



**DENTAL BOARD OF CALIFORNIA MEETING AGENDA
AUGUST 23-24, 2018**

Hyatt Regency San Francisco Airport
1333 Bayshore Highway, Sequoia B
Burlingame, CA 94010
(888) 591-1234 (Reservations) or (916) 263-2300 (Board Office)

Members of the Board:

Thomas Stewart, DDS, President
Fran Burton, MSW, Public Member, Vice President
Yvette Chappell-Ingram, Public Member, Secretary

Steven Chan, DDS
Ross Lai, DDS
Lilia Larin, DDS
Huong Le, DDS, MA
Meredith McKenzie, Public Member
Abigail Medina, Public Member

Steven Morrow, DDS, MS
Rosalinda Olague, RDA
Joanne Pacheco, RDH, MA
James Yu, DDS
Bruce Whitcher, DDS

During this two-day meeting, the Dental Board of California will consider and may take action on any of the agenda items, unless listed as informational only. It is anticipated that the items of business before the Board on the first day of this meeting will be fully completed on that date. However, should an item not be completed, it may be carried over and heard beginning at 8:30 a.m. on the following day. Anyone wishing to be present when the Board takes action on any item on this agenda must be prepared to attend the two-day meeting in its entirety.

Public comments will be taken on agenda items at the time the specific item is raised. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the President. For verification of the meeting, call (916) 263-2300 or access the Board's website at www.dbc.ca.gov. This Board meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Karen M. Fischer, MPA, Executive Officer, at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by phone at (916) 263-2300. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources or technical difficulties that may arise. To view the Webcast, please visit <https://thedcapage.wordpress.com/webcasts/>.

Friday, August 24, 2018

9:00 A.M. FULL BOARD MEETING – OPEN SESSION

11. Call to Order/Roll Call/Establishment of Quorum
12. Executive Officer's Report
13. Report of Department of Consumer Affairs (DCA) Staffing and Activities
14. Legislation and Regulations
 - A. 2018 Tentative Legislative Calendar – Information Only
 - B. Discussion and Possible Action Regarding the Following Legislation:
Bills to be reviewed and considered:
 - i. Assembly Bill 18 (Garcia) - Healing arts: Licensed Physicians and Dentists from Mexico Pilot Program
 - ii. Assembly Bill 224 (Thurmond) - Dentistry: Anesthesia and Sedation
 - iii. Assembly Bill 2078 (Daly) - Sex Offenses: Professional Services
 - iv. Assembly Bill 2086 (Gallagher) - Controlled Substances: CURES Database
 - v. Assembly Bill 2138 (Chiu) - Licensing Boards; Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
 - vi. Assembly Bill 2483 (Voepel) - Indemnification of Public Officers and Employees: Antitrust Awards
 - vii. Assembly Bill 2643 (Irwin) - Dentistry: General Anesthesia: Health Coverage
 - viii. Assembly Bill 2789 (Wood) - Health Care Practitioners: Prescriptions: Electronic Data Transmission
 - ix. Assembly Bill 2958 (Quirk) – State Bodies: Meetings: Teleconference
 - x. Senate Bill 501 (Glazer) - Dentistry: Anesthesia and Sedation: Report
 - xi. Senate Bill 1109 (Bates) - Controlled substances: Schedule II drugs: opioids
 - xii. Senate Bill 1137 (Vidak) – Veterans: Professional licensing benefits
 - xiii. Senate Bill 1148 (Pan) - Medi-Cal: Restorative Dental Services
 - xiv. Senate Bill 1238 (Roth) - Patient Records; Maintenance and Storage
 - xv. Senate Bill 1298 (Skinner) - Increasing Access to Employment Act
 - xvi. Senate Bill 1480 (Hill) - Professions and Vocations
 - xvii. Senate Bill 1482 (Hill) - Dental Hygienists
 - xviii. Senate Bill 1491 (Committee on Business Professions and Economic Development/Hill) - Healing Arts

Bills for information purposes only, no discussion or action:

- i. Assembly Bill 1751 (Low) - Controlled Substances: CURES Database
 - ii. Assembly Bill 1752 (Low) - Controlled Substances: CURES Database
 - iii. Assembly Bill 1753 (Low) - Controlled Substances: CURES Database
 - iv. Assembly Bill 2174 (Waldron) - Heroin and Opioid Public Education (HOPE) Act
 - v. Assembly Bill 2783 (O'Donnell) - Controlled Substances; Hydrocodone Combination Products: Schedules
 - vi. Senate Bill 984 (Skinner) - State Boards and Commissions: Representation: Women
 - vii. Senate Bill 1125 (Atkins) - Federally Qualified Health Center and Rural Health Clinic Services
 - viii. Senate Bill 1240 (Stone) - Prescription Drugs: CURES Database
- C. Discussion of Prospective Legislative Proposals
Stakeholders are Encouraged to Submit Proposals In Writing to the Board Before or During the Meeting for Possible Consideration by the Board at a Future Meeting

15. Licensing, Certifications, and Permits Committee Report on Closed Session
The Board may take action on recommendations regarding applications for issuance of new license(s) to replace cancelled license(s) and whether or not to grant, deny, or request further evaluation for a Conscious Sedation Permit as it relates to an onsite inspection and evaluation failure.
16. Public Comment on Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
17. Board Member Comments on Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Board Member Comments section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
18. Adjournment



MEMORANDUM

DATE	August 1, 2018
TO	Members of the Dental Board of California
FROM	Jeri Westerfeld, Executive Assistant Dental Board of California
SUBJECT	Agenda Item 12: Executive Officer's Report

Background:

Karen Fischer, Executive Officer, will provide a verbal report.

Action Requested:

No Board action requested.



MEMORANDUM

DATE	August 1, 2018
TO	Members of the Dental Board of California
FROM	Jeri Westerfeld, Executive Assistant Dental Board of California
SUBJECT	Agenda Item 13: Report of Department of Consumer Affairs (DCA) Staffing and Activities

Background:

Patrick Le, Assistant Deputy Director of the Office of Board and Bureau Services within the Department of Consumer Affairs, will provide a verbal report.

Action Requested:

No Board action requested.



MEMORANDUM

DATE	August 1, 2018
TO	Members of the Dental Board of California
FROM	Jeri Westerfeld, Executive Assistant Dental Board of California
SUBJECT	Agenda Item 14A: 2018 Tentative Legislative Calendar—Information Only

The 2018 Tentative Legislative Calendar for both the Senate and Assembly are enclosed.

Action Requested:
No action necessary.

2018 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11/16/16

DEADLINES

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

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** **Legislature Reconvenes** (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 12** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the **odd-numbered year** (J.R. 61(b)(1)).
- Jan. 15** Martin Luther King, Jr. Day.
- Jan. 19** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year (J.R. 61(b)(2)). Last day to **submit bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to **pass bills introduced** in that house in the odd-numbered year (J.R. 61(b)(3), (Art. IV, Sec. 10(c)).

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

- Feb. 16** Last day for bills to be **introduced** (J.R. 61(b)(4), (J.R. 54(a)).
- Feb. 19** Presidents' Day.

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

- Mar. 22** **Spring Recess** begins upon adjournment of this day's session (J.R. 51(b)(1)).
- Mar. 30** Cesar Chavez Day observed.

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

- Apr. 2** **Legislature Reconvenes** from Spring Recess (J.R. 51(b)(1)).
- Apr. 27** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house (J.R. 61(b)(5)).

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

- May 11** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 18** Last day for **policy committees** to meet prior to June 4 (J.R. 61(b)(7)).
- May 25** Last day for **fiscal committees** to hear and report to the floor bills introduced in their house (J.R. 61(b)(8)). Last day for **fiscal committees** to meet prior to June 4 (J.R. 61(b)(9)).
- May 28** Memorial Day.
- May 29- June 1 Floor Session only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61 (b)(10)).

*Holiday schedule subject to Senate Rules committee approval

2018 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE

Revised 11/16/16

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

- June 1** Last day for each **house to pass bills** introduced in that house (J.R. 61(b)(11)).
- June 4** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).
- June 28** Last day for a legislative measure to qualify for the Nov. 6 General Election ballot (Elections code Sec. 9040).
- June 29** Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

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

- July 4** Independence Day.
- July 6** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)). **Summer Recess** begins upon adjournment provided Budget Bill has been passed (J.R. 51(b)(2)).

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

- Aug. 6** **Legislature Reconvenes** (J.R. 51(b)(2)).
- Aug. 17** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).
- Aug. 20-31** **Floor Session only.** No committees, other than Conference and Rules Committees, may meet for any purpose (J.R. 61(b)(16)).
- Aug. 24** Last day to **amend** on the floor (J.R. 61(b)(17)).
- Aug. 31** Last day for **each house to pass bills**, except bills that take effect immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c), (J.R. 61(b)(18)). **Final Recess** begins upon adjournment (J.R. 51(b)(3)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2018

- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Nov. 6 General Election
- Nov. 30 Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 3 12 Noon convening of the 2019-20 Regular Session (Art. IV, Sec. 3(a)).

