STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
ACUPUNCTURE BOARD
1747 N. Market Boulevard, Suite 180, Sacramento, CA 95834
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NOTICE OF ACUPUNCTURE BOARD MEETING

November 15, 2012

Department of Consumer Affairs
1747 North Market Boulevard
1st Floor Hearing Room
Sacramento, CA 95834

Acupuncture Board Members
AnYork Lee, L.Ac, Chair
Charles Kim, Vice Chair, Public Member
Robert Brewer, Public Member
Paul Weisman, Public Member
George Wedemeyer, Public Member
Michael Shi, LAc, Licensed Member

AGENDA (Tab Q)

FULL BOARD MEETING - 8:30 a.m.

1. **Call to Order and Establishment of a Quorum**
2. **Pledge of Allegiance**
3. **Approval of August 9, 2012 Meeting Minutes (Tab R)**
4. **DCA Budget Officer and DCA Update**
   a) CAB staffing and budget request update
5. **Chair Report**
   - CAB Goal for School Accreditation
   - Committee Structure for Policy and Regulatory Recommendations
6. **Executive Officer's Report (Tab S)**
   - Staff Update
   - Budget
7. **Proposed Continuing Education Ethics Requirement Language (Discussion/Action) (Tab T)**
8. **California Acupuncture Licensing Examination (OPES Presentation)**
9. **Legislation Update - (Discussion) (Tab U)**
   a) AB 1889 (Fong) – Practical Examination
   b) SB 1488 (Yee) – Traditional Chinese Medicine Traumatologist Certification
   c) SB 1236 (Price) – Sunrise Legislation

d) SB 628 (Yee) – Restricts the use of the title "Doctor" by Acupuncturists

10. Informational Issues (Discussion) (Tab V)

- Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates
- Update on English-Only Exam
- School Approvals
- Proposal to Collaborate with the ACAOM to Approve Acupuncture Schools and Training Programs

11. Public Comment on Items not on the Agenda

12. Future Agenda Items

CLOSED SESSION

13. Pursuant to Government Code Section 11126(c)(3) the Board Will Meet in Closed Session to Deliberate and Take Action on Disciplinary Matters.

14. Pursuant to Government Code Section 11126(a)(1), the Board Will Meet in Closed Session to Take Action Regarding the Previous Appointment of an Interim Executive Officer

OPEN SESSION

15. Announcement Regarding Closed Session

16. Adjournment

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THE WEBCAST, AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE ACUPUNCTURE BOARD'S WEBSITE AT
www.acupuncture.ca.gov

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Draft

ACUPUNCTURE BOARD MEETING MINUTES

DCA Headquarters 2, Sacramento

FULL BOARD MEETING

August 9, 2012

Members Present
AnYork Lee, L.Ac., Chair
Charles Kim, Public Member, Vice Chair
Robert Brewer, Public Member
Paul Weisman, Public Member
George Wedemeyer, Public Member

Staff Present
Ben Bodea, Interim Executive Officer
Spencer Walker, Staff Counsel

Guest List on File

1. **Call Meeting to Order and Establishment of Quorum**
   Quorum was established. Meeting called to order at 8:40 am.

2. **Pledge of Allegiance.**

3. **Approval of May, 17, 2012 Meeting Minutes**

Motion made, Seconded Carried (MSC) (Weisman, Brewer) Approval of the May 17, 2012 Minutes.

4. **Chair's Report**

   a. **Transcript Verification:** Chair Lee has requested verification of some transcripts and suggested the inquiry needs to go further. The schools will be asked to verify the legitimacy of the transcripts via correspondence. Interim Executive Officer Ben Bodea was asked to look into the matter.

5. **Interim Executive Officer's Report**

A. Staffing Update: Executive Officer Janelle Wedge retired on June 29, 2012. Christine Loftin retired on July 1, 2012. Terry Sinkovich took the Administrative Technician post on August 1, 2012. **Budget letter 12-02 the Salary Savings Act:** This Salary Savings Act required that half of a position be eliminated by the Board by July 13th 2012. The elimination was spread out over the Education Coordinator position with a .2 cut and the Enforcement Coordinator position with a .3 cut. This was also done because both positions were requesting less time.

Staffing: Currently we have 5.5 of 8.5 positions filled. The Education Coordinator position and the Examination Coordinator position are currently vacant. The Enforcement Coordinator position is technically vacant because of maternity leave.

B. Enforcement Update: In the last three months we have had nine cases open for investigation with the DCA, Division of Investigation. One case was for fraud, two cases of negligence and incompetence, three cases of sanitation violation, one case of sexual misconduct and two cases of unprofessional conduct.

C. Budget: Regarding our budget we do not have final numbers right now, they are all raw figures. Final reports will be presented at the November meeting. As of May we retained a surplus and have done this for the last several years.

D. Phone System: Currently we are dealing with some phone system issues. Board member Paul Weisman made a request for the auto-response to state the person's name and title.

E. November Board Meeting: Due to Governor's direction to get rid of all non-essential travel we will be holding the November meeting in Sacramento.

F. California Acupuncture Licensing Exam: We conducted CALE exam on Tuesday, August 7, 2012: 462 people registered to take the test, 25 did not show up, 26 had special accommodations. Exam taken by language: 107 Chinese, 272 for English and 83 for Korean. It went very smoothly. Chair Lee asked about the exam results for posting. Interim Executive Officer Ben Bodea said he submitted those and they should have been posted over two weeks ago. He will check on it again because it was submitted to the internet team.

6. Status of Proposed Regulations:

A. SB 1441 Uniform Standards

B. Enforcement Regulations

C. AB 2699 – Sponsored Free Health Care Events

Interim Executive Officer Ben Bodea stated that these proposed regulations are in a holding pattern. They will be revisited in November when the permanent Executive Officer is hired.

Board Member Wedemeyer inquired about five other regulations that he believed Janelle Wedge was working on. However, neither Interim Executive Officer Ben Bodea nor Legal Counsel Spencer Walker knew of any other pending regulations. This matter will be looked into this and if there are any additional pending proposed regulations they will be transmitted to the Board.

7. Legislation Update

AB 72 (Eng) – Health Care Coverage: Acupuncture – Dead as of February 2012 in the Assembly appropriations committee.

AB 1889 (Fong) – Practical Examination: Legislation to reinstitute the practical exam as part of the licensing requirement. The Board voted to oppose the bill in the May Board meeting. It is in Assembly Appropriations but it is being held as of May 2012. Due the fiscal cost of this bill it is unlikely to move in this legislative year.

SB 1488 (Yee) – Traditional Chinese Medicine Traumatologist Certification: The Board opposed this bill at the May meeting – The second Hearing was cancelled by the request of the author on July 3, 2012. Bill will remain in committee for the rest of the legislative year.

SB 1239 (Price) – Sponsored by Price Sunrise Legislation. This bill would extend the Board's sunset date by two years. It was re-referred to Appropriations on June 26th 2012. It has not been scheduled for a hearing as of yet. There will be one more possible hearing before the legislature adjourns.

Board member Wedermeyer asked if the ability of the Board to assess a continuing education course approval fee was tacked on.

Legal Counsel Spencer Walker answered that the ability to assess a CEU fee was added to the Bill. The bill would also provide the Board with ongoing authority to establish the standards. Business

and Profession Code 4939 had required the Board to establish the standards within a certain period of time. After that time they could not change the standards. This bill would remove that three year period and would allow the Board to continue to change the standards.

8. Committee Reports:

A. Education Committee –

California Acupuncture Licensing Examination:

Chair Lee reported that a lengthy discussion was held at the last board meeting regarding the CALE Exam to clarify that there are not any problems with the CALE licensing exam. He reiterated the Little Hoover Commission's conclusion that the CALE exam "was determined to be superior" when compared to the National Exam. Chair Lee followed up with more CALE business: 1.) Reminder that it is part of the Board's duties was to establish the system to allow the student to sit for the exam. 2.) The current length of the contract with the exam company is three years. Interim Executive Officer Ben Bodea will provide the expiration date for this contract.

Continuing Education in Ethics:

Chair Lee: Board member Paul Weisman requested this agenda item to decide upon the number of hours that should be required every two years for the Ethics component of Continuing Education. We would like the Board's input on how many hours every two years to require for the Ethics component.

Vice Chair Kim: Ethics classes should be divided into three areas of focus – 1. Professional Ethics and Conduct so they know the base and minimum standard (2-3- hours) 2. Laws and Regulations; especially the enforcement section that if you violate your license can be revoked (2-3 hours) and 3. Clinic Management, to prevent mistakes made in filing and recording (6-9 hours every two years).

Board member Paul Weisman: Recommended six to eight hours every two years. **Board member Robert Brewer** thought that four hours total would be plenty for all of it. He questioned the premise that reinforcement is needed every two years. He thought a stronger upfront instruction while the students are attending Acupuncture College would be a better idea and also that any change in practice law should also be required.

Board member Paul Weisman said Malpractice insurance companies for lawyers will actually give you a break in price because they think it is important to have a review of the rules.

Board member George Wedemeyer suggested that it be broken down by how often and how many hours.

Vice Chair Kim adjusted his recommendation down from nine to six.

Chair Lee requested public comment:

Bill Mosca of the California State Medical Association thought four hours was reasonable since it is almost 10% of the biennial continuing education requirement. He noted that Ethics instruction takes place in acupuncture programs in California. However, for international applicants for licensure there is currently no ethics requirement whatsoever. It was his view that this is an area that the Board needs to address. There was further discussion about requiring foreign applicants to take Ethics. A request was made for this item to be put on the agenda of the next meeting.

MSC (Brewer, Wedemeyer) Require four hours of continuing education in Ethics every two years. Vote taken 4-1-0

MSC (Brewer, Wedemeyer) Request for Interim Executive Officer Ben Bodea to come back to the November Board meeting with the proposed regulatory language of the Ethics requirement. Vote taken 5-0-0.

Medical Anatomy Labs:

Chair Lee talked about the inconsistency in Anatomy instruction where some Acupuncture schools only use the book to teach anatomy while other schools have the anatomy lab/hands on component. For the educational standard the Education Committee believes that it is necessary for schools to establish an anatomy lab by the year 2014. He requested the Board's approval for this item.

Board member Paul Weisman asked if the Board was going to require a certain number of lab hours.

Chair Lee replied that schools would set the hours and decide how they were going to teach the student this.

Legal Counsel Spencer Walker stated that this item will need to be placed on the agenda for the November Board meeting since this was the first time it has been discussed in open forum. It will need to be properly vetted with the public.

Chair Lee invited Public comment:

Bill Mosca of the California State Oriental Medical Association made three points: 1.) He was uncertain if there was an actual need based on malpractice insurance premiums and number of consumer complaints. He urged proponents of this to report the actual data that demonstrates that there is a need. 2.) The practicality of trying to implement something like this due to a shortage of cadavers. 3.) The trend now within Medical schools away from using cadavers because of the shortages, and health concerns about using preserved cadavers (exposure to formalin). There are also technologies (3D virtual technologies) coming online now that actually do a better job of training individuals in anatomy than the cadaver. He urged the Board to exercise extreme caution in requiring this because it has the potential to have unintended side effects; primarily preventing education of licensure candidates.

Dr. Greg Sperber from Pacific College of Oriental Medicine stated that he concurred with Bill Mosca's statements regarding the difficulty of acquiring a cadaver for the Anatomy lab and medical schools moving away from hands on training via cadaver.

Ron Zaidman from the Five Branches University believes that having an anatomy lab course is important and that they have this requirement in place already at his university with the use of computer programs and videos. He stressed his view that these technologies were superior as "the cadaver is too far removed from reality".

Hugh Morrison from the National Guild stated "I think you have identified a real issue of protecting the public here." The Board's focus needs to be on protecting the public not on whether the schools can afford this. In his experience as clinic director and clinic supervisor he found that the students' knowledge of anatomy was at High School level. It is his view that the more you know about anatomy the better. We are an Allied Healthcare profession that should be comparable with other Allied Health Professions. He stated that if the testing component is not included then having this requirement will be pointless.

Chair Lee thought it was perplexing that medical schools can obtain cadavers and acupuncture colleges cannot and appreciated the input about 3D technologies to assist with anatomical knowledge.

Board member Paul Weisman said he would support this if a cadaver lab was not required and thinks the computer education is a good idea. He thought that the cadaver lab requirement would be too difficult for the small schools that rely on donations for their resources.

Board member Robert Brewer: My question is for Ron Zaidman and Greg Sperber about the progress in terms of technology. What is the "gold standard" was in terms of 3D technology now? He requested for this item added to the agenda for November.

Dr. Greg Sperber from Pacific College of Oriental Medicine. He commented that he thought what this anatomy lab requirement is really getting at was finding the approach that would work for all the learning modalities, visual, kinesthetic and auditory. When you add in things like computer work and the use of models you are able to reach the hands-one learner.

Medical Anatomy Labs (continued)

Chair Lee responded that he thought the best data they could get would be from the malpractice insurance company.

Ron Zaidman of Five Branches University responded in regards to the question of best practices there might be a difference between the state and accreditation standard being more competency based (what they are supposed to be able to do) and the schools in Asia being prescriptive (stating specifically what you are supposed to learn). I think the language has to guide the colleges to have some kind of program that has a diversity of approaches. Every college might have a different way they apply this requirement from cadaver work and/or computer applications.

Chair Lee: The point of this subject is that we want the student to really learn the anatomy. He requested that Interim Executive Office Ben Bodea place it on the next meeting agenda with clear language about anatomy competency and that the board is considering an anatomy lab as a requirement for acupuncture colleges.

Board member George Wedeman said that I think the point should be made very clearly that it should also be on the examination.

Board member Robert Brewer stated: Bill Mosca made a very good point that we do not have a report which states what the problems are specifically regarding anatomy. What are our sources of information for the voids and problems?

Chair Lee believes that we can obtain data from malpractice insurance companies.

Board member Brewer asked, "What percentage of acupuncture is covered by insurance and therefore would need to go through the malpractice system?"

