The licensee is not currently on probation at the time of the violation.