2019

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

2018 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK

Revised 9-20-17

DEADLINES

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 12** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 15** Martin Luther King, Jr. Day.
- Jan. 19** Last day for any committee to hear and report to the **Floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).

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

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1					1	2	3
Wk. 2	4	5	6	7	8	9	10
Wk. 3	11	12	13	14	15	16	17
Wk. 4	18	19	20	21	22	23	24
Wk. 1	25	26	27	28			

- Feb. 16** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).
- Feb. 19** Presidents' Day.

MARCH							
	S	M	T	W	TH	F	S
Wk. 1					1	2	3
Wk. 2	4	5	6	7	8	9	10
Wk. 3	11	12	13	14	15	16	17
Wk. 4	18	19	20	21	22	23	24
Spring Recess	25	26	27	28	29	30	31

- Mar. 22** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Mar. 30** Cesar Chavez Day observed.

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

- Apr. 2** Legislature reconvenes from Spring Recess (J.R. 51 (b)(1)).
- Apr. 27** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 11** Last day for **policy committees** to hear and report to the Floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 18** Last day for **policy committees** to meet prior to June 4 (J.R. 61(b)(7)).
- May 25** Last day for **fiscal committees** to hear and report to the **Floor** bills introduced in their house (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to June 4 (J.R. 61 (b)(9)).
- May 28** Memorial Day.
- May 29 – June 1** **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).

MAY							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Wk. 4	20	21	22	23	24	25	26
No Hrgs.	27	28	29	30	31		

*Holiday schedule subject to final approval by Rules Committee.

2018 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK

Revised 9-20-17

JUNE							
	S	M	T	W	TH	F	S
No Hrgs.						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30

June 1 Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

June 4 Committee meetings may resume (J.R. 61(b)(12)).

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).

June 28 Last day for a legislative measure to qualify for the Nov. 6 General Election ballot. (Elec. Code Sec. 9040)

June 29 Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

JULY							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Summer Recess	8	9	10	11	12	13	14
Summer Recess	15	16	17	18	19	20	21
Summer Recess	22	23	24	25	26	27	28
Summer Recess	29	30	31				

July 4 Independence Day.

July 6 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)). **Summer Recess** begins on adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).

AUGUST							
	S	M	T	W	TH	F	S
Summer Recess				1	2	3	4
Wk. 2	5	6	7	8	9	10	11
Wk. 3	12	13	14	15	16	17	18
No Hrgs.	19	20	21	22	23	24	25
No Hrgs.	26	27	28	29	30	31	

Aug. 6 Legislature reconvenes from Summer Recess (J.R. 51(b)(2)).

Aug. 17 Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).

Aug. 20 – 31 Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).

Aug. 24 Last day to **amend** on Floor (J.R. 61(b)(17)).

Aug. 31 Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)). **Final Recess** begins on adjournment (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2018

Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec.10(b)(2)).

Oct. 1 Bills enacted on or before this date take effect January 1, 2019 (Art. IV, Sec. 8(c)).

Nov. 6 General Election.

Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).

Dec. 3 2019-20 Regular Session convenes for Organizational Session at 12 noon (Art. IV, Sec. 3(a)).

2019

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 18

AUTHOR: E. Garcia

SPONSOR:

VERSION: Amended 07/02/2018

INTRODUCED: 12/05/2016

BILL STATUS: 07/03/2018 – Withdrawn from Senate Appropriations Committee. Re-referred to Senate Rules Committee.

BILL LOCATION: Senate Rules Committee

SUBJECT: Healing Arts: Licensed Physicians and Dentists from Mexico Pilot Program.

**RELATED
BILLS:**

SUMMARY

Existing law, the Licensed Physicians and Dentists from Mexico Pilot Program, allows licensed physicians and dentists from Mexico to practice medicine or dentistry in California for a period not to exceed 3 years and establishes requirements for the participants in the program, including that a physician from Mexico, before leaving Mexico, is required to satisfactorily complete a 6 months orientation program that addressees specified topics and is approved by the Medical Board of California.

This bill would remove the requirement that the orientation program be 6 months in length.

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

ANALYSIS

This bill would amend existing language of Business and Professions Code 853 to remove the requirement that an orientation program be six-months in length.

Board staff does not anticipate any significant impact on the Board should AB 18 pass in its current form.

REGISTERED SUPPORT/OPPOSITION

Support

Oppose

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT: _____ OPPOSE: _____ NEUTRAL: _____ WATCH: _____

AMENDED IN SENATE JULY 2, 2018
AMENDED IN SENATE AUGUST 30, 2017
AMENDED IN ASSEMBLY FEBRUARY 23, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 18

Introduced by Assembly Members ~~Eduardo Garcia, Chiu, Chu, Eggman, Gonzalez Fletcher, Kalra, Levine, Limón, McCarty, and Thurmond~~ Member *Eduardo Garcia*

December 5, 2016

An act to ~~add Chapter 14 (commencing with Section 5880) to Division 5 of the Public Resources Code, relating to a clean water, climate, coastal protection, and outdoor access for all program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, amend Section 853 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as amended, Eduardo Garcia. ~~California Clean Water, Climate, Coastal Protection, and Outdoor Access For All Act of 2018. Healing arts: Licensed Physicians and Dentists from Mexico Pilot Program.~~

Existing law, the Licensed Physicians and Dentists from Mexico Pilot Program, allows licensed physicians and dentists from Mexico to practice medicine or dentistry in California for a period not to exceed 3 years and establishes requirements for the participants in the program, including that a physician from Mexico, before leaving Mexico, is

required to satisfactorily complete a 6 months orientation program that addressees specified topics and is approved by the Medical Board of California.

This bill would remove the requirement that the orientation program be 6 months in length.

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

~~Under existing law, programs have been established pursuant to bond acts for, among other things, the development and enhancement of state and local parks and recreational facilities.~~

~~This bill would enact the California Clean Water, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$3,470,000,000 pursuant to the State General Obligation Bond Law to finance a clean water, climate, coastal protection, and outdoor access for all program.~~

~~The bill would provide for the submission of these provisions to the voters at the June 5, 2018, statewide direct primary election.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 853 of the Business and Professions Code
- 2 is amended to read:
- 3 853. (a) The Licensed Physicians and Dentists from Mexico
- 4 Pilot Program is hereby created. This program shall allow up to
- 5 30 licensed physicians specializing in family practice, internal
- 6 medicine, pediatrics, and obstetrics and gynecology, and up to 30
- 7 licensed dentists from Mexico to practice medicine or dentistry in
- 8 California for a period not to exceed three years. The program
- 9 shall also maintain an alternate list of program participants.
- 10 (b) The Medical Board of California shall issue three-year
- 11 nonrenewable licenses to practice medicine to licensed Mexican
- 12 physicians and the Dental Board of California shall issue three-year
- 13 nonrenewable permits to practice dentistry to licensed Mexican
- 14 dentists.

1 (c) Physicians from Mexico eligible to participate in this
2 program shall comply with the following:

3 (1) Be licensed, certified or recertified, and in good standing in
4 their medical specialty in Mexico. This certification or
5 recertification shall be performed, as appropriate, by the Consejo
6 Mexicano de Ginecología y Obstetricia, A.C., the Consejo
7 Mexicano de Certificación en Medicina Familiar, A.C., the Consejo
8 Mexicano de Medicina Interna, A.C., or the Consejo Mexicano de
9 Certificación en Pediatría, A.C.

10 (2) Prior to leaving Mexico, each physician shall have completed
11 the following requirements:

12 (A) Passed the board review course with a score equivalent to
13 that registered by United States applicants when passing a board
14 review course for the United States certification examination in
15 each of his or her specialty areas and passed an interview
16 examination developed by the National Autonomous University
17 of Mexico (UNAM) for each specialty area. Family practitioners
18 who shall include obstetrics and gynecology in their practice shall
19 also be required to have appropriately documented, as specified
20 by United States standards, 50 live births. Mexican obstetricians
21 and gynecologists shall be fellows in good standing of the
22 American College of Obstetricians and Gynecologists.

23 (B) (i) Satisfactorily completed ~~a six-month~~ *an* orientation
24 program that addressed medical protocol, community clinic history
25 and operations, medical administration, hospital operations and
26 protocol, medical ethics, the California medical delivery system,
27 health maintenance organizations and managed care practices, and
28 pharmacology differences. This orientation program shall be
29 approved by the Medical Board of California to ensure that it
30 contains the requisite subject matter and meets appropriate
31 California law and medical standards where applicable.