Chair Lee: The percentage for acupuncture to have malpractice is very high because if you join the HMO health care plan network they request malpractice insurance. There are very few individual practitioners without joining any network.

Bill Mosca pointed out that since premiums were low that would indicate a low risk.

Hugh Morrison of the National Guild: believes the reason for the low premium is because a many acupuncturists work part-time or because they are not in an HMO network. Many people do not even know that the Acupuncture Board exists to call when they have a complaint.

Chair Lee: This item about anatomy instruction and examination is closed for this Board Meeting. He requested for Board member Robert Brewer to write a letter to the malpractice insurance companies requesting data for the number of incidents by number and for what problem.

Spencer Walker: urged Board members to obtain some data for the proposal for anatomy labs in order to meet the necessity standard. If the Board intends to change the school requirement and make regulations the proposal has to meet the necessity standard. If there is not data to support the need for a medical anatomy lab the regulation it would never be approved.

B. Examination Committee

Update on English-Only Exam

Chair Lee spoke about how having an English-Only California Acupuncture Licensing Exam. It is a historic issue that has been discussed by the Board in the past. The Examination Committee's conclusion is that it is our goal to have the English exam. However, there are concerns about the transitional period. Board members tell me that in order to get into the mainstream we do need the English only exam, but it should be a modified English exam. The questions would be in English but Chinese and Korean would be added next to the English terminology for a modified English exam.

Board member Robert Brewer: It is not the Board's job to advance the profession into the mainstream or to take an advocacy position on that. It is the Board's job to protect the public and to ensure that those who are licensed in California are fully capable of practicing and communicating safely. He questioned whether this would be accomplished by having the Exam in English or by requiring a high level of competency in English proven by passing an English competency exam.

B. Examination Committee

Update on English-Only Exam (Continued)

There is very real concern that there could be significant content lost in translation in terms of conceptual things that are promulgated from one language and may not translate well into another. How can we do it in such a way that "does not toss the baby out with the bath water"? The focus is to do what is best for the public in the long run migrating to an English only exam would be perhaps the strongest move in that direction.

Board Member George Wedeman stated that it would take a year and a half to implement the exam in English only so schools would have plenty of time to address the English language issue. He expressed concern that California law, article 3 section 6C explicitly states the English is the official language of the state of California. The Board must come into compliance with California state constitution. The California acupuncture board is the only healthcare professional board that tests in three languages, English, Chinese and Korean. We must take action that would increase patient safety by ensuring that all graduates taking the CALE are prepared to communicate with all other healthcare professions. The CALE should be in English only. Examinees must be proficient in English to communicate with other health care providers and English speaking patients. Foreign students are already required by training programs to take the TOEFL test that demonstrates the student's ability to speak and read English. Testing in three languages in many cases restricts acupuncturists to only practice in their own Chinese or Korean community with possibly reduced earnings and more importantly being unable to communicate with other healthcare professions. When the CALE originated, testing in three languages was supposed to grandfather in those practicing at that particular time and was to sunset after the first couple of CALE tests were given. However, this did not happen. The Examination Committee will be viewing this information and all other information that was submitted to the CAB during the next three months to make recommendations to the Board on whether to review California code and regulations. Please submit your information to the Board and it will be forwarded to the committee.

Chair Lee: I know that it is a historical issue. I want to add the following. There is a law that if more than 5% of the candidate pool speaks another language. This is what delayed implementing this. For example, for the California driver's license exams we do offer language exams. If there is a need or safety issue, to ensure the driver knows the rules and regulations and fully understands them in their own language. As Robert just mentioned, we don't want to throw the baby out with the bathwater. The Board needs to fully discuss this issue.

Board member Paul Weisman: I just want to be clear about something that Board member Wedemeyer said. He is giving his opinion to the board. The test we are giving now is not violating the law in any way. We are allowed to give the test this way. I just want to be clear as a board member that there is a basis in the law for the way we are giving it now. We may want to change it English only but what we do now is appropriate and is allowed.

Spencer Walker: That is correct because of a legislative act of statute that allows the board to give the exam in other languages.

Vice Chair Kim: stated that he strongly believed that is about time that we move forward with an English only exam as we discussed. Since the time when we first introduced acupuncture twenty-thirty years ago to this country more and more non-Asian people are utilizing the services of acupuncture. Acupuncture is not just limited to Korean town or China town. We are producing so many Korean speaking and Chinese speaking acupuncturists that Korean town and China town are over-saturated. They cannot find a job. They cannot open their clinic unless we make some changes and help them to provide these good quality services to the English speaking public. As the other board members mentioned the biggest concern is communication. More and more English speaking patients come for their services. How can you provide quality services if you cannot communicate with your patient? Other certification agencies are looking into the same thing by requiring the

C. Examination Committee
Update on English-Only Exam *(Continued)*

TOEFL. We are not doing anything in the state of California. They (foreign students) just come and take the test without any supplemental education or knowing the rules and regulations of the state. So it is very important to protect the public. I don't want to call it English-only test just English. English-only has kind of a negative tone. We need more English speaking acupuncturists, not only in California but in this country. This would provide a way for foreign language acupuncturists to communicate with English speaking patients and help them make contact with a wider patient pool. It is about time that we move forward.

Chair Lee: reiterated the goal: Do we continue to allow the exam as it is today or do we want to modify it? Do we use English exam but provide terminology in Korean and Chinese. That is the Board's decision. It will be placed on next agenda.

George Wedemeyer requested inviting CALE committee at the next board meeting to discuss this.

Chair Lee invited Public comment:

Bill Mosca of California State Oriental Medical Association: CSOMA does support a modified exam with some language preserved in the original form. We believe that it is absolutely imperative that some of the technical terminology not be translated into English but be preserved in the original form. There are not universally accepted translations for many of our technical terms. In the current version of the English language exam technical terms are translated into English but the untranslated original Chinese characters and pinion Romanization as well for those technical terms appear on the current English language exam. The other point I would like to raise is the issue of a TOEFL exam as a possible substitute for the English only licensing exam. In my view it is a poor substitute in that none of the bio-medical terminology is subjected to testing under a TOEFL type exam. The licensing exam would also be testing bio-medical terminology in the English language. I think an English modified exam would be essentially what the English exam looks like right now including the English characters, Chinese characters and pinion Romanization with the addition of Korean characters. So it would be a slight modification of the current English exam.

Hugh Morrison of the National Guild: In the background paper they make the point that this board spends more money on examination than in enforcement. I would suggest that the English only test is an easy fix for this and for the board to show evidence that it is addressing problems outlined in the background paper. If you are no longer paying for translation services for forms of the test, presumably that saves money that could go to Enforcement.

Phillip from Nine Star University In terms of the English test we have a student. She is qualified to take the licensing exam but she did not pass the TOEFL test. The other three students who took the exam they had very good English. I think the TOEFL test requirement encourages students to strengthen their English. Once you meet this requirement your communication skills should be okay. So the tests that are in Chinese and Korean most of them (test-takers) have very good English.

Chair Lee: I want this item to be placed on the next agenda. I just don't want this issue to continue to go on and on and would like it concluded.

Jacques Moramarco of Empress College supported Bill Mosca' idea, that it is a very valid idea when he was talking about the technical terms. I also think that the exam really needs to be examined in terms of valid primary sources and definitely they should have the western scientific approach and the neuroanatomy all there. It is taught in oriental medical colleges. Those are very good questions. The key thing is the mis-translation to the English language of the Chinese and the Korean terms. Biomedical knowledge is really important for them to have the ability to determine the red flags and I think that was Georges Wedemeyer's concern about consumer safety. The biomedical knowledge is really a key component in terms of red flags and I think the schools do a pretty good job. I hope that my Chinese and Korean colleagues that are limited in language skill can determine those red flags

C. Examination Committee
Update on English-Only Exam (Continued)

because that is the most important part on consumer protection. They need to have that biomedical language.

Ron Zaidman from Five Branches University: I just want to reiterate a point that I think all board members should be aware of in Chinese Medicine and Korean medicine there are many standard texts. Now in English there are many standard texts. But there are also some very popular texts that touch on the standard information but add their personal views. If a book is using personal views is in our exam it is doing a huge disfavor to our whole profession.

9. Board Oversight of Schools:
A. Schools Approval Process
B. Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates:

A. School Approvals Process:

Chair Lee: The Board has a current standard but I am requesting input from the public. Some students who graduate from Acupuncture schools want to transfer credits to other health related professions. However, the classes from their Acupuncture school are not WASC (Western Association of Schools and Colleges) approved and the classes at the other school are WASC approved so they cannot transfer their credits even though the class has the same title. It is big loss of educational resource. The Board members shared their concern with me and they want to make sure that approved schools have a better standard than what we do now by introducing the common certification in the education industry like WASC as part of the requirement. I would like to initiate the pre-approval of this item and would like the Board's discussion on this first.

Board member Robert Brewer asked Spencer if the WASC portion was on the agenda.

Spencer Walker expressed concern is that it is only agendized to discuss the school approval process but it is not agendized to discuss students who attend Board approved schools that are not WASC accredited.

Vice Chair Charles Kim interjected and expressed concern and his belief that maintaining the quality of the schools after they have been approved is a very serious issue. He is most concerned about those who do not send even one student to take the CALE and schools that have very low graduation rates. If we cannot control the school (due to inability to visit sites because of staffing and budgetary restraints) we should have a third party monitor them and designate a minimum standard. I used to serve as a board chair at one of the private schools and every three years we had the WASC accreditation. They come and in three days thoroughly discuss they review the program, curriculum and everything, finance and if you pass the WASC we can say you have a minimum standard you have met and I feel comfortable. Not only WASC there are many accreditation agencies. How can we use those as a minimum standard that we can guarantee for our schools? I think that is the reason we are discussing the school approval issue.

Spencer Walker inquired so this is about maintaining the education quality of the schools approved by the Board?

Vice Chair Kim: Absolutely.

Board members expressed concerns that there are problems and we have not been able to address because of travel restrictions; budgetary restrictions, as well as not being able to hire more staff.

Board Member George Wedemeyer commented that he had never heard that we had the authority to go out and start investigating schools and do a cursory check,

Spencer Walker responded that it is in the regulations. We have authority to check on schools.

9. Board Oversight of Schools:

A. Schools Approval Process (continued)

Board member Robert Brewer stated that we have no means to follow-up to the depth that we need to. Several years ago, we had a bill before the assembly that gave the board the ability to work with a third party accreditation organization, specifically ACOM at that point. There were a number of objections raised from other organizations and that bill was defeated with a lot of last minute input, some of which was accurate, some of which was not. The need for that has never gone away.

George Wedemeyer: If we have it on the books that we can do a cursory investigation then that is where we should be looking, at putting someone and making sure it is funded.

Vice Chair Kim: The problem is that the state is not allowing us to travel outside the city.

Public Comment:

Dr. Greg Sperber from Pacific College of Oriental Medicine explained how long and some of the steps it has taken to be WASC accredited. It was a 10 year multimillion dollar process. Once you are WASC accredited you are in the same club as the UC schools and the state schools. I think it is out of the realm of most schools. In our field I think there are three regionally accredited schools. We will be the first that is WASC accredited, which is by far the most difficult to achieve. We did not have any options because we are in the state of California so we are the Western Association.

Wedemeyer inquired if it implied that ACOM is not as good?

Dr. Greg Sperber: No it is not that it is not as good. It just has different criteria; ACOM is looking at the acupuncture and oriental medicine program and making sure that we are following ACOM standards. The idea with WASC is that we set up systems and we set up procedures; what they are really about is educational effectiveness and are we constantly improving educational effectiveness. These accreditors are approved by the U.S, Department of Education to make sure their procedures are getting better and they are holding school accountable in a better way. My point is at the CAB level this is all hard-coated into legislation and regulation. And there isn't the expertise that is constant in the educational world to keep improving this approval process like there would be in an accreditor. One of the things working with WASC, they do not care what we are teaching or how we are teaching or what we are teaching as long as we are constantly improving. ACOM does care what we teach but they are moving towards competencies as opposed to our prescription.

CAB regulations are about our prescription. You will teach this much of this. You will teach this much of that. And ACOM is moving to competencies, they are not quite there, this is what you need to know. As opposed to talking about ACOM versus WASC what I would recommend if we go down this route we need to talk to the U.S. Dept of Education approved accreditation agencies so it is broad and if someone else comes in other than ACOM or WASC.

Hugh Morrison of the National Guild: I would differ with your statement that you are without a mechanism to really assess where you schools are at. You have the CALE results. They are on your web-site. Some schools pass with 40%. Some schools pass with 80%. Now this information has not been acted upon by the Board. It is a very simple tool.

Chair Lee: recommend putting School Approval on the November agenda.

Spencer Walker specified that Post School approval on-site visitations is the way it can be agendized and I can come back with some proposed language to amend this section.

Public Comment: One of the schools noted that the exam results have not been posted for the last year and a half and that it was very important that we see these results. For some reason last February's results were not posted. And the results for the prior exam were not posted as well and as an institution we really need to see what the results are. Obviously we know what our first time test takers are doing. Because we know who they are and what their score is. But, if there are any repeat test takers we have no knowledge of their performance. These stats are really crucial for our school to assess if we need to do some adjustments and some calibration.

9. Board Oversight of Schools:

A. Schools Approval Process (continued)

Bill Mosca CSOMA said the exam results are one area that we have clear data that demonstrates that there is problem. We can look at the pass rates and we do see there are schools that are problematic. In his view, with all due respect to the Board and to the staff that this Board and it's staff does not have the depth of educational expertise to do a rigorous job of checking to see that educational quality exists in these institutions. He suggested going through Dept of Education with a recognized accreditor. ACOM spends days in the order of a week onsite with four or so site visitors poring through records, interviewing students, faculty, and staff. They would perform a very rigorous job by comparison to the school approval process that the Board has put in place. I think the Board tried to solve this problem a few years ago when it put forward a potential regulation that would have required not ACOM but a US Dept recognized programmatic accreditor. That language might be modified to accommodate WASC because WASC is strictly an institutional accreditor. I want to point out that there is no need to contract with ACOM. When ACOM comes to do an accreditation part of that accreditation process it makes sure the program is in compliance with all state law in the state in which it resides.