32 (ii) Additionally, Mexican physicians participating in the
33 program shall be required to be enrolled in adult
34 English-as-a-second-language (ESL) classes that focus on both
35 verbal and written subject matter. Each physician participating in
36 the program shall have transcripts sent to the Medical Board of
37 California from the appropriate Mexican university showing
38 enrollment and satisfactory completion of these classes.

39 (C) Representatives from the UNAM in Mexico and a medical
40 school in good standing or a facility conducting an approved

1 medical residency training program in California shall confer to
2 develop a mutually agreed upon distant learning program for the
3 ~~six-month~~ orientation program required pursuant to subparagraph
4 (B).

5 (3) Upon satisfactory completion of the requirements in
6 paragraphs (1) and (2), and after having received their three-year
7 nonrenewable medical license, the Mexican physicians shall be
8 required to obtain continuing education pursuant to Section 2190.
9 Each physician shall obtain an average of 25 continuing education
10 units per year for a total of 75 units for a full three years of program
11 participation.

12 (4) Upon satisfactory completion of the requirements in
13 paragraphs (1) and (2), the applicant shall receive a three-year
14 nonrenewable license to work in nonprofit community health
15 centers and shall also be required to participate in a six-month
16 externship at his or her place of employment. This externship shall
17 be undertaken after the participant has received a license and is
18 able to practice medicine. The externship shall ensure that the
19 participant is complying with the established standards for quality
20 assurance of nonprofit community health centers and medical
21 practices. The externship shall be affiliated with a medical school
22 in good standing in California. Complaints against program
23 participants shall follow the same procedures contained in the
24 Medical Practice Act (Chapter 5 (commencing with Section 2000)).

25 (5) After arriving in California, Mexican physicians participating
26 in the program shall be required to be enrolled in adult ESL classes
27 at institutions approved by the Bureau of Private Post Secondary
28 and Vocational Education or accredited by the Western Association
29 of Schools and Colleges. These classes shall focus on verbal and
30 written subject matter to assist a physician in obtaining a level of
31 proficiency in English that is commensurate with the level of
32 English spoken at community clinics where he or she will practice.
33 The community clinic employing a physician shall submit
34 documentation confirming approval of an ESL program to the
35 board for verification. Transcripts of satisfactory completion of
36 the ESL classes shall be submitted to the Medical Board of
37 California as proof of compliance with this provision.

38 (6) (A) Nonprofit community health centers employing Mexican
39 physicians in the program shall be required to have medical quality
40 assurance protocols and either be accredited by the Joint

1 Commission on Accreditation of Health Care Organizations or
2 have protocols similar to those required by the Joint Commission
3 on Accreditation of Health Care Organizations. These protocols
4 shall be submitted to the Medical Board of California prior to the
5 hiring of Mexican physicians.

6 (B) In addition, after the program participant successfully
7 completes the six-month externship program, a free standing health
8 care organization that has authority to provide medical quality
9 certification, including, but not limited to, health plans, hospitals,
10 and the Integrated Physician Association, is responsible for
11 ensuring and overseeing the compliance of nonprofit community
12 health centers medical quality assurance protocols, conducting site
13 visits when necessary, and developing any additional protocols,
14 surveys, or assessment tools to ensure that quality of care standards
15 through quality assurance protocols are being appropriately
16 followed by physicians participating in the program.

17 (7) Participating hospitals shall have the authority to establish
18 criteria necessary to allow individuals participating in this
19 three-year pilot program to be granted hospital privileges in their
20 facilities.

21 (8) The Medical Board of California shall provide oversight
22 review of both the implementation of this program and the
23 evaluation required pursuant to subdivision (j). The board shall
24 consult with the medical schools applying for funding to implement
25 and evaluate this program, executive and medical directors of
26 nonprofit community health centers wanting to employ program
27 participants, and hospital administrators who will have these
28 participants practicing in their hospital, as it conducts its oversight
29 responsibilities of this program and evaluation. Any funding
30 necessary for the implementation of this program, including the
31 evaluation and oversight functions, shall be secured from nonprofit
32 philanthropic entities. Implementation of this program may not
33 proceed unless appropriate funding is secured from nonprofit
34 philanthropic entities. The board shall report to the Legislature
35 every January during which the program is operational regarding
36 the status of the program and the ability of the program to secure
37 the funding necessary to carry out its required provisions.
38 Notwithstanding Section 11005 of the Government Code, the board
39 may accept funds from nonprofit philanthropic entities. The board

1 shall, upon appropriation in the annual Budget Act, expend funds
2 received from nonprofit philanthropic entities for this program.

3 (d) (1) Dentists from Mexico eligible to participate in this
4 program shall comply with the following requirements or the
5 requirements contained in paragraph (2):

6 (A) Be graduates from the National Autonomous University of
7 Mexico School of Faculty Dentistry (Facultad de Odontología).

8 (B) Meet all criteria required for licensure in Mexico that is
9 required and being applied by the National Autonomous University
10 of Mexico School of Faculty Dentistry (Facultad de Odontología),
11 including, but not limited to:

12 (i) A minimum grade point average.

13 (ii) A specified English language comprehension and
14 conversational level.

15 (iii) Passage of a general examination.

16 (iv) Passage of an oral interview.

17 (C) Enroll and complete an orientation program that focuses on
18 the following:

19 (i) Practical issues in pharmacology that shall be taught by an
20 instructor who is affiliated with a California dental school approved
21 by the Dental Board of California.

22 (ii) Practical issues and diagnosis in oral pathology that shall
23 be taught by an instructor who is affiliated with a California dental
24 school approved by the Dental Board of California.

25 (iii) Clinical applications that shall be taught by an instructor
26 who is affiliated with a California dental school approved by the
27 Dental Board of California.

28 (iv) Biomedical sciences that shall be taught by an instructor
29 who is affiliated with a California dental school approved by the
30 Dental Board of California.

31 (v) Clinical history management that shall be taught by an
32 instructor who is affiliated with a California dental school approved
33 by the Dental Board of California.

34 (vi) Special patient care that shall be taught by an instructor
35 who is affiliated with a California dental school approved by the
36 Dental Board of California.

37 (vii) Sedation techniques that shall be taught by an instructor
38 who is affiliated with a California dental school approved by the
39 Dental Board of California.

1 (viii) Infection control guidelines which shall be taught by an
2 instructor who is affiliated with a California dental school approved
3 by the Dental Board of California.

4 (ix) Introduction to health care systems in California.

5 (x) Introduction to community clinic operations.

6 (2) (A) Graduate within the three-year period prior to enrollment
7 in the program, from a foreign dental school that has received
8 provisional approval or certification by November of 2003 from
9 the Dental Board of California under the Foreign Dental School
10 Approval Program.

11 (B) Enroll and satisfactorily complete an orientation program
12 that focuses on the health care system and community clinic
13 operations in California.

14 (C) Enroll and satisfactorily complete a course taught by an
15 approved foreign dental school on infection control approved by
16 the Dental Board of California.

17 (3) Upon satisfactory completion to a competency level of the
18 requirements in paragraph (1) or (2), dentists participating in the
19 program shall be eligible to obtain employment in a nonprofit
20 community health center pursuant to subdivision (f) within the
21 structure of an extramural dental program for a period not to exceed
22 three years.

23 (4) Dentists participating in the program shall be required to
24 complete the necessary continuing education units required by the
25 Dental Practice Act (Chapter 4 (commencing with Section 1600)).

26 (5) The program shall accept 30 participating dentists. The
27 program shall also maintain an alternate list of program applicants.
28 If an active program participant leaves the program for any reason,
29 a participating dentist from the alternate list shall be chosen to fill
30 the vacancy. Only active program participants shall be required to
31 complete the orientation program specified in subparagraph (C)
32 of paragraph (1).

33 (6) (A) Additionally, an extramural dental facility may be
34 identified, qualified, and approved by the board as an adjunct to,
35 and an extension of, the clinical and laboratory departments of an
36 approved dental school.

37 (B) As used in this subdivision, "extramural dental facility"
38 includes, but is not limited to, any clinical facility linked to an
39 approved dental school for the purposes of monitoring or
40 overseeing the work of a dentist licensed in Mexico participating

1 in this program and that is employed by an approved dental school
2 for instruction in dentistry that exists outside or beyond the walls,
3 boundaries, or precincts of the primary campus of the approved
4 dental school, and in which dental services are rendered. These
5 facilities shall include nonprofit community health centers.

6 (C) Dental services provided to the public in these facilities
7 shall constitute a part of the dental education program.

8 (D) Approved dental schools shall register extramural dental
9 facilities with the board. This registration shall be accompanied
10 by information supplied by the dental school pertaining to faculty
11 supervision, scope of treatment to be rendered, arrangements for
12 postoperative care, the name and location of the facility, the date
13 operations shall commence at the facility, and a description of the
14 equipment and facilities available. This information shall be
15 supplemented with a copy of the agreement between the approved
16 dental school and the affiliated institution establishing the
17 contractual relationship. Any change in the information initially
18 provided to the board shall be communicated to the board.