Chair Lee asked Spencer Walker to prepare the language to make sure we are not limited to one agency.

B. Discussion Regarding the Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates:

Chair Lee: I think at the last Board meeting we had some discussion regarding if the school pass rate was 10% below the average pass rate it would be put on probation. One Board member requested 70% pass rate but I think that is too high because our pass rate right now is 66 %. So I put this on the agenda for board discussion and public input and how to improve in this area.

Board Member Wedemeyer stated that the mission of the Acupuncture Board is to benefit education, protect the public through regulation of licensure, development of education standards, provision of consumer information, and enforcement of the Acupuncture licensure act. One of the most important job functions is to approve Acupuncture Training Programs so that their graduates are permitted to sit for the California Acupuncture Licensing Exam. The CAB has approved approximately 36 schools, 20 located in California. There are at least seven schools with less than half of their graduates able to pass the CALE. Four of these schools have rates below 40 %. CALE pass rates matter because the rate at which graduates of a training program pass the licensing exam is the first and foremost indicator of the quality of their training. Most health care professions including physical therapists, nurses, physician assistants and physicians have pass rates above 85%. Even Licensed Vocational nurses pass at a rate higher than 70%. The average pass rate based on CAB data for acupuncturists on CALE across a decade from 2001 to 2010 was 61%. There is one more issue, the number of graduates from a school that actually sit for the CALE. The CAB should require that that each school on its approved list annually reports the total number of graduates and the number of graduates that took the CALE each year. The threshold of graduates that take the exam should be 85%. Any school with fewer that 85% of graduates who register and take the CALE should be placed on one year probation to achieve the standard. The school may reapply after five years and significant reorganization.

Board Member Weisman: I understand your point. I only have one problem with that. I think that a passage rate of 61% is good because it shows that our test is not that easy. It is a tough test. I think we should be looking at the schools with 40% scores.

Chair Lee suggested that we do it more gradually.

Chair Kim: If we take a look at the list of the schools and how many actually apply to take the test there are many that only send one or two. I am more concerned about these schools and how many students are graduating each year. We usually have school annual reports, status reports, which

9. Board Oversight of Schools:

B. *Discussion Regarding the Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates: (Continued)*

school is delinquent and which school is on time. I would like to ask for some survey information for the schools in the last three years. How many students graduated and how many of them took the CALE? Let's see if one school had ten graduates and only one of them took the CALE. What are the reasons? He suggested we start with a more reasonable rate and eventually we can move up.

Not to just make dramatic changes but a gradual change with a transitional period and how can we help the schools do a better job at teaching their students?

Chair Lee: At the last board meeting 10 % below the average was proposed as a gradual standard to push up the pass rate. Regarding the graduation; as far as requiring a certain percentage to come here and take the exam. I think we have to consider some students just want to get the US diploma and go to other countries to practice acupuncture. Whether or not they take the exam is up to them.

Board member Brewer: In the August exam last year we had 28 schools that were participating and sending candidates. Of those 28 schools two/thirds of the candidates came from 8 schools. Of those eight schools, those schools had a 75% average pass rate. And those eight schools happen to be the eight schools that frequently show up at these meetings. It is significant that the schools that do show up and do participate in the process have an average pass rate of 75%.

Spencer Walker: I crafted some language this is based on the discussion that was held at the last meeting. He added that as to the distinction between suspend versus probation it will be probation.

Public Input

Bill Mosca California State Oriental Medical Association stated his view this is exactly the same agenda item as we wrapped up earlier. Pass rates should be the data driver of what should be the school approval process. If you find that accredited schools are doing fairly well on the average and non accredited schools are not doing very well on the average. There is your answer, require accreditation as part of this in some fashion. To me the setting of a percentage is worthwhile but is secondary to that issue of accreditation. I would exercise some caution around a moving average. Because as we start to remedy this situation we may find that the pass rates are climbing.

Jacques Moramarco of Emperor College commented on the idea for requiring a certain percentage of graducates to take the CALE. We at Emperor have quite a number of out of state and out of country coming to California. Many people come here because California has the highest standards in the nation. Some of them end up going back to their own state to take the exam so it is very difficult to put a standard on a certain percentage that have to take the CALE. Ten to twenty percent of the students go back to their relative states.

Hugh Morrison of National Guild: The Board's concern is the California licensure act and to help protect the consumers of California. The quality of education has already been determined; the test is valid and reliable. He requested that results for last February's exam be posted. He recommended that the school would not be able to negotiate out of the probation sanction. If it is a trigger that is fine but if the school could beg their way out of it for a couple years it is pointless.

Spencer Walker: I also want to add that there are two other Boards within the Dept of Consumer Affairs that have similar language. The twenty other schools had 66 candidates and of those only 36 passed for a 54% pass rate.

Chair Lee stated that we have had lengthy discussion on this item. Spencer I would like you to work on the language for the next meeting.

Spencer Walker said he would work on the language with some direction as to what the Board wants. First it needs to focus on what it wants to do. Does it want the ability to suspend or place on probation an approval that falls below the yearly average pass rate during a specific period of time? Or do you want to include a percentage in there?

Bill Mosca suggested one standard deviation below the average.

9. **Board Oversight of Schools:**

B. ***Discussion Regarding the Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates: (Continued)***

Spencer Walker asked Bill Mosca to submit a proposal.

Chair Lee I think our first discussion indicated that if it is 10% below the average that we put the school on probation.

Board Member Brewer I would like the Board to consider taking the pass rate of the schools that we consider to be our gold standard schools. I would not want it to go on for three years; I think two exams in one year is gracious plenty. I think we can hold this as sort of our standard those schools who are achieving a 75% pass rate. That seems like a reasonable standard to me because the folks that are working hard are not going to have an issue. The folks who aren't fall in this 54% pass rate. We are going to have 16 schools on probation and that is probably a good thing. A hard-coated 65% might be a way to get around that. But I would still be worried about something that was hard-coated like that when there might be a difference in mechanism of tests. So the eight schools had a 75% pass rate so we would say 10% below that for 65%. So anyone who stays below that for two examination periods would be placed on probation.

Chair Lee referred this item to the Education Committee with all the input from the public and today's Board Discussion. He suggested the language be brought to the next Board meeting. The Education Committee will have a discussion and look into this item and present their findings then bring it back for a vote.

10. **Development of Action Plan to Resolve Sunset Review Issues Chair Lee** believes that the major role of this Board to clean up within our term the Sunset Review Issues. At the last Board Meeting I requested each of the committees to look at the issues in the Sunset Review Background paper and have a Board Discussion and present plans to the Board to clean up those issues. If I do not hear back from the committees soon the Executive Committee will work with the Executive Officer and go back to each committee regarding each item to be addressed. I want your input as soon as possible.

11. **Public Comment on Items not on the Agenda:** Bob Naylor of KAOMA: Two bills SB 951 and AB 1453 that are pending will designate Kaiser as the small group benchmark plan for California. What that means is starting in 2014 all the benefits covered by that plan have to be offered by all individual and small group health policies in California. Acupuncture is included in the Kaiser small group plan for pain and nausea. So in effect, because the national health care plan was upheld by the U.S. Supreme Court and because California must designate essential health benefits we have an acupuncture mandate going into effect in 2014 in California.

12. **Future Agenda Items:** Chair Lee requested for Board members to e-mail them to him and Ben.

13. Closed Session to Deliberate and Take Action on Disciplinary Matters.

14. Closed Session to interview candidates for the Executive Officer position and selection and appointment of the new Executive Officer.

15. Meeting Adjourned

ACUPUNCTURE BOARD - 0108
BUDGET REPORT
FY 2012-13 EXPENDITURE PROJECTION
Sep-2012

FISCAL MONTH 3

OBJECT DESCRIPTION	FY 2011-12 ACTUAL EXPENDITURES (MONTH 13)	FY 2011-12 PRIOR YEAR EXPENDITURES 9/30/2011	FY 2012-13 BUDGET ACT 2012-13	FY 2012-13 CURRENT YEAR EXPENDITURES 9/30/2012	FY 2012-13 PERCENT SPENT	FY 2012-13 PROJECTIONS TO YEAR END	FY 2012-13 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	234,574	59,810	304,191	61,103	20%	319,572	(15,381)
Statutory Exempt (EO)	115,012	19,489	75,564	13,886	18%	71,396	4,168
Temp Help Reg (Seasonals)	13,164	1,627		2,487		48,483	(48,483)
Temp Help (Exam Proctors)							0
Board Member Per Diem	2,400	600	7,463	700	9%	3,000	4,463
Committee Members (DEC)							0
Overtime	2,449	77		210		1,000	(1,000)
Staff Benefits	133,452	32,696	215,592	27,368	13%	215,592	0
TOTALS, PERSONNEL SVC	501,051	114,299	602,810	105,754	18%	659,043	(56,233)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	15,062	169	70,400	1,762	3%	25,000	45,400
Fingerprint Reports	3,490	663	20,045	980	5%	5,000	15,045
Minor Equipment	1,554		3,800		0%	3,800	0
Printing	7,375	209	19,331	613	3%	9,000	10,331
Communication	4,228	411	16,958	217	1%	7,500	9,458
Postage	23,745	6,730	32,773	3,947	12%	25,000	7,773
Insurance			0				0
Travel In State	26,474	5,494	34,652	3,519	10%	30,000	4,652
Travel, Out-of-State			6,000		0%	6,000	0
Training	88	38	1,129		0%	1,000	129
Facilities Operations	97,901	58,309	65,195	111,284	171%	112,886	(47,691)
Utilities			0				0
C & P Services - Interdept.	0		11,264		0%		11,264
C & P Services - External	651		23,965	20,436	85%	23,965	0
DEPARTMENTAL SERVICES:							0
Departmental Pro Rata	90,657		108,660	27,534	25%	108,660	0
Admin/Exec	71,722		76,146	19,509	26%	76,146	0
Interagency Services			650		0%	650	0
IA w/ OER	210,824		333,119	210,824	63%	210,824	122,295
DOI-ProRata Internal	2,417		3,083	780	25%	3,083	0
Public Affairs Office	4,825		4,361	1,105	25%	4,361	0
CCED	5,034		5,277	1,334	25%	5,277	0
INTERAGENCY SERVICES:							0
Consolidated Data Center	242		2,604	8	0%	1,500	1,104
DP Maintenance & Supply			3,494		0%	1,500	1,994
Central Admin Svc-ProRata	102,748	25,687	114,637	28,659	25%	114,637	0
EXAM EXPENSES:							0
Exam Supplies			25				25
Exam Freight							0
Exam Site Rental							0
C/P Svcs-External Expert Administrative	289,498	289,498	286,772	296,720		296,720	(9,948)
C/P Svcs-External Expert Examiners			83,944	4,385		4,385	79,559
C/P Svcs-External Subject Matter	26,351	4,522					0
ENFORCEMENT:							0
Attorney General	162,549	29,986	379,123	21,390	6%	165,000	214,123
Office Admin. Hearings	41,032	412	106,670	3,910	4%	40,000	66,670
Court Reporters	3,387	150				2,500	(2,500)
Evidence/Witness Fees	14,550	6,075	10,795		0%	7,000	3,795
DOI - Investigations	201,728		342,919	87,082	25%	342,919	0
Major Equipment							0
Special Items of Expense							0
Other (Vehicle Operations)			2,650				2,650
TOTALS, OE&E	1,408,132	428,353	2,170,441	845,998	39%	1,634,313	536,128
TOTAL EXPENSE	1,909,183	542,652	2,773,251	951,752	57%	2,293,356	479,895
Sched. Reimb. - External/Private	(23,000)	(470)		(950)			0
Sched. Reimb. - Fingerprints		(714)	(22,000)	(1,127)	5%	(22,000)	0
Sched. Reimb. - Other			(1,000)			(1,000)	0
Unsched. Reimb. - Other		(13,171)		(12,458)			0
NET APPROPRIATION	1,886,183	528,297	2,750,251	937,217	34%	2,270,356	479,895
						SURPLUS/(DEFICIT):	**17.4%**

0108 - Acupuncture
Analysis of Fund Condition

Prepared 11/5/2012

(Dollars in Thousands)

FY 2013-14 Governor's Budget
***Note: $5 million GF Loan Outstanding**

		ACTUAL 2011-2012	CY 2012-2013	Governor's Budget BY 2013-2014	BY+1 2014-15
BEGINNING BALANCE		$ 5,766	$ 1,369	$ 1,258	$ 1,094
Prior Year Adjustment		$ 68	$ -	$ -	$ -
Adjusted Beginning Balance		$ 5,834	$ 1,369	$ 1,258	$ 1,094
REVENUES AND TRANSFERS					
Revenues:					
125600	Other regulatory fees	$ 48	$ 42	$ 42	$ 42
125700	Other regulatory licenses and permits	$ 748	$ 817	$ 817	$ 817
125800	Renewal fees	$ 1,588	$ 1,780	$ 1,780	$ 1,780
125900	Delinquent fees	$ 12	$ 12	$ 12	$ 12
141200	Sales of documents	$ -	$ -	$ -	$ -
142500	Miscellaneous services to the public	$ 2	$ 2	$ 2	$ 2
150300	Income from surplus money investments	$ 7	$ 4	$ 3	$ 3
150500	Interest Income From Interfund Loans	$ -	$ -	$ -	$ -
160400	Sale of fixed assets	$ -	$ -	$ -	$ -
161000	Escheat of unclaimed checks and warrants	$ 1	$ 1	$ 1	$ 1
161400	Miscellaneous revenues	$ -	$ -	$ -	$ -
Totals, Revenues		$ 2,406	$ 2,658	$ 2,657	$ 2,657
Transfers from Other Funds					
Transfers to Other Funds					
F00108	GF Loan per item 1110-011-0108, Budget Act of 2011	$ -5,000			
Totals, Revenues and Transfers		$ -2,594	$ 2,658	$ 2,657	$ 2,657
Totals, Resources		$ 3,240	$ 4,027	$ 3,915	$ 3,751
EXPENDITURES					
Disbursements:					
0840 - State Controller		$ 3	$ 4		
8860 FSCU (State Operations)		$ 2	$ -	$ -	$ -
8880 Fiscal		$ 6	$ 15		
1110 Program Expenditures (State Operations)		$ 1,860	$ 2,750	$ 2,821	$ 2,877
Total Disbursements		$ 1,871	$ 2,769	$ 2,821	$ 2,877
FUND BALANCE					
Reserve for economic uncertainties		$ 1,369	$ 1,258	$ 1,094	$ 874
Months in Reserve		5.9	5.4	4.6	3.6

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2014-15
C. ASSUMES INTEREST RATE AT 0.3%.