19 (7) The program shall also include issues dealing with program
20 operations, and shall be developed in consultation by
21 representatives of community clinics, approved dental schools, or
22 the National Autonomous University of Mexico School of Faculty
23 Dentistry (Facultad de Odontología).

24 (8) The Dental Board of California shall provide oversight
25 review of the implementation of this program and the evaluation
26 required pursuant to subdivision (j). The board shall consult with
27 dental schools in California that have applied for funding to
28 implement and evaluate this program and executive and dental
29 directors of nonprofit community health centers wanting to employ
30 program participants, as it conducts its oversight responsibilities
31 of this program and evaluation. Implementation of this program
32 may not proceed unless appropriate funding is secured from
33 nonprofit philanthropic entities. The board shall report to the
34 Legislature every January during which the program is operational
35 regarding the status of the program and the ability of the program
36 to secure the funding necessary to carry out its required provisions.
37 Notwithstanding Section 11005 of the Government Code, the board
38 may accept funds from nonprofit philanthropic entities.

39 (e) Nonprofit community health centers that employ participants
40 shall be responsible for ensuring that participants are enrolled in

1 local English-language instruction programs and that the
2 participants attain English-language fluency at a level that would
3 allow the participants to serve the English-speaking patient
4 population when necessary and have the literacy level to
5 communicate with appropriate hospital staff when necessary.

6 (f) Physicians and dentists from Mexico having met the
7 applicable requirements set forth in subdivisions (c) and (d) shall
8 be placed in a pool of candidates who are eligible to be recruited
9 for employment by nonprofit community health centers in
10 California, including, but not limited to, those located in the
11 Counties of Ventura, Los Angeles, San Bernardino, Imperial,
12 Monterey, San Benito, Sacramento, San Joaquin, Santa Cruz,
13 Yuba, Orange, Colusa, Glenn, Sutter, Kern, Tulare, Fresno,
14 Stanislaus, San Luis Obispo, and San Diego. The Medical Board
15 of California shall ensure that all Mexican physicians participating
16 in this program have satisfactorily met the requirements set forth
17 in subdivision (c) prior to placement at a nonprofit community
18 health center.

19 (g) Nonprofit community health centers in the counties listed
20 in subdivision (f) shall apply to the Medical Board of California
21 and the Dental Board of California to hire eligible applicants who
22 shall then be required to complete a six-month externship that
23 includes working in the nonprofit community health center and a
24 corresponding hospital. Once enrolled in this externship, and upon
25 payment of the required fees, the Medical Board of California shall
26 issue a three-year nonrenewable license to practice medicine and
27 the Dental Board of California shall issue a three-year
28 nonrenewable dental special permit to practice dentistry. For
29 purposes of this program, the fee for a three-year nonrenewable
30 license to practice medicine shall be nine hundred dollars (\$900)
31 and the fee for a three-year nonrenewable dental permit shall be
32 five hundred forty-eight dollars (\$548). A licensee or permit holder
33 shall practice only in the nonprofit community health center that
34 offered him or her employment and the corresponding hospital.
35 This three-year nonrenewable license or permit shall be deemed
36 to be a license or permit in good standing pursuant to the provisions
37 of this chapter for the purpose of participation and reimbursement
38 in all federal, state, and local health programs, including managed
39 care organizations and health maintenance organizations.

1 (h) The three-year nonrenewable license or permit shall
2 terminate upon notice by certified mail, return receipt requested,
3 to the licensee's or permitholder's address of record, if, in the
4 Medical Board of California or Dental Board of California's sole
5 discretion, it has determined that either:

6 (1) The license or permit was issued by mistake.

7 (2) A complaint has been received by either board against the
8 licensee or permitholder that warrants terminating the license or
9 permit pending an investigation and resolution of the complaint.

10 (i) All applicable employment benefits, salary, and policies
11 provided by nonprofit community health centers to their current
12 employees shall be provided to medical and dental practitioners
13 from Mexico participating in this pilot program. This shall include
14 nonprofit community health centers providing malpractice
15 insurance coverage.

16 (j) Beginning 12 months after this pilot program has
17 commenced, an evaluation of the program shall be undertaken
18 with funds provided from philanthropic foundations. The evaluation
19 shall be conducted jointly by one medical school and one dental
20 school in California and either UNAM or a foreign dental school
21 approved by the Dental Board of California, in consultation with
22 the Medical Board of California. If the evaluation required pursuant
23 to this section does not begin within 15 months after the pilot
24 project has commenced, the evaluation may be performed by an
25 independent consultant selected by the Director of the Department
26 of Consumer Affairs. This evaluation shall include, but not be
27 limited to, the following issues and concerns:

28 (1) Quality of care provided by doctors and dentists licensed
29 under this pilot program.

30 (2) Adaptability of these licensed practitioners to California
31 medical and dental standards.

32 (3) Impact on working and administrative environment in
33 nonprofit community health centers and impact on interpersonal
34 relations with medical licensed counterparts in health centers.

35 (4) Response and approval by patients.

36 (5) Impact on cultural and linguistic services.

37 (6) Increases in medical encounters provided by participating
38 practitioners to limited-English-speaking patient populations and
39 increases in the number of limited-English-speaking patients

1 seeking health care services from nonprofit community health
2 centers.

3 (7) Recommendations on whether the program should be
4 continued, expanded, altered, or terminated.

5 (8) Progress reports on available data listed shall be provided
6 to the Legislature on achievable time intervals beginning the second
7 year of implementation of this pilot program. An interim final
8 report shall be issued three months before termination of this pilot
9 program. A final report shall be submitted to the Legislature at the
10 time of termination of this pilot program on all of the above data.
11 The final report shall reflect and include how other initiatives
12 concerning the development of culturally and linguistically
13 competent medical and dental providers within California and the
14 United States are impacting communities in need of these health
15 care providers.

16 (k) Costs for administering this pilot program shall be secured
17 from philanthropic entities.

18 (l) Program applicants shall be responsible for working with
19 the governments of Mexico and the United States in order to obtain
20 the necessary three-year visa required for program participation.

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

25 *In order to address the urgent shortage of doctors in rural and*
26 *farmworker communities in California and the consequences to*
27 *the public health, it is necessary that this act take effect*
28 *immediately.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate August 30, 2017. (JR11)**

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 224

AUTHOR: T. Thurmond

SPONSOR: American Academy
of Pediatrics,
California

VERSION: Amended 05/30/2017

INTRODUCED: 01/26/2017

BILL STATUS: 07/10/2017 – In Senate Com.
On B., P. & E.D: Set, first
hearing. Testimony taken.
Further hearing to be set.

BILL LOCATION: Senate Business
Professions &
Economic
Development
Committee

SUBJECT: Dentistry: anesthesia and
sedation.

**RELATED
BILLS:** SB 501

SUMMARY

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California, which is within the Department of Consumer Affairs. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for a dentist to engage in certain conduct, including failing to obtain written consent prior to administering general anesthesia or conscious sedation. The act also makes a willful violation of its provisions, including practicing without a valid certificate or license, a crime, and defines various terms relating to anesthesia and sedation.

This bill, on or before January 1, 2019, would require the board to contract with a nonprofit research organization for the purpose of obtaining high-quality pediatric sedation and anesthesia-related data.

This bill, on and after January 1, 2019, would redefine general anesthesia for these purposes. The bill would define “deep sedation” to mean a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation, as specified.

The Dental Practice Act prohibits a dentist from administering or ordering the administration of general anesthesia on an outpatient basis for dental patients unless the dentist meets certain licensing criteria.

This bill would extend that licensing criteria to dentists administering deep sedation. The bill would require dentists to have a pediatric endorsement of their general anesthesia permit and have completed a Commission on Dental Accreditation accredited or equivalent residency training program providing competency in the administration of deep sedation or general anesthesia to be eligible to administer these drugs to patients under 13 years of age. The bill also would require dentists to have completed at least 20 cases to establish competency for patients under 7 years of age, and would require dentists to perform a physical evaluation and a medical history before administering deep sedation or general anesthesia. The bill would further require that, for any procedure involving deep sedation or general anesthesia for patients between 7 and 13 years of age, the dentist and at least 2 support staff be present, except as specified, and would require the dentist and at least one support staff to have certain advanced life support and airway management training, as specified. The bill also would require an operating dentist, an assistant, and a dedicated monitor, as defined, to be present during procedures on children under 7 years of age, and would require the dedicated monitor to have certain advanced life support and airway management training, as specified. The bill would make these provisions operative on January 1, 2019.

The Dental Practice Act prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist meets certain licensing criteria.