Title 16, Article 8
Continuing Education

1399.489.2Continuing Education: Course in Medical Ethics.

An acupuncturist shall take no less than four (4) hours of continuing education in medical ethics every two years to meet his or her continuing education requirements.

NOTE: Authority cited: Sections 4933, Business and Professions Code. Reference: Section 4945, Business and Professions Code.

SENATE BILL 1889

FONG

HISTORY & TEXT

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1889
AUTHOR : Fong
TOPIC : Acupuncture: license requirements.

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

BILL HISTORY
2012
May 25 In committee: Set, second hearing. Held under submission.
May 9 In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 25 From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (April 24). Re-referred to Com. on APPR.
Apr. 9 Re-referred to Com. on B., P. & C.P.
Mar. 29 Referred to Com. on B., P. & C.P. From committee chair, with author's amendments: Amend, and re-refer to Com. on B., P. & C.P. Read second time and amended.
Feb. 23 From printer. May be heard in committee March 24.
Feb. 22 Read first time. To print.

BILL NUMBER: AB 1889 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MARCH 29, 2012

INTRODUCED BY Assembly Member Fong

FEBRUARY 22, 2012

An act to amend Section ~~3209.3 of the Labor Code, relating to workers' compensation~~ *4938 of the Business and Professions Code, relating to acupuncture* .

LEGISLATIVE COUNSEL'S DIGEST

AB 1889, as amended, Fong. ~~Workers' compensation: acupuncturists.~~ *Acupuncture: license requirements.*

Existing law, the Acupuncture Licensure Act, provides for an Acupuncture Board within the Department of Consumer Affairs to license and regulate the practice of acupuncture.

Existing law requires the board to issue a license to practice acupuncture to a person who files an application, pays a fee, and meets specified criteria, including taking a written examination and completing a clinical internship program.

This bill would require an applicant for a license to practice acupuncture to also pass a practical examination administered by the board.

~~Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law prohibits an acupuncturist, as defined, from being authorized to determine disability for certain purposes relating to workers' compensation disability payments and benefits.~~

~~This bill would delete this prohibition. The bill would also make technical changes.~~

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

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

SECTION 1. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) An educational and training program approved by the board pursuant to Section 4939.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist which is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience which meets the standards

established pursuant to Sections 4939 and 4941.

(c) Passes a written examination *and a practical examination* administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written ~~examination~~ *and practical examinations* shall be developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the board pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

~~SECTION 1. Section 3209.3 of the Labor Code is amended to read:~~

~~3209.3. (a) "Acupuncturist" means a person who holds an acupuncturist's certificate issued pursuant to Chapter 12 (commencing with Section 4925) of Division 2 of the Business and Professions Code.~~

~~(b) "Physician" includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.~~

~~(c) "Psychologist" means a licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, and who either has at least two years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in Psychology.~~

~~(d) When treatment or evaluation for an injury is provided by a psychologist, provision shall be made for appropriate medical collaboration when requested by the employer or the insurer.~~

SENATE BILL 1488

YEE

HISTORY & TEXT

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1488
AUTHOR : Yee
TOPIC : Healing arts: California traditional Chinese Medicine traumatologist certification.

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

BILL HISTORY
2012
July 3 Set, final hearing. Hearing canceled at the request of author.
June 26 Set, second hearing. Failed passage in committee. Reconsideration granted.
June 19 Set, first hearing. Hearing canceled at the request of author.
June 19 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & C.P.
June 12 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & C.P.
June 7 Referred to Com. on B., P. & C.P.
May 30 In Assembly. Read first time. Held at Desk.
May 30 Read third time. Passed. (Ayes 22. Noes 9. Page 3692.) Ordered to the Assembly.
May 22 Read second time. Ordered to third reading.
May 21 Read third time and amended. Ordered to second reading.
Apr. 30 Read second time and amended. Ordered to third reading.
Apr. 26 From committee: Do pass as amended. (Ayes 5. Noes 2. Page 3260.) (April 23).
Apr. 11 Set for hearing April 23.
Mar. 22 Referred to Com. on B., P. & E.D.
Feb. 27 Read first time.
Feb. 26 From printer. May be acted upon on or after March 27.
Feb. 24 Introduced. To Com. on RLS. for assignment. To print.

BILL NUMBER: SB 1488 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 19, 2012
AMENDED IN ASSEMBLY JUNE 12, 2012
AMENDED IN SENATE MAY 21, 2012
AMENDED IN SENATE APRIL 30, 2012

INTRODUCED BY Senator Yee

FEBRUARY 24, 2012

An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Yee. Healing arts: California traditional Chinese Medicine traumatologist certification.

Existing law establishes various boards that license and regulate healing arts practitioners, including physicians and surgeons, chiropractors, physical therapists, and massage therapists. Existing law provides for the voluntary certification of certain ~~practioners,~~ *practitioners,* including the voluntary certification of massage therapists by the California Massage Therapy Council, a nonprofit organization. Existing law prescribes specified educational and other requirements for an applicant to obtain a massage therapy certificate.

This bill would establish the California Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of California traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a California traditional Chinese Medicine traumatologist to an applicant who meets certain training and clinical experience requirements *, passes a written examination,* and pays a specified fee. ~~This bill~~ *The bill would require the council to develop, and report to the Legislature by January 1, 2015, its standards for approving education programs, its standards for evaluating the education, training, and clinical experience of applicants, the written examination, and a contin uing education program for California traditional Chinese Medicine traumatologists. The bill* would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.

This bill would set forth procedures for the renewal of a certificate to perform California traditional Chinese Medicine traumatology and would establish specified fees in that regard.

This bill would prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of "California certified traditional Chinese Medicine traumatologist" without meeting these certification requirements and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder.

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

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

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

SECTION 1. Chapter 12.5 (commencing with Section 4979.1) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 12.5. CALIFORNIA TRADITIONAL CHINESE MEDICINE TRAUMATOLOGY

4979.1. As used in this chapter:

(a) "California certified traditional Chinese Medicine traumatologist" means a person who has been certified by the California Traditional Chinese Medicine Traumatology Council to perform California traditional Chinese Medicine traumatology.

(b) "Council" means the California Traditional Chinese Medicine Traumatology Council.

(c) "California traditional Chinese Medicine traumatology" includes a range of treatments to address both acute and chronic musculoskeletal conditions through stimulation of acupressure points. Techniques include, but are not limited to, brushing, kneading, rolling, pressing, rubbing, pushing, holding, and lifting the areas between each of the joints to open the body's defensive chi and stimulate the energy movement in both meridians, but do not include manipulation techniques to realign the musculoskeletal and ligamentous relationship, also known as bone setting.

4979.3. (a) The California Traditional Chinese Medicine Traumatology Council shall be established as a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, for the purpose of developing standards for, and certifying the practice of, California traditional Chinese Medicine traumatology. The council may commence activities as authorized by this section after submitting a request to the Internal Revenue Service seeking the exemption.

(b) (1) The council shall consist of five members, composed of three representatives from the clinical settings of traumatology, and one representative each from the Medical Board of California and the California Medical Association.

(2) Representatives from the clinical settings of traumatology shall be selected by professional societies, associations, or other entities, whose memberships are comprised solely of practitioners of California traditional Chinese Medicine traumatology.

(3) To qualify, a professional society, association, or entity shall have a dues-paying membership in California of at least 30 individuals for the last three years and shall have bylaws that require its members to comply with a code of ethics.

~~(c) (1) Subject to subdivision (e), the council shall meet and confer to determine the certification standards, including the level of experience and training needed for an individual to qualify for certification in California traditional Chinese Medicine traumatology.~~

~~(2) The council shall develop the application form for certification.~~

~~(3)~~

(c) The meetings and deliberations of the council shall

be subject to the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

~~(d) The council shall issue a certificate for California certified traditional Chinese Medicine traumatology to any person who makes an application and meets all of the following requirements, as determined by the council pursuant to subdivision (e):~~

~~(1) Is at least 18 years of age.~~

~~(2) Furnishes satisfactory evidence of training and clinical experience that meets the standards established by the council.~~

~~(3) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).~~

~~(e) The council shall evaluate whether an applicant meets the certification standards, including the level of experience and training to sufficiently qualify for the traumatology certification.~~

~~(f) An individual who is not qualified to receive a certificate under this section, or who fails to apply for certification under this section, shall not hold himself or herself out as a California certified traditional Chinese Medicine traumatologist pursuant to this section.~~

4979.3.5. (a) The council shall issue a certificate for California certified traditional Chinese Medicine traumatology to any person who makes an application on a form developed by the council, and meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Furnishes satisfactory evidence of one of the following:

(A) Satisfactory completion of an educational and clinical training program approved by the council requiring a minimum of 880 hours of instruction in California traditional Chinese Medicine traumatology.

(B) In the case of an applicant who has completed education and training outside the United States and Canada, documented education, training, and at least eight years clinical experience in traditional Chinese Medicine traumatology that meets the standards established by the council pursuant to subdivision (c).

(3) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(4) Passes a written examination developed and administered by the council that tests the applicant's ability, competency, and knowledge in the practice of a traditional Chinese Medicine traumatologist.

(b) The council shall investigate all of the documentation provided by the applicant and verify its authenticity to evaluate whether an applicant meets the certification standards, including the level of experience and training to sufficiently qualify for the traumatology certification.

(c) The council shall develop, and report to the Legislature by January 1, 2015, all of the following:

(1) The standards for approval of educational and clinical training programs pursuant to subparagraph (A) of paragraph (2) of subdivision (a).

(2) The standards for evaluating the education, training, and clinical experience of an applicant pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(3) The written examination pursuant to paragraph (4) of subdivision (a).

(4) A continuing education program for California certified

traditional Chinese Medicine traumatologists.

4979.4. (a) A California certified traditional Chinese Medicine traumatologist shall not practice medicine, as defined in Section 2052.

(b) A California certified traditional Chinese Medicine traumatologist shall not practice within the scope of activities regulated by the State Board of Chiropractic Examiners.

4979.5. (a) An applicant for California traditional Chinese Medicine traumatology certification shall file an application for a certificate for California traditional Chinese Medicine traumatology with the council.

(b) An individual who is not qualified to receive a certificate under this section shall not hold himself or herself out as a California certified traditional Chinese Medicine traumatologist.

4979.6. An applicant for certification as a California traditional Chinese Medicine traumatologist shall pay an application fee in a reasonable amount, not to exceed two hundred dollars ($200) for the regulatory cost to the council of processing the application, when submitting his or her application to the council.

4979.7. A California certified traditional Chinese Medicine traumatologist shall renew his or her certificate every two years.

4979.8. An expired certificate may be renewed at any time within six months after its expiration. The holder of the certificate shall pay all accrued and unpaid renewal fees, plus a delinquency fee.

(a) The renewal fee shall be one hundred dollars ($100).

(b) The delinquency fee shall be twenty-five dollars ($25).

(c) The fee for a duplicate or replacement engraved wall certificate shall be fifteen dollars ($15).

(d) The fee for a duplicate or replacement renewal receipt/pocket certificate shall be ten dollars ($10).

4979.9. Moneys received under this section shall be utilized by the council to pay for the costs associated with administering this chapter.

4979.10. It is an unfair business practice for any person to hold himself or herself out as a California certified traditional Chinese Medicine traumatologist or use the title of "California certified traditional Chinese Medicine traumatologist" without meeting the requirements of this chapter.

4979.11. It is a violation of this chapter for a certificate holder to commit, and the council may deny an application for a certificate or suspend or revoke a certificate for, any of the following:

(a) Unprofessional conduct, including, but not limited to, denial of licensure or certification, revocation, suspension, restriction, or any other disciplinary action against a certificate holder by another state or territory of the United States, by any other government agency, or by another entity. A certified copy of the decision, order, or judgment shall be conclusive evidence of these actions.

(b) Procuring a certificate by fraud, misrepresentation, or mistake.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any rule or bylaw adopted by the council.

(d) Conviction of any felony, or conviction of a misdemeanor that is substantially related to the qualifications or duties of a certificate holder, in which event the record of the conviction shall be conclusive evidence of the crime.

(e) Impersonating an applicant or acting as a proxy for an

applicant in any part of the application process or any part of satisfying the standards set by the council referred to under this chapter for the issuance of a certificate.

(f) Impersonating a California certified traditional Chinese Medicine traumatologist, or permitting or allowing an uncertified person to use a certificate.

(g) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder.

(h) Committing any act punishable as a sexually related crime.

4979.12. This chapter shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SENATE BILL 1236

PRICE

TEXT

BILL NUMBER: SB 1236 CHAPTERED
BILL TEXT

CHAPTER 332
FILED WITH SECRETARY OF STATE SEPTEMBER 14, 2012
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AMENDED IN SENATE APRIL 17, 2012

INTRODUCED BY Senator Price

FEBRUARY 23, 2012

An act to amend Sections 800, 801.01, 802.1, 802.5, 803, 803.1, 803.5, 803.6, 805, 2006, 2335, 2450.3, 2460, 2465, 2470, 2472, 2475, 2484, 2493, 2496, 2497.5, 2602, 2607.5, 2920, 2933, 3501, 3502, 3502.1, 3502.3, 3502.5, 3504, 3504.1, 3505, 3506, 3507, 3508, 3509, 3509.5, 3510, 3511, 3512, 3513, 3514.1, 3516, 3516.5, 3517, 3518, 3519, 3519.5, 3520, 3521, 3521.1, 3521.2, 3521.5, 3522, 3523, 3524, 3524.5, 3526, 3527, 3529, 3530, 3531, 3533, 3534, 3534.1, 3534.2, 3534.3, 3534.4, 3534.5, 3534.6, 3534.7, 3534.9, 3534.10, 3535, 3537.10, 3537.20, 3537.30, 3537.50, 3540, 3546, 4001, 4003, 4928, 4934, 4939, 4990, 4990.04, 8000, 8005, 8027, 8030.2, 8030.5, 9812.5, 9830.5, 9832.5, 9847.5, 9849, 9851, 9853, 9860, 9862.5, 9863, and 9873 of, and to add Section 3521.3 to, the Business and Professions Code, and to amend Sections 12529, 12529.5, and 12529.6 of the Government Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1236, Price. Professions and vocations.

(1) Existing law, until January 1, 2013, declares that using a vertical enforcement and prosecution model for the Medical Board of California's investigations is in the best interests of the people of California. Under existing law, a vertical enforcement and prosecution model is described as the joint assignment of a complaint to a board investigator and to a deputy attorney general responsible for prosecuting the case if the investigation results in the filing of an accusation. Existing law requires the board to, among other things, establish and implement a plan to locate specified staff in the same offices in order to carry out the intent of the vertical enforcement and prosecution model.

This bill would extend the operation of these provisions to January 1, 2014, and would also make a conforming change in that regard.

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

This bill would extend the operation of the California Board of Podiatric Medicine until January 1, 2017. The bill would specify that the board is subject to review by the appropriate policy committees of the Legislature. The bill would revise provisions regarding the examination of applicants for certification to practice podiatric medicine.

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

This bill would rename the committee as the Physician Assistant Board, make various conforming changes relative to this change in designation, and extend the operation of the board until January 1, 2017. The bill would revise the composition of the board and would specify that the board is subject to review by the appropriate policy committees of the Legislature. The bill would allow the board to establish, by regulation, a system for placement of a licensee on retired status, as specified.

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

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

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

This bill would impose that requirement on a physician assistant. Because a violation of this requirement by a physician assistant would be a crime, this bill would impose a state-mandated local program.

(6) Existing law, the Physical Therapy Practice Act, provides for the licensure and regulation of physical therapists by the Physical Therapy Board of California. Existing law authorizes the board to appoint an executive officer. Existing law makes these provisions inoperative on July 1, 2013, and repealed on January 1, 2014. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would delete the inoperative date and would instead repeal these provisions on January 1, 2014. The bill would also specify that this board would be subject to review by the appropriate policy committees of the Legislature.

(7) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law repeals these provisions on January 1, 2014. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would make a conforming change with regard to the operation of these provisions until January 1, 2014, and the bill would also specify that this board would be subject to review by the appropriate policy committees of the Legislature.

(8) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacies, pharmacists, pharmacy technicians,

wholesalers of dangerous drugs or devices, and others by the California State Board of Pharmacy. Existing law authorizes the board to appoint an executive officer. Under existing law, the board and its authority to appoint an executive officer will be repealed on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of the California State Board of Pharmacy and its authority to appoint an executive officer until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

(9) Existing law provides for the licensure and regulation of psychologists by the Board of Psychology. Existing law provides for the licensure and regulation of licensed educational psychologists, clinical social workers, marriage and family therapists, and licensed professional clinical counselors by the Board of Behavioral Sciences within the Department of Consumer Affairs. Existing law specifies the composition of each board and requires or authorizes each board to employ an executive officer. Existing law repeals these provisions on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of these provisions until January 1, 2017. This bill would specify that each board is subject to review by the appropriate policy committees of the Legislature.

(10) Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. Existing law authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of these provisions until January 1, 2015. The bill would instead specify that the board would be subject to review by the appropriate policy committees of the Legislature.

Existing law requires the board, on or before January 1, 2004, to establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist. Under existing law, within 3 years of initial approval by the board, each program approved by the board is required to receive full institutional approval by the Bureau for Private Postsecondary Education, which is responsible for, among other things, providing approval to operate private postsecondary institutions according to specified minimum operating standards.

This bill would provide the board with ongoing authority to establish those standards. The bill would also update references to provisions providing for the approval by the bureau to operate private postsecondary institutions.

(11) Existing law provides for the licensure and regulation of court reporters by the Court Reporters Board of California within the Department of Consumer Affairs. Existing law authorizes this board to appoint an executive officer and committees as necessary. Existing law repeals these provisions on January 1, 2013.

This bill would extend the operation of these provisions until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

Existing law requires, until January 1, 2013, certain fees and revenues collected by the board to be deposited into the Transcript Reimbursement Fund to be available to provide reimbursement for the cost of providing shorthand reporting services to low-income litigants in civil cases. Existing law authorizes, until January 1, 2013, low-income persons appearing pro se to apply for funds from the

Transcript Reimbursement Fund, subject to specified requirements and limitations. Existing law requires the board, until January 1, 2013, to publicize the availability of the fund to prospective applicants. Existing law requires the unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2013, to be transferred to the Court Reporters' Fund.

This bill would extend the operation of these provisions until January 1, 2017, and would make a technical change to these provisions. By extending the operation of the Transcript Reimbursement Fund, which is a continuously appropriated fund, the bill would make an appropriation.

(12) Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for the registration and regulation of electronic and appliance service dealers and service contractors by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation within the Department of Consumer Affairs and makes a failure to comply with its provisions a crime. Existing law, until January 1, 2013, requires a service contractor to pay specified fees to the bureau, including a registration fee and a registration renewal fee. Existing law, until January 1, 2013, requires the Director of Consumer Affairs to gather evidence of violations of the Electronic and Appliance Repair Dealer Registration Law, and any of its regulations, by a service contractor or by any employee, partner, officer, or member of any service contractor. Existing law, until January 1, 2013, requires a service contractor to maintain specified records to be open for inspection by the director and other law enforcement officials. Existing law, until January 1, 2013, also provides for the revocation of the registration of a service contractor by the director and for the superior court to issue a restraining order or injunction against a service contractor who violates these provisions.

This bill would extend the operation of these and other related provisions to January 1, 2015. By extending the operation of certain of these provisions, the violation of which is a crime, this bill would impose a state-mandated local program.

(13) Existing law, until January 1, 2013, establishes the Health Quality Enforcement Section within the Department of Justice for the purpose of investigating and prosecuting proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of the Medical Board of California. Existing law, until January 1, 2013, requires all complaints against licensees of these boards to be made available to the Health Quality Enforcement Section.

This bill would extend the operation of these provisions until January 1, 2014.

(14) 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.

Appropriation: yes.

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

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

800. (a) The Medical Board of California, the Board of

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

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

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

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

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

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

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

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

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

(c) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that

full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b) shall send the complete report if the judgment, settlement agreement, or arbitration award is entered against or paid by the employer of the licensee and not entered against or paid by the licensee. "Employer," as used in this paragraph, means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care

foundation, an educational institution, a professional institution, a professional school or college, a general law corporation, a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this paragraph shall be construed to authorize the employment of, or contracting with, any licensee in violation of Section 2400.

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

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

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

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

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

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

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

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

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

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

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

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

entered into after a reportable judgment or arbitration award is issued, the report shall include both the settlement and a copy of the judgment or award.

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

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

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

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

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

(j) (1) A state or local governmental agency that self-insures licensees shall, prior to sending a report pursuant to this section, do all of the following with respect to each licensee who will be identified in the report:

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

(B) Provide the licensee with a reasonable opportunity to provide a written response to the agency and written materials in support of the licensee's position. If the licensee is identified in the report,

the agency shall include this response and materials in the report submitted to a board under this section if requested by the licensee.

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

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

(k) For purposes of this section, "licensee" means a licensee of the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board.

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

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

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

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

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

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

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

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

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

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

803. (a) Except as provided in subdivision (b), within 10 days

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

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

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

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

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

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

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

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

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

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more

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

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

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

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

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

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

(4) Approved postgraduate training.

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

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

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

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or

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

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

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

When considering malpractice data, please keep in mind:

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

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

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

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

You may wish to discuss information in this report and the general

issue of malpractice with your doctor."

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

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

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

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

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

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

is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

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

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

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

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

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

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

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

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

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

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

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

(B) "Peer review body" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

privileges or membership.

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

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

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

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

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

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

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

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

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

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

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed

physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

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

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

SEC. 10. Section 2006 of the Business and Professions Code is amended to read:

2006. (a) Any reference in this chapter to an investigation by the board shall be deemed to refer to a joint investigation conducted by employees of the Department of Justice and the board under the vertical enforcement and prosecution model, as specified in Section 12529.6 of the Government Code.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 11. Section 2335 of the Business and Professions Code is amended to read:

2335. (a) All proposed decisions and interim orders of the Medical Quality Hearing Panel designated in Section 11371 of the Government Code shall be transmitted to the executive director of the board, or the executive director of the California Board of

Podiatric Medicine as to the licensees of that board, within 48 hours of filing.

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

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

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

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

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

(4) The board or the panel or the California Board of Podiatric Medicine shall afford the parties the opportunity to present oral

argument before deciding a case after nonadoption of the administrative law judge's decision.

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

SEC. 12. Section 2450.3 of the Business and Professions Code is amended to read:

2450.3. There is within the jurisdiction of the Osteopathic Medical Board of California a Naturopathic Medicine Committee authorized under the Naturopathic Doctors Act (Chapter 8.2 (commencing with Section 3610)). This section shall become inoperative on January 1, 2014, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the Naturopathic Medicine Committee subject to review by the appropriate policy committees of the Legislature.

SEC. 13. Section 2460 of the Business and Professions Code is amended to read:

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

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

SEC. 14. Section 2465 of the Business and Professions Code is amended to read:

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

SEC. 15. Section 2470 of the Business and Professions Code is amended to read:

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

SEC. 16. Section 2472 of the Business and Professions Code is amended to read:

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

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

(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is

required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

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

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

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

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

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

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

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

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

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

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

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

SEC. 17. Section 2475 of the Business and Professions Code is amended to read:

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is issued a resident's license, which may be renewed annually for up to eight years for this purpose by the division upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program and may receive compensation for that practice under the following conditions:

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

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

SEC. 18. Section 2484 of the Business and Professions Code is amended to read:

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

SEC. 19. Section 2493 of the Business and Professions Code is amended to read:

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

SEC. 20. Section 2496 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

(g) Successful completion within the past five years of an

extended course of study approved by the board.

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

SEC. 21. Section 2497.5 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

SEC. 22. Section 2602 of the Business and Professions Code is amended to read:

2602. The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

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

SEC. 23. Section 2607.5 of the Business and Professions Code is amended to read:

2607.5. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 24. Section 2920 of the Business and Professions Code is amended to read:

2920. (a) The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

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

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

SEC. 25. Section 2933 of the Business and Professions Code is amended to read:

2933. Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures to carry out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

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

SEC. 26. Section 3501 of the Business and Professions Code is amended to read:

3501. (a) As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 27. Section 3502 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(1) The determination of the refractive states of the human eye,

or the fitting or adaptation of lenses or frames for the aid thereof.

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

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

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

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

SEC. 28. Section 3502.1 of the Business and Professions Code is amended to read:

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

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

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

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

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

(1) A physician assistant shall not administer or provide a drug

or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

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

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

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

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

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

(g) The board shall consult with the Medical Board of California

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

SEC. 29. Section 3502.3 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 30. Section 3502.5 of the Business and Professions Code is amended to read:

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

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

SEC. 31. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant Board within the jurisdiction of the Medical Board of California. The board consists

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

SEC. 32. Section 3504.1 of the Business and Professions Code is amended to read:

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

SEC. 33. Section 3505 of the Business and Professions Code is amended to read:

3505. The members of the board shall include four physician assistants, one physician and surgeon who is also a member of the Medical Board of California, and four public members. Upon the expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a physician assistant. Upon the expiration of the term of the member who is a member of the Medical Board of California, above, there shall be appointed to the board a physician and surgeon who is also a member of the Medical Board of California who shall serve as an ex officio, nonvoting member and whose functions shall include reporting to the Medical Board of California on the actions or discussions of the board. Following the expiration of the term of the member described above, the board shall include five physician assistants, one physician and surgeon, and four public members.

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

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

SEC. 34. Section 3506 of the Business and Professions Code is amended to read:

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

SEC. 35. Section 3507 of the Business and Professions Code is amended to read:

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

SEC. 36. Section 3508 of the Business and Professions Code is amended to read:

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

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

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

SEC. 37. Section 3509 of the Business and Professions Code is

amended to read:

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

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

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

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

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

SEC. 38. Section 3509.5 of the Business and Professions Code is amended to read:

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

SEC. 39. Section 3510 of the Business and Professions Code is amended to read:

3510. The board may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect the provisions of this chapter; provided, however, that the Medical Board of California shall adopt, amend, and repeal such regulations as may be necessary to enable the board to implement the provisions of this chapter under its jurisdiction. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 40. Section 3511 of the Business and Professions Code is amended to read:

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

SEC. 41. Section 3512 of the Business and Professions Code is amended to read:

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

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

SEC. 42. Section 3513 of the Business and Professions Code is amended to read:

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

SEC. 43. Section 3514.1 of the Business and Professions Code is amended to read:

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

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

SEC. 44. Section 3516 of the Business and Professions Code is amended to read:

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

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

(c) The Medical Board of California may restrict a physician and surgeon to supervising specific types of physician assistants including, but not limited to, restricting a physician and surgeon from supervising physician assistants outside of the field of specialty of the physician and surgeon.

SEC. 45. Section 3516.5 of the Business and Professions Code is amended to read:

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

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

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

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

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

SEC. 46. Section 3517 of the Business and Professions Code is amended to read:

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

Examinations for licensure as a physician assistant may be required by the board under a uniform examination system, and for that purpose the board may make those arrangements with organizations furnishing examination material as may, in its discretion, be

desirable. The board shall, however, establish a passing score for each examination. The licensure examination for physician assistants shall be held by the board at least once a year with such additional examinations as the board deems necessary. The time and place of examination shall be fixed by the board.