This bill would replace the term “conscious sedation” with “moderate sedation” and, on and after January 1, 2020, would define “moderate sedation” as a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands and meets other criteria. The bill would prohibit a dentist from administering or ordering the administration of moderate sedation on an outpatient basis to a dental patient unless the dentist meets specified licensing criteria and has applied to the board, submitted an application fee, and shown successful completion of training in moderate sedation. The bill would require a dentist who orders the administration of moderate sedation to be physically present in the treatment facility while the patient is sedated. The bill would specify that training in the administration of moderate sedation for patients 13 years of age or older is acceptable if it consists of a certain number of instructional hours and completion of cases and complies with certain guidelines for teaching pain control and sedation. The bill would require a dentist, prior to performing any procedure involving moderate sedation of a patient under 13 years of age, to obtain a pediatric endorsement, requiring a specified number of didactic instruction and clinical cases as well as advanced life support and airway management training. The bill also would require for a child under 7 years of age that there be at least 2 support staff persons in addition to the practicing dentist present at all times during the procedure, with one staff person member serving as a dedicated patient monitor. The bill would make these provisions operative on January 1, 2020.

This bill also would establish new requirements for dentists administering or ordering the administration of minimal sedation, defined as a drug-induced state during which patients respond normally to verbal commands, as specified, for pediatric patients under

13 years of age. These new requirements would include that the dentist possess specified licensing credentials, and would require any dentist who desires to administer or order the administration of minimal sedation to apply to the board, as specified, and to submit an application fee. The bill would make a violation of these provisions governing minimal sedation unprofessional conduct, constituting grounds for the revocation or suspension of the dentist's permit or other forms of reprimand. The bill would make these provisions operative on January 1, 2020.

By placing new requirements on dentists and other practitioners, this bill would expand the scope of an existing crime for violations of the Dental Practice Act, and would, therefore, impose a state-mandated local program.

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

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

ANALYSIS

AB 224 has been withdrawn by the Author at the Senate Business, Professions and Economic Development Committee.

REGISTERED SUPPORT/OPPOSITION

Support

American Academy of Pediatrics, California (Sponsor)
California Society of Dentist Anesthesiologists
Happy Bear Surgery Center
Pediatric Dental Initiative Surgery Center
Several Individuals

Oppose

California Dental Association
California Association of Oral and Maxillofacial Surgeons

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN ASSEMBLY MAY 30, 2017
AMENDED IN ASSEMBLY MAY 17, 2017
AMENDED IN ASSEMBLY MAY 2, 2017
AMENDED IN ASSEMBLY APRIL 20, 2017
AMENDED IN ASSEMBLY MARCH 27, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Thurmond

January 26, 2017

An act to amend Sections 1646, 1646.1, 1646.2, 1646.3, 1646.4, 1646.5, 1646.8, 1646.9, 1647, 1647.1, 1647.2, 1647.3, 1647.5, 1647.6, 1647.7, 1647.11, 1647.12, 1647.19, 1682, 1724, and 1750.5 of, to amend the heading of Article 2.7 (commencing with Section 1646) and Article 2.8 (commencing with Section 1647) of Chapter 4 of Division 2 of, to add Section 1616.1 to, and to add Article 2.87 (commencing with Section 1647.30) to Chapter 4 of Division 2 of, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

AB 224, as amended, Thurmond. Dentistry: anesthesia and sedation. The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California, which is within the Department of Consumer Affairs. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for a dentist to engage in certain conduct, including failing to obtain written consent

prior to administering general anesthesia or conscious sedation. The act also makes a willful violation of its provisions, including practicing without a valid certificate or license, a crime, and defines various terms relating to anesthesia and sedation.

This bill, on or before January 1, 2019, would require the board to contract with a nonprofit research organization for the purpose of obtaining high-quality pediatric sedation and anesthesia-related data.

~~This bill~~ *bill, on and after January 1, 2019, would redefine general anesthesia for these purposes and additionally purposes. The bill would define “deep sedation” to mean a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation, as specified.*

The Dental Practice Act prohibits a dentist from administering or ordering the administration of general anesthesia on an outpatient basis for dental patients unless the dentist meets certain licensing criteria.

This bill would extend that licensing criteria to dentists administering deep sedation. The bill would require dentists to have a pediatric endorsement of their general anesthesia permit and have completed a Commission on Dental Accreditation accredited or equivalent residency training program providing competency in the administration of deep sedation or general anesthesia to be eligible to administer these drugs to patients under 13 years of age. The bill also would require dentists to have completed at least ~~52~~ 20 cases to establish competency for patients under 7 years of age, and would require dentists to perform a physical evaluation and a medical history before administering deep sedation or general anesthesia. The bill would further require that, for any procedure involving deep sedation or general anesthesia for patients between 7 and 13 years of age, the dentist and at least 2 support staff be present, except as specified, and would require the dentist and at least one support staff to have certain advanced life support and airway management training, as specified. The bill also would require an operating dentist, an assistant, and a dedicated monitor, as defined, to be present during procedures on children under 7 years of age, and would require the dedicated monitor to have certain advanced life support and airway management training, as specified. *The bill would make these provisions operative on January 1, 2019.*

The Dental Practice Act prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist meets certain licensing criteria.

This bill would replace the term “conscious sedation” with “moderate sedation,” ~~meaning sedation~~ *and, on and after January 1, 2020, would define “moderate sedation” as a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands and meets other criteria.* The bill would prohibit a dentist from administering or ordering the administration of moderate sedation on an outpatient basis to a dental patient unless the dentist meets specified licensing criteria and has applied to the board, submitted an application fee, and shown successful completion of training in moderate sedation. The bill would require a dentist who orders the administration of moderate sedation to be physically present in the treatment facility while the patient is sedated. The bill would specify that training in the administration of moderate sedation for patients 13 years of age or older is acceptable if it consists of a certain number of instructional hours and completion of cases and complies with certain guidelines for teaching pain control and sedation. The bill would require a dentist, prior to performing any procedure involving moderate sedation of a patient under 13 years of age, to obtain a pediatric endorsement, requiring a specified number of didactic instruction and clinical cases as well as advanced life support and airway management training. The bill also would require for a child under 7 years of age that there be at least 2 support staff persons in addition to the practicing dentist present at all times during the procedure, with one staff person member serving as a dedicated patient monitor. *The bill would make these provisions operative on January 1, 2020.*

~~The~~

This bill also would establish new requirements for dentists administering or ordering the administration of minimal sedation, defined as a drug-induced state during which patients respond normally to verbal commands, as specified, for pediatric patients under 13 years of age. These new requirements would include that the dentist possess specified licensing credentials, and would require any dentist who desires to administer or order the administration of minimal sedation to apply to the board, as specified, and to submit an application fee. The bill would make a violation of these provisions governing minimal sedation unprofessional conduct, constituting grounds for the revocation or suspension of the dentist’s permit or other forms of reprimand. Additionally, by expanding *The bill would make these provisions operative on January 1, 2020.*

By placing new requirements on dentists and other practitioners, this bill would expand the scope of an existing crime for violations of the Dental Practice Act, ~~the bill would~~ and would, therefore, impose a state-mandated local program. This bill also would authorize the board to contract with a nonprofit research organization for the purpose of obtaining high-quality pediatric sedation and anesthesia-related data.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 1616.1 is added to the Business and
2 Professions Code, to read:

3 1616.1. On or before January 1, 2019, the board shall contract
4 with a nonprofit research organization for the purpose of obtaining
5 high-quality data about outcomes and complications related to
6 pediatric dental sedation and anesthesia. It is the intent of this
7 section that the collection of data shall lead to further quality
8 improvement and safety.

9 SEC. 2. The heading of Article 2.7 (commencing with Section
10 1646) of Chapter 4 of Division 2 of the Business and Professions
11 Code is amended to read:

12
13 Article 2.7. Use of Deep Sedation and General Anesthesia
14

15 SEC. 3. Section 1646 of the Business and Professions Code is
16 amended to read:

17 1646. As used in this article, the following definitions shall
18 apply:

19 (a) "Deep sedation" means a drug-induced depression of
20 consciousness during which patients cannot be easily aroused but
21 respond purposefully following repeated or painful stimulation.
22 The ability to independently maintain ventilatory function may be
23 impaired. Patients may require assistance in maintaining a patent

1 airway, and spontaneous ventilation may be inadequate.
2 Cardiovascular function is usually maintained.

3 (b) (1) (A) “General anesthesia” ~~means as used in this article,~~
4 *means a controlled state of depressed consciousness or*
5 *unconsciousness, accompanied by partial or complete loss of*
6 *protective reflexes, produced by a pharmacologic or*
7 *nonpharmacologic method, or a combination thereof.*

8 (B) *This paragraph shall become inoperative on January 1,*
9 *2019.*

10 (2) *On and after January 1, 2019, “general anesthesia” means*
11 *a drug-induced loss of consciousness during which patients are*
12 *not arousable, even by painful stimulation. The ability to*
13 *independently maintain ventilatory function is often impaired.*
14 *Patients often require assistance in maintaining a patent airway,*
15 *and positive pressure ventilation may be required because of*
16 *depressed spontaneous ventilation or drug-induced depression of*
17 *neuromuscular function. Cardiovascular function may be impaired.*

18 SEC. 4. Section 1646.1 of the Business and Professions Code
19 is amended to read:

20 1646.1. (a) A dentist shall not administer or order the
21 administration of deep sedation or general anesthesia on an
22 outpatient basis for dental patients unless the dentist either
23 possesses a current license in good standing to practice dentistry
24 in this state and holds a valid general anesthesia permit issued by
25 the board or possesses a current permit under Section 1638 or 1640
26 and holds a valid general anesthesia permit issued by the board.

27 (b) ~~A—~~*On and after January 1, 2019, a dentist shall not*
28 *administer or order the administration of deep sedation or general*
29 *anesthesia to patients under 13 years of age unless that dentist*
30 *holds a pediatric endorsement for the general anesthesia permit,*
31 *as required by the board, allowing the administration of deep*
32 *sedation or general anesthesia for patients 12 years of age or*
33 *younger.*

34 (c) A dentist shall not order the administration of general
35 anesthesia unless the dentist is physically within the dental office
36 at the time of the administration.

37 (d) A general anesthesia permit shall expire on the date provided
38 in Section 1715 that next occurs after its issuance, unless it is
39 renewed as provided in this article.

1 (e) ~~The~~ *On and after January 1, 2019, a dentist shall have*
 2 *completed a Commission on Dental Accreditation (CODA)*
 3 *accredited or equivalent residency training program that provides*
 4 *competency in the administration of deep sedation and general*
 5 *anesthesia in order to be eligible to perform deep sedation or*
 6 *general anesthesia on children under 13 years of age.* ~~For~~ *On and*
 7 *after January 1, 2019, for patients under seven years of age, the*
 8 *applicant shall provide proof of completion of at least 52 20 cases*
 9 *to establish competency, both at the time of initial application and*
 10 *at renewal.*

11 (f) This article does not apply to the administration of local
 12 anesthesia, minimal sedation, or moderate sedation.

13 SEC. 5. Section 1646.2 of the Business and Professions Code
 14 is amended to read:

15 1646.2. (a) A dentist who desires to administer or order the
 16 ~~administration of deep sedation or general anesthesia~~ *administration,*
 17 ~~or, on and after January 1, 2019, to administer or order the~~
 18 ~~administration of deep sedation or general anesthesia,~~ *shall apply*
 19 *to the board on an application form prescribed by the board. The*
 20 ~~dentist must~~ *shall* submit an application fee and produce evidence
 21 showing that he or she has successfully completed a minimum of
 22 one year of advanced training in anesthesiology and related
 23 academic subjects approved by the board, or equivalent training
 24 or experience approved by the board, beyond the undergraduate
 25 school level.

26 (b) The application for a permit shall include documentation
 27 that equipment and drugs required by the board are on the premises.

28 SEC. 6. Section 1646.3 of the Business and Professions Code
 29 is amended to read:

30 1646.3. (a) ~~A physical evaluation and medical history shall~~
 31 ~~be taken before the administration of deep sedation or general~~
 32 ~~anesthesia.~~ ~~Any~~ *(1) Any* dentist holding a permit shall maintain
 33 medical history, physical evaluation, and ~~deep sedation and general~~
 34 ~~anesthesia records as required by board regulations.~~

35 *(2) On and after January 1, 2019, a physical evaluation and*
 36 *medical history shall be taken before the administration of deep*
 37 *sedation or general anesthesia. On and after January 1, 2019, any*
 38 *dentist holding a permit shall, in addition to the requirements in*
 39 *paragraph (1), maintain deep sedation records as required by*
 40 *board regulations.*

1 (b) ~~For~~ *On and after January 1, 2019, for patients 7 to 13 years*
2 *of age, inclusive, the dentist and at least two support staff shall be*
3 *present, unless there is a dedicated general anesthesia provider*
4 *present.* ~~The~~ *On and after January 1, 2019, the dentist and at least*
5 *one support staff member shall be trained in Pediatric Advanced*
6 *Life Support (PALS) and airway management, equivalent to the*
7 *American Academy of Pediatrics and American Academy of*
8 *Pediatric Dentistry (AAP-AAPD) Guidelines or as determined by*
9 *the board.* ~~That~~ *On and after January 1, 2019, that staff member*
10 *shall be dedicated to monitoring the patient throughout the*
11 *procedure.*

12 (c) ~~For~~ *On and after January 1, 2019, for children under seven*
13 *years of age, there shall be present during the procedure all of the*
14 *following:*

15 (1) An operating dentist.

16 (2) An assistant.

17 (3) A dedicated monitor. For purposes of this paragraph,
18 “dedicated monitor” means a person licensed under Division 2 of
19 this code whose license authorizes the person to monitor the
20 patient’s airway through recovery. The dedicated monitor shall be
21 trained in PALS and airway management, equivalent to the
22 AAP-AAPD Guidelines or as determined by the board.

23 SEC. 7. Section 1646.4 of the Business and Professions Code
24 is amended to read:

25 1646.4. (a) (1) Prior to the issuance or renewal of a permit
26 for the use of ~~deep sedation or~~ general anesthesia, the board may,
27 at its discretion, require an onsite inspection and evaluation of the
28 licentiate and the facility, equipment, personnel, and procedures
29 utilized by the licentiate. *This subdivision shall not be construed*
30 *to require, as a condition of issuance or renewal of a permit, an*
31 *onsite inspection and evaluation by the board.* The permit of any
32 dentist who has failed an onsite inspection and evaluation shall be
33 automatically suspended 30 days after the date on which the board
34 notifies the dentist of the failure, unless within that time period
35 the dentist has retaken and passed an onsite inspection and
36 evaluation. Every dentist issued a permit under this article shall
37 have an onsite inspection and evaluation at least once every five
38 years. Refusal to submit to an inspection shall result in automatic
39 denial or revocation of the permit.

1 (2) *On and after January 1, 2019, paragraph (1) shall also*
 2 *apply to the issuance or renewal of a permit for the use of deep*
 3 *sedation.*

4 (b) The board may contract with public or private organizations
 5 or individuals expert in dental outpatient general anesthesia to
 6 perform onsite inspections and evaluations. The board may not,
 7 however, delegate its authority to issue permits or to determine
 8 the persons or facilities to be inspected.

9 SEC. 8. Section 1646.5 of the Business and Professions Code
 10 is amended to read:

11 1646.5. (a) (1) A permittee shall be required to complete 24
 12 hours of approved courses of study related to ~~deep sedation or~~
 13 general anesthesia as a condition of renewal of a permit. Those
 14 courses of study shall be credited toward any continuing education
 15 required by the board pursuant to Section 1645.

16 (2) *This subdivision shall become inoperative on January 1,*
 17 *2019.*

18 (b) *On and after January 1, 2019, a permittee shall be required*
 19 *to complete 24 hours of approved courses of study related to deep*
 20 *sedation or general anesthesia as a condition of renewal of a*
 21 *permit. On and after January 1, 2019, those courses of study shall*
 22 *be credited toward any continuing education required by the board*
 23 *pursuant to Section 1645.*

24 SEC. 9. Section 1646.8 of the Business and Professions Code
 25 is amended to read:

26 1646.8. Nothing in this chapter shall be construed to authorize
 27 a dentist to administer or directly supervise the administration of
 28 general anesthesia or deep sedation for reasons other than dental
 29 treatment, as defined in Section 1625.

30 SEC. 10. Section 1646.9 of the Business and Professions Code
 31 is amended to read:

32 1646.9. (a) (1) Notwithstanding any other law, including, but
 33 not limited to, Section 1646.1, a physician and surgeon licensed
 34 pursuant to Chapter 5 (commencing with Section 2000) may
 35 administer ~~deep sedation or~~ general anesthesia in the office of a
 36 licensed dentist for dental patients, without regard to whether the
 37 dentist possesses a permit issued pursuant to this article, if both
 38 of the following conditions are met:

39 (†)

1 (A) The physician and surgeon possesses a current license in
2 good standing to practice medicine in this state.

3 ~~(2)~~

4 (B) The physician and surgeon holds a valid general anesthesia
5 permit issued by the Dental Board of California pursuant to
6 subdivision (b).

7 *(2) This subdivision shall become inoperative on January 1,*
8 *2019.*

9 (b) (1) A physician and surgeon who desires to administer ~~deep~~
10 ~~sedation or~~ general anesthesia as set forth in subdivision (a) shall
11 apply to the Dental Board of California on an application form
12 prescribed by the board and shall submit all of the following:

13 (A) The payment of an application fee prescribed by this article.