SEC. 47. Section 3518 of the Business and Professions Code is amended to read:

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

SEC. 48. Section 3519 of the Business and Professions Code is amended to read:

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

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

(b) Pass any examination required under Section 3517.

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

(d) Pay all fees required under Section 3521.1.

SEC. 49. Section 3519.5 of the Business and Professions Code is amended to read:

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

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

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

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

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

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

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

(8) Compliance with all provisions of this chapter.

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

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

SEC. 50. Section 3520 of the Business and Professions Code is amended to read:

3520. Within 10 days after the beginning of each calendar month the Medical Board of California shall report to the Controller the

amount and source of all collections made under this chapter and at the same time pay all those sums into the State Treasury, where they shall be credited to the Physician Assistant Fund, which fund is hereby created. All money in the fund shall be used to carry out the purpose of this chapter.

SEC. 51. Section 3521 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

SEC. 52. Section 3521.1 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

SEC. 53. Section 3521.2 of the Business and Professions Code is amended to read:

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

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

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

SEC. 54. Section 3521.3 is added to the Business and Professions Code, to read:

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

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

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

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

retired status license.

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

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

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

SEC. 55. Section 3521.5 of the Business and Professions Code is amended to read:

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

SEC. 56. Section 3522 of the Business and Professions Code is amended to read:

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

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

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

SEC. 57. Section 3523 of the Business and Professions Code is amended to read:

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

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

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

SEC. 58. Section 3524 of the Business and Professions Code is amended to read:

3524. A license or approval that has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the board or Medical Board of California, as the case may be, and payment of all accrued and unpaid renewal fees. If the license or approval is not renewed within 30 days after its expiration, the licensed physician assistant and approved supervising physician, as a condition precedent to

renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 3522 or 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

SEC. 59. Section 3524.5 of the Business and Professions Code is amended to read:

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

SEC. 60. Section 3526 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 61. Section 3527 of the Business and Professions Code is amended to read:

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

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

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

(d) Notwithstanding subdivision (c), the Division of Medical Quality of the Medical Board of California, in conjunction with an

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

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

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

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

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

SEC. 62. Section 3529 of the Business and Professions Code is amended to read:

3529. The board may hear any matters filed pursuant to subdivisions (a) and (b) of Section 3527, or may assign the matter to a hearing officer. The Medical Board of California may hear any matters filed pursuant to subdivision (c) of Section 3527, or may assign the matter to a hearing officer. If a matter is heard by the board or the Medical Board of California, the hearing officer who presided at the hearing shall be present during the board's or the Medical Board of California's consideration of the case, and, if requested, assist and advise the board or the Medical Board of California.

SEC. 63. Section 3530 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

SEC. 64. Section 3531 of the Business and Professions Code is amended to read:

3531. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which is substantially related to the qualifications, functions, or duties of the business or profession to which the license was issued is deemed to be a conviction within the meaning of this chapter. The board may order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition

of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 65. Section 3533 of the Business and Professions Code is amended to read:

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

SEC. 66. Section 3534 of the Business and Professions Code is amended to read:

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

SEC. 67. Section 3534.1 of the Business and Professions Code is amended to read:

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

SEC. 68. Section 3534.2 of the Business and Professions Code is amended to read:

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

(b) Appointments to a committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public

meetings, a committee may convene in closed session to consider matters relating to any physician assistant applying for or participating in a diversion program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

SEC. 69. Section 3534.3 of the Business and Professions Code is amended to read:

3534.3. Each committee has the following duties and responsibilities:

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

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

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

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

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

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

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

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

SEC. 70. Section 3534.4 of the Business and Professions Code is amended to read:

3534.4. Criteria for acceptance into the diversion program shall include all of the following: (a) the applicant shall be licensed as a physician assistant by the board and shall be a resident of California; (b) the applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner which may affect his or her ability to practice medicine safely or competently; (c) the applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action; (d) the applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program; (e) the applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program; and (f) the applicant shall agree in writing to cooperate with all elements of

the treatment program designed for him or her.

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

SEC. 71. Section 3534.5 of the Business and Professions Code is amended to read:

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

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

SEC. 72. Section 3534.6 of the Business and Professions Code is amended to read:

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

SEC. 73. Section 3534.7 of the Business and Professions Code is amended to read:

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

SEC. 74. Section 3534.9 of the Business and Professions Code is amended to read:

3534.9. If the board contracts with any other entity to carry out this section, the executive officer of the board or the program manager shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

SEC. 75. Section 3534.10 of the Business and Professions Code is amended to read:

3534.10. Participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary

action against a physician assistant who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

SEC. 76. Section 3535 of the Business and Professions Code is amended to read:

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

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

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

SEC. 77. Section 3537.10 of the Business and Professions Code is amended to read:

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

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

(1) Physician assistant program directors.

(2) Foreign medical graduates.

(3) The California Academy of Physician Assistants.

(4) Nonprofit community health center directors.

(5) Physicians.

(6) The board, at the board's option.

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

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

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

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

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

SEC. 78. Section 3537.20 of the Business and Professions Code is amended to read:

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

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

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

SEC. 79. Section 3537.30 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

(2) Costs of seeking cover recovered pursuant to paragraph (2) of subdivision (c) shall be deposited in the Physician Assistant Training Fund established pursuant to Section 3537.40 for the purposes of providing grants pursuant to subdivision (c) of Section 3537.35.

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

SEC. 80. Section 3537.50 of the Business and Professions Code is amended to read:

3537.50. No General Fund revenues shall be expended to carry out this article. The implementation of the pilot program and, if applicable, the permanent program established by this article shall be contingent upon the availability of federal funds, which do not

divert or detract from funds currently utilized to underwrite existing physician assistant training programs or to fund existing functions of the board. The new funding shall be sufficient to cover the full additional cost to the educational institution or institutions that establish the program or programs, the cost of tuition and attendance for the students in the program or programs, and any additional costs, including enforcement costs, that the office or the board incurs as a result of implementing this article. Nothing in this article shall be construed as imposing any obligations upon the office, the board, or any physician assistant training program in the absence of adequate funding as described in this section. Nothing in this article shall be construed either as precluding applicants for the program established by this article from seeking state or federal scholarship funds, or state and federal loan repayment funds available to physician assistant students, or as requiring that any applicants be granted preference in the award of those funds. Nothing in this article shall be construed as impairing the autonomy of any institution that offers a physician assistant training program.

SEC. 81. Section 3540 of the Business and Professions Code is amended to read:

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

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

SEC. 82. Section 3546 of the Business and Professions Code is amended to read:

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

SEC. 83. Section 4001 of the Business and Professions Code is amended to read:

4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.

(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.

(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.

(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

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

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

SEC. 84. Section 4003 of the Business and Professions Code is amended to read:

4003. (a) The board, with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive officer may or may not be a member of the board as the board may determine.

(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.

(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.

(d) The executive officer shall give receipts for all money received by him or her and pay it to the department, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.

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

SEC. 85. Section 4928 of the Business and Professions Code is amended to read:

4928. The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

Notwithstanding any other provision of law, the repeal of this

section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 86. Section 4934 of the Business and Professions Code is amended to read:

4934. (a) The board, by and with the approval of the director, may employ personnel necessary for the administration of this chapter, and the board, by and with the approval of the director, may appoint an executive officer who is exempt from the provisions of the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 87. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) The board shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Standards for the approval of training programs shall include a minimum of 3,000 hours of study in curriculum pertaining to the practice of an acupuncturist. This subdivision shall apply to all students entering programs on or after January 1, 2005.

(c) Within three years of initial approval by the board, each program so approved by the board shall receive full institutional approval under Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 6 (commencing with Section 94885) of Chapter 8 of Part 59 of Division 10 of Title 3 of the Education Code, or the board's approval of the program shall automatically lapse.

SEC. 88. Section 4990 of the Business and Professions Code is amended to read:

4990. (a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of the following members:

(1) Two state licensed clinical social workers.

(2) One state licensed educational psychologist.

(3) Two state licensed marriage and family therapists.

(4) One state licensed professional clinical counselor.

(5) Seven public members.

(b) Each member, except the seven public members, shall have at least two years of experience in his or her profession.

(c) Each member shall reside in the State of California.

(d) The Governor shall appoint five of the public members and the six licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which he or she was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of his or her successor or until 60 days from the expiration date of the term for which he or she was

appointed, whichever first occurs.

(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.

(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.

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

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

SEC. 89. Section 4990.04 of the Business and Professions Code is amended to read:

4990.04. (a) The board shall appoint an executive officer. This position is designated as a confidential position and is exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) The executive officer serves at the pleasure of the board.

(c) The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(d) With the approval of the director, the board shall fix the salary of the executive officer.

(e) The chairperson and executive officer may call meetings of the board and any duly appointed committee at a specified time and place. For purposes of this section, "call meetings" means setting the agenda, time, date, or place for any meeting of the board or any committee.

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

SEC. 90. Section 8000 of the Business and Professions Code is amended to read:

8000. (a) There is in the Department of Consumer Affairs a Court Reporters Board of California, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

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

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

SEC. 91. Section 8005 of the Business and Professions Code is amended to read:

8005. The Court Reporters Board of California is charged with the executive functions necessary for effectuating the purposes of this chapter. It may appoint committees as it deems necessary or proper. The board may appoint, prescribe the duties, and fix the salary of an executive officer. Except as provided by Section 159.5, the board may also employ other employees as may be necessary, subject to civil

service and other provisions of law.

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

SEC. 92. Section 8027 of the Business and Professions Code is amended to read:

8027. (a) As used in this section, "school" means a court reporter training program or an institution that provides a course of instruction approved by the board and the Bureau for Private Postsecondary Education, is a public school in this state, or is accredited by the Western Association of Schools and Colleges.

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary or collegiate level. It shall be legally organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer all components of the minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. The records shall indicate positive daily and clock-hour attendance of each student for all classes, apprenticeship and graduation reports, high school transcripts or the equivalent or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date, including all progress and counseling reports.

(c) Any school intending to offer a program in court reporting shall notify the board within 30 days of the date on which it provides notice to, or seeks approval from, the State Department of Education, the Bureau for Private Postsecondary Education, the Office of the Chancellor of the California Community Colleges, or the Western Association of Schools and Colleges, whichever is applicable. The board shall review the proposed curriculum and provide the school tentative approval, or notice of denial, within 60 days of receipt of the notice. The school shall apply for provisional recognition pursuant to subdivision (d) within no more than one year from the date it begins offering court reporting classes.

(d) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b) and this subdivision. Recognition may be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a certificate to practice shorthand reporting as defined in Sections 8016 and 8017. The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with all applicable laws and regulations.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address,

telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

(g) A school shall notify the board in writing immediately of the discontinuance or pending discontinuance of its court reporting program or any of the program's components. Within two years of the date this notice is sent to the board, the school shall discontinue its court reporting program in its entirety. The board may, for good cause shown, grant not more than two one-year extensions of this period to a school. If a student is to be enrolled after this notice is sent to the board, a school shall disclose to the student the fact of the discontinuance or pending discontinuance of its court reporting program or any of its program components.

(h) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools, including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(i) The board shall maintain statistics that display the number and passing percentage of all first-time examinees, including, but not limited to, those qualified by each recognized or provisionally recognized school and those first-time examinees qualified by other methods as defined in Section 8020.

(j) Inspections and investigations shall be conducted by the board as necessary to carry out this section, including, but not limited to, unannounced site visits.

(k) All recognized and provisionally recognized schools shall print in their school or course catalog the name, address, and telephone number of the board. At a minimum, the information shall be in 8-point bold type and include the following statement:

"IN ORDER FOR A PERSON TO QUALIFY FROM A SCHOOL TO TAKE THE STATE LICENSING EXAMINATION, THE PERSON SHALL COMPLETE A PROGRAM AT A RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING THE MINIMUM REQUIREMENTS THAT A COURT REPORTING PROGRAM MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT: THE COURT REPORTERS BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE NUMBER)."

(*l*) Each court reporting school shall file with the board, not later than June 30 of each year, a current school catalog that shows all course offerings and staff, and for private schools, the owner, except that where there have been no changes to the catalog within the previous year, no catalog need be sent. In addition, each school shall also file with the board a statement certifying whether the school is in compliance with all statutes and the rules and regulations of the board, signed by the responsible court reporting program manager.

(m) A school offering court reporting shall not make any written or verbal claims of employment opportunities or potential earnings unless those claims are based on verified data and reflect current employment conditions.

(n) If a school offers a course of instruction that exceeds the board's minimum requirements, the school shall disclose orally and in writing the board's minimum requirements and how the course of instruction differs from those criteria. The school shall make this disclosure before a prospective student executes an agreement obligating that person to pay any money to the school for the course

of instruction. The school shall also make this disclosure to all students enrolled on January 1, 2002.

(o) Private and public schools shall provide each prospective student with all of the following and have the prospective student sign a document that shall become part of that individual's permanent record, acknowledging receipt of each item:

(1) A student consumer information brochure published by the board.

(2) A list of the school's graduation requirements, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary.

(3) A list of requirements to qualify for the state-certified shorthand reporter licensing examination, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary, if different than those requirements listed in paragraph (2).

(4) A copy of the school's board-approved benchmarks for satisfactory progress as identified in subdivision (u).

(5) A report showing the number of students from the school who qualified for each of the certified shorthand reporter licensing examinations within the preceding two years, the number of those students that passed each examination, the time, as of the date of qualification, that each student was enrolled in court reporting school, and the placement rate for all students that passed each examination.

(6) On and after January 1, 2005, the school shall also provide to prospective students the number of hours each currently enrolled student who has qualified to take the next licensing test, exclusive of transfer students, has attended court reporting classes.

(p) All enrolled students shall have the information in subdivisions (n) and (o) on file no later than June 30, 2005.

(q) Public schools shall provide the information in subdivisions (n) and (o) to each new student the first day he or she attends theory or machine speed class, if it was not provided previously.