14 (B) Evidence satisfactory to the Medical Board of California
15 showing that the applicant has successfully completed a
16 postgraduate residency training program in anesthesiology that is
17 recognized by the American Council on Graduate Medical
18 Education, as set forth in Section 2079.

19 (C) Documentation demonstrating that all equipment and drugs
20 required by the Dental Board of California are possessed by the
21 applicant and shall be available for use in any dental office in
22 which he or she administers ~~deep sedation or~~ general anesthesia.

23 (D) Information relative to the current membership of the
24 applicant on hospital medical staffs.

25 (2) Prior to issuance or renewal of a permit pursuant to this
26 section, the Dental Board of California may, at its discretion,
27 require an onsite inspection and evaluation of the facility,
28 equipment, personnel, including, but not limited to, the physician
29 and surgeon, and procedures utilized. *This subdivision shall not*
30 *be construed to require, as a condition of issuance or renewal of*
31 *a permit, an onsite inspection and evaluation by the board.* At
32 least one of the persons evaluating the procedures utilized by the
33 physician and surgeon shall be a licensed physician and surgeon
34 expert in outpatient ~~deep sedation or~~ general anesthesia who has
35 been authorized or retained under contract by the Dental Board of
36 California for this purpose.

37 (3) The permit of a physician and surgeon who has failed an
38 onsite inspection and evaluation shall be automatically suspended
39 30 days after the date on which the board notifies the physician
40 and surgeon of the failure unless within that time period the

1 physician and surgeon has retaken and passed an onsite inspection
2 and evaluation. Every physician and surgeon issued a permit under
3 this article shall have an onsite inspection and evaluation at least
4 once every six years. Refusal to submit to an inspection shall result
5 in automatic denial or revocation of the permit.

6 *(4) This subdivision shall become inoperative on January 1,*
7 *2019.*

8 *(c) On and after January 1, 2019, notwithstanding any other*
9 *law, including, but not limited to, Section 1646.1, a physician and*
10 *surgeon licensed pursuant to Chapter 5 (commencing with Section*
11 *2000) may administer deep sedation or general anesthesia in the*
12 *office of a licensed dentist for dental patients, without regard to*
13 *whether the dentist possesses a permit issued pursuant to this*
14 *article, if both of the following conditions are met:*

15 *(1) The physician and surgeon possesses a current license in*
16 *good standing to practice medicine in this state.*

17 *(2) The physician and surgeon holds a valid general anesthesia*
18 *permit issued by the Dental Board of California pursuant to*
19 *subdivision (d).*

20 *(d) (1) On and after January 1, 2019, a physician and surgeon*
21 *who desires to administer deep sedation or general anesthesia as*
22 *set forth in subdivision (c) shall apply to the Dental Board of*
23 *California on an application form prescribed by the board and*
24 *shall submit all of the following:*

25 *(A) The payment of an application fee prescribed by this article.*

26 *(B) Evidence satisfactory to the Medical Board of California*
27 *showing that the applicant has successfully completed a*
28 *postgraduate residency training program in anesthesiology that*
29 *is recognized by the American Council on Graduate Medical*
30 *Education, as set forth in Section 2079.*

31 *(C) Documentation demonstrating that all equipment and drugs*
32 *required by the Dental Board of California are possessed by the*
33 *applicant and shall be available for use in any dental office in*
34 *which he or she administers deep sedation or general anesthesia.*

35 *(D) Information relative to the current membership of the*
36 *applicant on hospital medical staffs.*

37 *(2) On and after January 1, 2019, prior to issuance or renewal*
38 *of a permit pursuant to this section, the Dental Board of California*
39 *may, at its discretion, require an onsite inspection and evaluation*
40 *of the facility, equipment, personnel, including, but not limited to,*

1 *the physician and surgeon, and procedures utilized. This*
2 *subdivision shall not be construed to require, as a condition of*
3 *issuance or renewal of a permit, an onsite inspection and*
4 *evaluation by the board. On and after January 1, 2019, at least*
5 *one of the persons evaluating the procedures utilized by the*
6 *physician and surgeon shall be a licensed physician and surgeon*
7 *expert in outpatient deep sedation or general anesthesia who has*
8 *been authorized or retained under contract by the Dental Board*
9 *of California for this purpose.*

10 (3) *On and after January 1, 2019, the permit of a physician and*
11 *surgeon who has failed an onsite inspection and evaluation shall*
12 *be automatically suspended 30 days after the date on which the*
13 *board notifies the physician and surgeon of the failure unless*
14 *within that time period the physician and surgeon has retaken and*
15 *passed an onsite inspection and evaluation. On and after January*
16 *1, 2019, every physician and surgeon issued a permit under this*
17 *article shall have an onsite inspection and evaluation at least once*
18 *every six years. Refusal to submit to an inspection shall result in*
19 *automatic denial or revocation of the permit.*

20 SEC. 11. The heading of Article 2.8 (commencing with Section
21 1647) of Chapter 4 of Division 2 of the Business and Professions
22 Code is amended to read:

23
24
25

Article 2.8. Use of Moderate Sedation

26 SEC. 12. Section 1647 of the Business and Professions Code
27 is amended to read:

28 1647. (a) The Legislature finds and declares that a
29 commendable patient safety record has been maintained in the past
30 by dentists and those other qualified providers of anesthesia
31 services who, pursuant to a dentist's authorization, administer
32 patient sedation, and that the increasing number of pharmaceuticals
33 and techniques used to administer them for patient sedation require
34 additional regulation to maintain patient safety in the future.

35 (b) The Legislature further finds and declares all of the
36 following:

37 (1) That previous laws enacted in 1980 contained separate and
38 distinct definitions for general anesthesia and the state of
39 consciousness.

1 (2) That in dental practice, there is a continuum of sedation used
2 which cannot be adequately defined in terms of consciousness and
3 general anesthesia.

4 (3) That the administration of sedation through this continuum
5 results in different states of consciousness that may or may not be
6 predictable in every instance.

7 (4) That in most instances, the level of sedation will result in a
8 predictable level of consciousness during the entire time of
9 sedation.

10 (c) The Legislature further finds and declares that the
11 educational standards presently required for deep sedation and
12 general anesthesia should be required when the degree of sedation
13 in the continuum of sedation is such that there is a reasonable
14 possibility that loss of consciousness may result, even if
15 unintended. However, achieving the degree of moderate sedation,
16 previously referred to as “conscious sedation,” where a margin of
17 safety exists wide enough to render unintended loss of
18 consciousness unlikely, requires educational standards appropriate
19 to the administration of the resulting predictable level of
20 consciousness.

21 SEC. 13. Section 1647.1 of the Business and Professions Code
22 is amended to read:

23 1647.1. (a) (1) (A) As used in this article, “moderate sedation”
24 means a ~~drug-induced~~ *minimally depressed level of consciousness*
25 *produced by a pharmacologic or nonpharmacologic method, or*
26 *a combination thereof, that retains the patient’s ability to maintain*
27 *independently and continuously an airway, and respond*
28 *appropriately to physical stimulation or verbal command.*

29 (B) “Moderate sedation” does not include the administration
30 of oral medications or the administration of a mixture of nitrous
31 oxide and oxygen, whether administered alone or in combination
32 with each other.

33 (C) This paragraph shall become inoperative on January 1,
34 2020.

35 (2) On and after January 1, 2020, as used in this article,
36 “moderate sedation” means a drug-induced depression of
37 consciousness during which a patient responds purposefully to
38 verbal commands, either alone or accompanied by light tactile
39 stimulation, no interventions are required to maintain a patient’s

1 airway, spontaneous ventilation is adequate, and cardiovascular
2 function is usually maintained.

3 (b) The drugs and techniques used in moderate sedation shall
4 have a margin of safety wide enough to render unintended loss of
5 consciousness unlikely. Further, patients whose only response is
6 reflex withdrawal from painful stimuli shall not be considered to
7 be in a state of moderate sedation.

8 (c) For the very young or patients with intellectual disabilities,
9 incapable of the usually expected verbal response, a minimally
10 depressed level of consciousness for that individual should be
11 maintained.

12 SEC. 14. Section 1647.2 of the Business and Professions Code
13 is amended to read:

14 1647.2. (a) A dentist shall not administer or order the
15 administration of moderate sedation on an outpatient basis for a
16 dental patient unless one of the following conditions is met:

17 (1) The dentist possesses a current license in good standing to
18 practice dentistry in California and either holds a valid general
19 anesthesia permit or obtains a permit issued by the board
20 authorizing the dentist to administer moderate sedation.

21 (2) The dentist possesses a current permit under Section 1638
22 or 1640 and either holds a valid general anesthesia permit or
23 obtains a permit issued by the board authorizing the dentist to
24 administer moderate sedation.