(r) Each enrolled student shall be provided written notification of any change in qualification or graduation requirements that is being implemented due to the requirements of any one of the school's oversight agencies. This notice shall be provided to each affected student at least 30 days before the effective date of the change and shall state the new requirement and the name, address, and telephone number of the agency that is requiring it of the school. Each student shall initial and date a document acknowledging receipt of that information and that document, or a copy thereof, shall be made part of the student's permanent file.

(s) Schools shall make available a comprehensive final examination in each academic subject to any student desiring to challenge an academic class in order to obtain credit towards certification for the state licensing examination. The points required to pass a challenge examination shall not be higher than the minimum points required of other students completing the academic class.

(t) An individual serving as a teacher, instructor, or reader shall meet the qualifications specified by regulation for his or her position.

(u) Each school shall provide a substitute teacher or instructor for any class for which the teacher or instructor is absent for two consecutive days or more.

(v) The board has the authority to approve or disapprove benchmarks for satisfactory progress which each school shall develop for its court reporting program. Schools shall use only board-approved benchmarks to comply with the provisions of paragraph

(4) of subdivision (o) and subdivision (u).

(w) Each school shall counsel each student a minimum of one time within each 12-month period to identify the level of attendance and progress, and the prognosis for completing the requirements to become eligible to sit for the state licensing examination. If the student has not progressed in accordance with the board-approved benchmarks for that school, the student shall be counseled a minimum of one additional time within that same 12-month period.

(x) The school shall provide to the board, for each student qualifying through the school as eligible to sit for the state licensing examination, the number of hours the student attended court reporting classes, both academic and machine speed classes, including theory.

(y) The pass rate of first-time examination takers for each school offering court reporting shall meet or exceed the average pass rate of all first-time test takers for a majority of examinations given for the preceding three years. Failure to do so shall require the board to conduct a review of the program. In addition, the board may place the school on probation and may withdraw recognition if the school continues to place below the above-described standard on the two examinations that follow the three-year period.

(z) A school shall not require more than one 10-minute qualifying examination, as defined in the regulations of the board, for a student to be eligible to sit for the state certification examination.

(aa) A school shall provide the board the actual number of hours of attendance for each applicant the school qualifies for the state licensing examination.

(ab) The board shall, by December 1, 2001, do the following by regulation as necessary:

(1) Establish the format that shall be used by schools to report tracking of all attendance hours and actual timeframes for completed coursework.

(2) Require schools to provide a minimum of 10 hours of live dictation class each school week for every full-time student.

(3) Require schools to provide students with the opportunity to read back from their stenographic notes a minimum of one time each day to his or her instructor.

(4) Require schools to provide students with the opportunity to practice with a school-approved speed-building audio recording, or other assigned material, a minimum of one hour per day after school hours as a homework assignment and provide the notes from this audio recording to their instructor the following day for review.

(5) Develop standardization of policies on the use and administration of qualifier examinations by schools.

(6) Define qualifier examination as follows: the qualifier examination shall consist of 4-voice testimony of 10-minute duration at 200 words per minute, graded at 97.5 percent accuracy, and in accordance with the guidelines followed by the board. Schools shall be required to date and number each qualifier and announce the date and number to the students at the time of administering the qualifier. All qualifiers shall indicate the actual dictation time of the test and the school shall catalog and maintain the qualifier for a period of not less than three years for the purpose of inspection by the board.

(7) Require schools to develop a program to provide students with the opportunity to interact with professional court reporters to provide skill support, mentoring, or counseling that they can document at least quarterly.

(8) Define qualifications and educational requirements required of

instructors and readers that read test material and qualifiers.

(ac) The board shall adopt regulations to implement the requirements of this section not later than September 1, 2002.

(ad) The board may recover costs for any additional expenses incurred under the enactment amending this section in the 2001-02 Regular Session of the Legislature pursuant to its fee authority in Section 8031.

SEC. 93. Section 8030.2 of the Business and Professions Code is amended to read:

8030.2. (a) To provide shorthand reporting services to low-income litigants in civil cases, who are unable to otherwise afford those services, funds generated by fees received by the board pursuant to subdivision (c) of Section 8031 in excess of funds needed to support the board's operating budget for the fiscal year in which a transfer described below is made shall be used by the board for the purpose of establishing and maintaining a Transcript Reimbursement Fund. The Transcript Reimbursement Fund shall be established by a transfer of funds from the Court Reporters' Fund in the amount of three hundred thousand dollars ($300,000) at the beginning of each fiscal year. Notwithstanding any other provision of this article, a transfer to the Transcript Reimbursement Fund in excess of the fund balance established at the beginning of each fiscal year shall not be made by the board if the transfer will result in the reduction of the balance of the Court Reporters' Fund to an amount less than six months' operating budget.

(b) All moneys held in the Court Reporters' Fund on the effective date of this section in excess of the board's operating budget for the 1996-97 fiscal year shall be used as provided in subdivision (a).

(c) Refunds and unexpended funds that are anticipated to remain in the Transcript Reimbursement Fund at the end of the fiscal year shall be considered by the board in establishing the fee assessment pursuant to Section 8031 so that the assessment shall maintain the level of funding for the Transcript Reimbursement Fund, as specified in subdivision (a), in the following fiscal year.

(d) The Transcript Reimbursement Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the Transcript Reimbursement Fund are continuously appropriated for the purposes of this chapter.

(e) (1) Applicants, including applicants pursuant to Section 8030.5, who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorney's fees by judgment or by settlement agreement shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(2) An applicant pursuant to Section 8030.5 who has been reimbursed for services provided to litigants under this chapter shall refund the full amount reimbursed if a court orders the applicant's fee waiver withdrawn or denied retroactively pursuant to Section 68636 of the Government Code, within 90 days of the court's order withdrawing or denying the fee waiver.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level that is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2017, shall be transferred to the Court Reporters' Fund.

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

SEC. 94. Section 8030.5 of the Business and Professions Code is amended to read:

8030.5. (a) Notwithstanding subdivision (e) of Section 8030.4, as used in this chapter the term "applicant" also means an indigent person, as defined in subdivision (f) of Section 8030.4, appearing pro se to represent himself or herself at any stage of the case and applying to receive funds from the Transcript Reimbursement Fund established by this chapter.

(b) Notwithstanding Section 8030.6, total disbursements to cover the cost of providing transcripts to all applicants pursuant to this section shall not exceed thirty thousand dollars ($30,000) annually and shall not exceed one thousand five hundred dollars ($1,500) per case.

(c) The board shall provide a report to the Senate and Assembly Committees on Judiciary by March 1, 2012, that includes a summary of the expenditures and claims relating to this article, including the initial fund balance as of January 1, 2011; all funds received, including the amount of, and reason for, any refunds pursuant to subdivision (e) of Section 8030.2; all claims received, including the type of case, court involved, service for which reimbursement was sought, amount paid, and amount denied, if any, and the reason for denial; and all administrative fees. This report shall be provided using existing resources.

(d) The Legislature finds and declares that there are funds available for indigent pro se parties under this article only because the Transcript Reimbursement Fund has not been fully utilized in recent years by the eligible applicants for whom its use has been intended, despite the evident financial need among legal services organizations and pro bono attorneys. Accordingly, the board shall, using existing resources, undertake further efforts to publicize the availability of the Transcript Reimbursement Fund to prospective applicants, as defined in subdivision (e) of Section 8030.4, through appropriate entities serving these applicants, including the State Bar of California, the California Commission on Access to Justice, and the Legal Aid Association of California. These efforts shall be described in the report required by subdivision (c).

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

SEC. 95. Section 9812.5 of the Business and Professions Code is amended to read:

9812.5. The director shall gather evidence of violations of this chapter and of any regulation established hereunder by any service contractor, whether registered or not, and by any employee, partner, officer, or member of any service contractor. The director shall, on his or her own initiative, conduct spot check investigations of service contractors throughout the state on a continuous basis. This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 96. Section 9830.5 of the Business and Professions Code is amended to read:

9830.5. Each service contractor shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed

by the director. The forms shall contain sufficient information to identify the service contractor, including name, address, retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), a copy of the certificate of qualification as filed with the Secretary of State if the service contractor is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service contractor is a partnership, identifying data shall be stated for each partner. If the service contractor is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service contractor's business in the State of California, subject to any regulations the director may adopt. If the service contractor is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient for purposes of providing data for each of the officers and directors of the corporation or company to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

A service contractor who does not operate a place of business in this state but who sells, issues, or administers service contracts in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 97. Section 9832.5 of the Business and Professions Code is amended to read:

9832.5. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service contractor shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter.

(c) To renew an expired registration, the service contractor shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and pay all accrued and unpaid delinquency and renewal fees.

(d) Renewal is effective on the date that the application is filed, the renewal fee is paid, and all delinquency fees are paid.

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend, by not more than six months, the date fixed by law for renewal of a registration, except that, in that event, any renewal fee that may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

(f) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2015, deletes or extends that date.

SEC. 98. Section 9847.5 of the Business and Professions Code is amended to read:

9847.5. Each service contractor shall maintain those records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 99. Section 9849 of the Business and Professions Code, as amended by Section 49 of Chapter 354 of the Statutes of 2007, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or service contractor or to render a decision to suspend, revoke, or place on probation a registration.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 100. Section 9849 of the Business and Professions Code, as amended by Section 50 of Chapter 354 of the Statutes of 2007, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or to render a decision to suspend, revoke, or place on probation a registration.

This section shall become operative on January 1, 2015.

SEC. 101. Section 9851 of the Business and Professions Code, as amended by Section 51 of Chapter 354 of the Statutes of 2007, is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer or service contractor in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining that conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 102. Section 9851 of the Business and Professions Code, as amended by Section 52 of Chapter 354 of the Statutes of 2007, is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining that conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall become operative on January 1, 2015.

SEC. 103. Section 9853 of the Business and Professions Code, as

amended by Section 53 of Chapter 354 of the Statutes of 2007, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer or service contractor is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code, allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 104. Section 9853 of the Business and Professions Code, as amended by Section 54 of Chapter 354 of the Statutes of 2007, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall become operative on January 1, 2015.

SEC. 105. Section 9860 of the Business and Professions Code, as amended by Section 58 of Chapter 354 of the Statutes of 2007, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer or service contractor.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 106. Section 9860 of the Business and Professions Code, as amended by Section 59 of Chapter 354 of the Statutes of 2007, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer.

This section shall become operative on January 1, 2015.

SEC. 107. Section 9862.5 of the Business and Professions Code is amended to read:

9862.5. If a complaint indicates a possible violation of this chapter or of the regulations adopted pursuant to this chapter, the director may advise the service contractor of the contents of the complaint and, if the service contractor is so advised, the director shall make a summary investigation of the facts after the service contractor has had reasonable opportunity to reply thereto.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 108. Section 9863 of the Business and Professions Code, as amended by Section 61 of Chapter 354 of the Statutes of 2007, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer or service contractor accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer or service contractor declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 109. Section 9863 of the Business and Professions Code, as amended by Section 62 of Chapter 354 of the Statutes of 2007, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall become operative on January 1, 2015.

SEC. 110. Section 9873 of the Business and Professions Code, as amended by Section 63 of Chapter 354 of the Statutes of 2007, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state. The initial registration fee for a service contractor is not more than seventy-five dollars ($75) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars ($325) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than two hundred forty dollars ($240) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than four hundred dollars ($400) for each place of business in this state.

(4) On or after January 1, 2000, the initial registration fee for a service contractor described in subdivision (e) of Section 12741 of

the Insurance Code shall be set by the director in an amount not to exceed the actual and direct costs associated with the regulation of those service contractors, but in no event more than fifty thousand dollars ($50,000).

A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is seventy-five dollars ($75) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars ($300) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than three hundred seventy-five dollars ($375) for each place of business in this state.

(4) It is the intent of the Legislature that the amount of the annual registration renewal fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be evaluated and set by the Legislature.

A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2015, deletes or extends that date.

SEC. 111. Section 9873 of the Business and Professions Code, as amended by Section 64 of Chapter 354 of the Statutes of 2007, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars ($325).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars ($165) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service

dealer and an appliance repair industry service dealer is not more than three hundred dollars ($300).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall become operative on January 1, 2015.

SEC. 112. Section 12529 of the Government Code, as amended by Section 8 of Chapter 505 of the Statutes of 2009, is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of the Medical Board of California.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the board.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, and the committees under the jurisdiction of the Medical Board of California, with the intent that the expenses be proportionally shared as to services rendered.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 113. Section 12529 of the Government Code, as amended by Section 9 of Chapter 505 of the Statutes of 2009, is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or any committee under the jurisdiction of the Medical Board of California, and to provide ongoing review of the investigative activities conducted in support of those prosecutions, as provided in subdivision (b) of Section 12529.5.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good

standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality

Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the board.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, and the committees under the jurisdiction of the Medical Board of California, with the intent that the expenses be proportionally shared as to services rendered.

(e) This section shall become operative January 1, 2014.

SEC. 114. Section 12529.5 of the Government Code, as amended by Section 10 of Chapter 505 of the Statutes of 2009, is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, or the Board of Psychology shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to work on location at the intake unit of the boards described in subdivision (d) of Section 12529 to assist in evaluating and screening complaints and to assist in developing uniform standards and procedures for processing complaints.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards or committees in designing and providing initial and in-service training programs for staff of the boards or committees, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the boards shall be made by the executive officer of the boards or committees as appropriate in consultation with the senior assistant.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 115. Section 12529.5 of the Government Code, as amended by Section 11 of Chapter 505 of the Statutes of 2009, is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, or the Board of Psychology shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to assist the boards in intake and investigations and to direct discipline-related prosecutions. Attorneys shall be assigned to work closely with each major intake and investigatory unit of the boards, to assist in the evaluation and screening of complaints from receipt through disposition and to assist in developing uniform standards and procedures for the handling of complaints and investigations.

A deputy attorney general of the Health Quality Enforcement Section shall frequently be available on location at each of the working offices at the major investigation centers of the boards, to provide consultation and related services and engage in case review with the boards' investigative, medical advisory, and intake staff.

The Senior Assistant Attorney General and deputy attorneys general working at his or her direction shall consult as appropriate with the investigators of the boards, medical advisors, and executive staff in the investigation and prosecution of disciplinary cases.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards or committees in designing and providing initial and in-service training programs for staff of the boards or committees, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the boards shall be made by the executive officer of the boards or committees as appropriate in consultation with the senior assistant.

(e) This section shall become operative January 1, 2014.

SEC. 116. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

(c) The Medical Board of California, the Department of Consumer Affairs, and the Office of the Attorney General shall, if necessary, enter into an interagency agreement to implement this section.

(d) This section does not affect the requirements of Section 12529.5 as applied to the Medical Board of California where complaints that have not been assigned to a field office for investigation are concerned.

(e) It is the intent of the Legislature to enhance the vertical enforcement and prosecution model as set forth in subdivision (a). The Medical Board of California shall do all of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

(3) Establish and implement a plan to assist in team building between its enforcement staff and the staff of the Health Quality Enforcement Section in order to ensure a common and consistent

knowledge base.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 117. 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.

SENATE BILL 628

YEE

TEXT

BILL NUMBER: SB 628 CHAPTERED
BILL TEXT

CHAPTER 326
FILED WITH SECRETARY OF STATE SEPTEMBER 14, 2012
APPROVED BY GOVERNOR SEPTEMBER 14, 2012
PASSED THE SENATE AUGUST 23, 2012
PASSED THE ASSEMBLY AUGUST 22, 2012
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AMENDED IN ASSEMBLY JUNE 29, 2011
AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE MAY 9, 2011
AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 22, 2011

INTRODUCED BY Senator Yee
(Coauthor: Senator Lieu)
(Coauthor: Assembly Member Eng)

FEBRUARY 18, 2011

An act to add Section 4936 to the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 628, Yee. Acupuncture: regulation.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.

This bill would make it unprofessional conduct for an acupuncturist to use the title of "Doctor" or use the abbreviation "Dr." in connection with the practice of acupuncture unless he or she holds a license authorizing that use or a specified degree. This bill would also make it unprofessional conduct for an acupuncturist to use the title "Doctor" or use the abbreviation "Dr." without indicating the type of license that entitles him or her to use that title.

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

SECTION 1. Section 4936 is added to the Business and Professions Code, to read:

4936. (a) It is unprofessional conduct for an acupuncturist to use the title "Doctor" or the abbreviation "Dr." in connection with the practice of acupuncture unless he or she possesses a license that authorizes the use or possesses an earned doctorate degree from an accredited, approved, or authorized educational institution as set forth under Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, which is in

acupuncture, oriental medicine, a biological science, or is otherwise related to the authorized practice of an acupuncturist as set forth in Sections 4927 and 4937.

(b) The use of the title "Doctor" or the abbreviation "Dr." by an acupuncturist as authorized in subdivision (a) without further indicating the type of license or degree which authorizes that use shall constitute unprofessional conduct.

body, except that only individuals may be licensed under this chapter.

(c) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked. *Any reference to acupuncturist in this chapter, this code or other codes, or in any statute or regulation shall be deemed to mean a Doctor of Traditional Chinese Medicine.*

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

SEC. 3. Section 4937 of the Business and Professions Code is amended to read:

4937. An acupuncturist's license authorizes the holder thereof:

(a) To engage in the practice of acupuncture.

(b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health. Nothing in this section prohibits any person who does not possess an acupuncturist's license or another license as a healing arts practitioner from performing, or prescribing the use of any modality listed in this subdivision.

(c) To practice traumatology. Traumatology includes a range of treatments to address both acute and chronic musculoskeletal conditions, as well as many nonmusculoskeletal conditions. Techniques include, but are not limited to, brushing, kneading, rolling, pressing, and rubbing the areas between each of the joints to open the body's defensive chi and stimulate the energy movement in both meridians and the muscles so that the licensee is able to use range of motion, traction, and massage with the stimulation of acupuncture points.

~~(c)~~

(d) For purposes of this section, a "magnet" means a mineral or metal that produces a magnetic field without the application of an electric current.

~~(d)~~

(e) For purposes of this section, "plant, animal, and mineral products" means naturally occurring substances of plant, animal, or mineral origin, except that it does not include synthetic compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

~~(e)~~

(f) For purposes of this section, "dietary supplement" has the same meaning as defined in subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary supplement does not include controlled substances or dangerous drugs as defined in Section 4021 or 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

BILL NUMBER: SB 628 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Yee

FEBRUARY 18, 2011

An act to amend Sections 4925, 4927, and 4937 of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 628, as introduced, Yee. Acupuncture: regulation.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license.

This bill would retitle the designation "acupuncturist" to Doctor of Traditional Chinese Medicine and would expand the scope of authorized activities for these practitioners under their license to include the performance of traumatology, as defined.

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

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

SECTION 1. Section 4925 of the Business and Professions Code is amended to read:

4925. (a) This chapter constitutes the chapter on acupuncture of the Business and Professions Code.

This chapter shall be known and may be cited as the Acupuncture Licensure Act. Whenever a reference is made to the Acupuncture Licensure Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

(b) Any reference in this chapter, or to the regulations pertaining thereto, to "certificate" or "certification" shall hereafter mean "license" or "licensure." Any reference to the term "certifying" means "licensing," and the term "certificate holder" means "licensee." Any reference to the "Acupuncture Committee" or "committee" means the "Acupuncture Board" or "board."

(c) The title "acupuncturist," as applied to an individual to whom a license has been issued to practice acupuncture pursuant to this chapter that is in effect and is not suspended or revoked, is renamed Doctor of Traditional Chinese Medicine. Any reference by the provisions of this chapter, this code or other codes, or in any statute or regulation to an acupuncturist shall be deemed a reference to a Doctor of Traditional Chinese Medicine.

SEC. 2. Section 4927 of the Business and Professions Code is amended to read:

4927. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the Acupuncture ~~"Board".~~ *Board.*

(b) "Person" means any individual, organization, or corporate

CAB Proposed Agenda Item
November 15, 2012

CALE Pass Rates

What is the purpose of changing the way the CAB evaluates CALE Pass Rates? California State Business and Professions Code, Acupuncture Licensure Act, Section 3934.2(b) states: The board shall study and recommend ways to improve the frequency and consistency of their auditing and the quality and relevance of their courses. This change will evaluate how acupuncture schools prepare graduating students entering the field of acupuncture by evaluating the results of the California Acupuncture License Exam.

The CAB has approved approximately 36 training,programs of which 20 are located in California. The CAB rarely, if ever, removes a training program from its approved list which keeps growing despite very strong evidence that many of the approved schools are doing a terrible job preparing graduates to pass the CALE. There are at least seven schools with less than half their graduates able to pass the CALE. Four of these programs have pass rates below 40%!! The CAB must do more than just approve schools. The CAB must also *"ensure excellence in practitioner training and education."* The CAB must continually evaluate how well approved schools are doing their job.

Why CALE pass rates matter. The rate at which graduates of a training program pass the licensing exam is the first and foremost indicator of the quality of their training. Most healthcare professions including Physical Therapy, Nursing, Physician Assistant and Physician, have pass rates above 85%. The Board of Nursing mandates that all nursing programs demonstrate at least 75% of their graduates pass the state licensing exam each year or that school is placed on probation and can be removed from the Board of Nursing list of approved programs. The average pass rate for acupuncturists on the CALE across a decade (2001 and 2010) was 61%. *[ed. these data are from the* HYPERLINK "http://www.acupuncture.ca.gov/students/exam_statistics.shtml"CAB website/. A pass rate this low means passing the licensing exam is almost the same as flipping a coin. There are only a few explanations for a pass rate this low: the exam is "too hard", the exam is poorly constructed (e.g., it is does not test what people study), or the people taking the exam are simply not well prepared. The CAB has had testimony from the state's own testing department (Office of Professional Exam Services - OPES) that there is nothing wrong with the CALE as a measurement tool. The test is neither irrelevant or too hard. That leaves one conclusion. Many graduates – as in the 40% who consistently fail – are poorly prepared. That leads to only one other conclusion. Some schools do not actually exist to train acupuncturists.
Different conclusions would merit consideration if the evidence of academic failure among so many training programs was short term. It is not. Here is the real question. With so much strong evidence in its hands why has the CAB failed to take any action to protect the public? Why is it the CAB does not ensure the quality of training by removing at least the worst performing schools from its list?

The Senate Committee on Business, Professions and Economic Development appears to be ready to replace the CALE with the national certifying exam (NCCAOM), and remove the school oversight function from the CAB by deferring to the national program accreditation body (ACAOM). These are both bad ideas because they simply kick the problem outside the state. ACAOM and NCCAOM serve the very schools that are problems in our state. If the CAB wants to avoid the removal of its licensing and approval functions then the CAB has to begin functioning according to its mission and initiate a program that uses CALE data to guide its school approval process.

The AAAOM made the following recommendation in its May 2012 AAAOM REVIEW OF 2nd DRAFT STANDARDS FOR THE FIRST PROFESSIONAL DOCTORATE IN AOM ACCREDITATION: "Programs must provide annual outcomes data for (i) pass rates of graduates who take licensing exams, discriminating between first time and repeat takers; and (ii) total graduates in each year and total who sit for a licensing exam from that cohort within three years. With regards to pass rates, ACAOM should set a standard that allows for progressively achieving a criterion level on par with other health professions; e.g. annually working towards 0.5 deviation – approximately the 67th percentile - above the mean within a two-year moving average until the criterion level of 85% is attained."

The CAB does not use its own information available on its own website (!!) to function independently and responsibly. If the CAB continues this practice it might result in a significant loss of authority which would not be good for the CAB, the profession or the public.

Recommendations The CALE Examination Committee recommendations to the Board a new policy for evaluating currently approved schools and new schools that are applying for approval using the following recommendation as a framework

1. New schools can only receive provisional approval for no more than three years. The school must achieve a seventy percent pass rate by year two and maintain it in year three.
2. All currently approved schools must achieve a seventy percent pass rate by 2014. The board will place a program on probation with intent to revoke the program's approval and may revoke approval if a program fails to maintain the minimum pass rate.
3. A program exhibiting a pass rate below seventy percent for first time candidates in an academic year shall conduct a comprehensive program assessment to identify variable contributing to the substandard pass rate and will submit a written report to the board. The report shall include the findings of the assessment and a plan for increasing the pass rate including specific corrective measures to be taken, resources and timeframe.

There is one more issue; the number of graduates from any school that actually sit for the CALE. The CAB should require that each school on its approved list must annually report the total number of graduates and the number of graduates that took the CALE each year. The threshold of graduates who take the exam should be 85%.

4. Any school with fewer than 85% of its graduates who register for and take the CALE should be placed on one year probation to achieve the standard. If that standard is not met then that school should be removed from the list of CAB approved schools. The school may reapply after five years and significant reorganization.

CALE Should be provided solely in English
Discussion and Action

California Acupuncture Licensure Act, 4928.1 states the following: "Protection of the public shall be highest rarity for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

Consumer Protection or public safety is first and foremost the reason this Board was created. As a public safety issue, the California Acupuncture Board should consider action to increase patient safety by providing the CALE test solely in English for all examinees. When the CALE originated, testing in three languages, it was provided in order to grandfather in those acupuncturists who were in practice at that particular time and was to sunset after the first couple of tests were administered. Somehow, that did not happen.

Our California Acupuncture Board is the only healthcare professional Board testing in three languages, English, Chinese and Korean, The repeal of California Code of Regulation, Title 16, Division 12.7, Section 1399.41, would ensure that all examinees taking the CALE are proficient enough in English to communicate with all other healthcare professions and their patients. Remember, foreign students are required to take a TOFL test that demonstrates their ability to read, speak and comprehend English at a college level. Therefore, there should be no issue about the CAB providing the CALE solely in English.

By providing the CALE solely in English, thereby lacking the translations in to Chinese and Korean, the Board can expect a yearly saving of $138,166

Our California Constitution, Article 3 of the State of California, Sect 6 (b) states: "English as the Official Language of California. English is the official language of the State of California." The reason for this Article 3 of the State of California is to build accountability in to our system as noted by the following Business and Professions Code Section 11.

Business and Professions Code Section 11 requires all writing, including records, to be written in English.
"Business and Profession Code 11. Writing: English language - Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required by this code, it shall be made in writing in the English language unless it is otherwise expressly provided."

Please note that most, if not all, Chinese and Korean acupuncturist have patients who are

not of their culture: therefore, there is a clear need for these acupuncturist to be able to communicate with all of their patients. In any emergency, it is expected that these same acupuncturists be capable of communicating with emergency crews and other healthcare professionals.

Another issue to add to this picture is that for many years there have been allegations about cheating on the CALE. Korean students taking the CALE have always had strikingly higher pass rates. Are the Korean examines smarter than the English and Chinese examines or are the Korean examines receiving some sort of an advantage? It appears to me that the former is no and the later is yes.

I was recently informed by one individual that one Korean administrator, and possibly more administrators, assigns students taking the examines to memorize the first five question and report back to her. This person than asks the second student taking the test to memorize the next five question and so on and so on. Other individuals within the profession have informed me that this situation does exist. I understand there are approximately 200 questions on the test. The information received from these individuals taking the CALE is accumulated and placed in a booklet that is "sold" to future Korean students who are expecting to take the CALE.. This process continues today. Any acupuncturist involved in this type of situation could lose their licenses. Business and Professions Code, Section 123 criminalizes conduct that violates the security of an examination. This section provides the following.

BPC, Section123. It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including but not limited to .....

This is an issue we should address later today in a different part of the agenda: but, it does have bearing on todays discussion about the CALE.

The repeal of California Code of Regulation, Title 16, Article 4, Section 1399.441, would provide that the CALE would be given solely in English . It would ensure that all examinees taking the CALE are proficient enough in English; thereby, demonstrating they can fully communicate with all other healthcare professions and their patients. It would also provide fairness for all examines taking the CALE.