25 (b) A moderate sedation permit shall expire on the date specified
26 in Section 1715 that next occurs after its issuance, unless it is
27 renewed as provided in this article.

28 (c) A dentist who orders the administration of moderate sedation
29 shall be physically present in the treatment facility while the patient
30 is sedated.

31 (d) This article shall not apply to the administration of local
32 anesthesia, minimal sedation, deep sedation, or general anesthesia.

33 SEC. 15. Section 1647.3 of the Business and Professions Code
34 is amended to read:

35 1647.3. (a) A dentist who desires to administer or to order the
36 administration of moderate sedation shall apply to the board on
37 an application form prescribed by the board. The dentist shall
38 submit an application fee and produce evidence showing that he
39 or she has successfully completed training in moderate sedation

1 that meets the requirements of subdivision ~~(e)~~: (c) or (d), as
2 applicable.

3 (b) The application for a permit shall include documentation
4 that equipment and drugs required by the board are on the premises.

5 (c) (1) Training in the administration of moderate sedation for
6 patients 13 years of age or older shall be acceptable if it meets all
7 of the following as approved by the board:

8 ~~(1)~~

9 (A) Consists of at least 60 hours of instruction.

10 ~~(2)~~

11 (B) Requires satisfactory completion of at least 20 cases of
12 administration of moderate sedation for a variety of dental
13 procedures.

14 ~~(3)~~

15 (C) Complies with the requirements of the Guidelines for
16 Teaching Pain Control and Sedation to Dentists and Dental
17 Students of the American Dental Association, including, but not
18 limited to, certification of competence in rescuing patients from a
19 deeper level of sedation than intended, and managing the airway,
20 intravascular or intraosseous access, and reversal medications: the
21 Comprehensive Control of Anxiety and Pain in Dentistry of the
22 American Dental Association.

23 (2) This subdivision shall become inoperative on January 1,
24 2020.

25 (d) On and after January 1, 2020, training in the administration
26 of moderate sedation for patients 13 years of age or older shall
27 be acceptable if it meets all of the following as approved by the
28 board:

29 (1) Consists of at least 60 hours of instruction.

30 (2) Requires satisfactory completion of at least 20 cases of
31 administration of moderate sedation for a variety of dental
32 procedures.

33 (3) Complies with the requirements of the Guidelines for
34 Teaching Pain Control and Sedation to Dentists and Dental
35 Students of the American Dental Association, including, but not
36 limited to, certification of competence in rescuing patients from a
37 deeper level of sedation than intended, and managing the airway,
38 intravascular or intraosseous access, and reversal medications.

39 ~~(d)~~ Before

1 (e) *On and after January 1, 2020, before performing any*
2 *procedure involving moderate sedation of a patient under 13 years*
3 *of age, the dentist shall obtain a pediatric endorsement of his or*
4 *her moderate sedation permit. ~~To~~ *On and after January 1, 2020,*
5 *to be eligible for the pediatric moderate sedation permit, the dentist*
6 *shall have completed any of the following:**

7 (1) A moderate sedation course consisting of at least 60 hours
8 of didactic instruction and at least 20 clinical cases, as described
9 in subdivision ~~(e)~~, (d), but that is directed at treating pediatric
10 patients under 13 years of age.

11 (2) A moderate sedation course, as described in subdivision ~~(e)~~,
12 (d), that is directed at treating patients 13 years of age or older, in
13 addition to at least 24 hours of didactic instruction in pediatric
14 moderate sedation and at least 10 clinical cases in pediatric
15 moderate sedation.

16 (3) A moderate sedation course that is directed at treating
17 patients 13 years of age or older, as described in subdivision ~~(e)~~,
18 (d), in addition to completion of an accredited pediatric dental
19 residency program. The pediatric moderate sedation permit holder
20 shall provide proof of completion of at least ~~52~~ 20 cases to establish
21 competency, both at the time of the initial application and at
22 renewal.

23 ~~(e) The~~

24 (f) *On and after January 1, 2020, the dentist and at least one*
25 *member of the support staff shall be trained in Pediatric Advanced*
26 *Life Support (PALS) and airway management, equivalent to the*
27 *American Academy of Pediatrics and the American Academy of*
28 *Pediatric Dentistry (AAP-AAPD) Guidelines, or as determined by*
29 *the board.*

30 ~~(f) For~~

31 (g) *On and after January 1, 2020, for a child under seven years*
32 *of age, there shall be at least two support staff persons, in addition*
33 *to the practicing dentist, present at all times during the procedure.*
34 ~~One~~ *On and after January 1, 2020, one staff member shall serve*
35 *as a dedicated patient monitor.*

36 SEC. 16. Section 1647.5 of the Business and Professions Code
37 is amended to read:

38 1647.5. A permittee shall be required to complete 15 hours of
39 approved courses of study related to moderate sedation as a
40 condition of renewal of a permit. Those courses of study shall be

1 credited toward any continuing education required by the board
2 pursuant to Section 1645.

3 SEC. 17. Section 1647.6 of the Business and Professions Code
4 is amended to read:

5 1647.6. A physical evaluation and medical history shall be
6 taken before the administration of moderate sedation. Any dentist
7 holding a permit shall maintain records of the physical evaluation,
8 medical history, and moderate sedation procedures used as required
9 by board regulations.

10 SEC. 18. Section 1647.7 of the Business and Professions Code
11 is amended to read:

12 1647.7. (a) Prior to the issuance or renewal of a permit to
13 administer moderate sedation, the board may, at its discretion,
14 require an onsite inspection and evaluation of the licentiate and
15 the facility, equipment, personnel, and procedures utilized by the
16 licentiate. *This subdivision shall not be construed to require, as a*
17 *condition of issuance or renewal of a permit, an onsite inspection*
18 *and evaluation by the board.* The permit of any dentist who has
19 failed an onsite inspection and evaluation shall be automatically
20 suspended 30 days after the date on which the board notifies the
21 dentist of the failure unless, within that time period, the dentist
22 has retaken and passed an onsite inspection and evaluation. Every
23 dentist issued a permit under this article shall have an onsite
24 inspection and evaluation at least once in every six years. Refusal
25 to submit to an inspection shall result in automatic denial or
26 revocation of the permit.

27 (b) An applicant who has successfully completed the course
28 required by Section 1647.3 may be granted a one-year temporary
29 permit by the board prior to the onsite inspection and evaluation.
30 Failure to pass the inspection and evaluation shall result in the
31 immediate and automatic termination of the temporary permit.

32 (c) The board may contract with public or private organizations
33 or individuals expert in dental outpatient moderate sedation to
34 perform onsite inspections and evaluations. The board may not,
35 however, delegate its authority to issue permits or to determine
36 the persons or facilities to be inspected.

37 SEC. 19. Section 1647.11 of the Business and Professions
38 Code is amended to read:

39 1647.11. (a) Notwithstanding subdivision (a) of Section
40 1647.2, a dentist may not administer oral conscious sedation on

1 an outpatient basis to a minor patient unless one of the following
2 conditions is met:

3 (1) The dentist possesses a current license in good standing to
4 practice dentistry in California and either holds a valid general
5 anesthesia permit, moderate sedation permit, or has been certified
6 by the board, pursuant to Section 1647.12, to administer oral
7 sedation to minor patients.

8 (2) The dentist possesses a current permit issued under Section
9 1638 or 1640 and either holds a valid general anesthesia permit,
10 moderate sedation permit, or possesses a certificate as a provider
11 of oral conscious sedation to minor patients in compliance with,
12 and pursuant to, this article.

13 (b) Certification as a provider of oral conscious sedation to
14 minor patients expires at the same time the license or permit of
15 the dentist expires unless renewed at the same time the dentist's
16 license or permit is renewed after its issuance, unless certification
17 is renewed as provided in this article.

18 (c) This article shall not apply to the administration of local
19 anesthesia or a mixture of nitrous oxide and oxygen or to the
20 administration, dispensing, or prescription of postoperative
21 medications.

22 SEC. 20. Section 1647.12 of the Business and Professions
23 Code is amended to read:

24 1647.12. A dentist who desires to administer, or order the
25 administration of, oral conscious sedation for minor patients, who
26 does not hold a general anesthesia permit, as provided in Sections
27 1646.1 and 1646.2, or a moderate sedation permit, as provided in
28 Sections 1647.2 and 1647.3, shall register his or her name with
29 the board on a board-prescribed registration form. The dentist shall
30 submit the registration fee and evidence showing that he or she
31 satisfies any of the following requirements:

32 (a) Satisfactory completion of a postgraduate program in oral
33 and maxillofacial surgery or pediatric dentistry approved by either
34 the Commission on Dental Accreditation or a comparable
35 organization approved by the board.

36 (b) Satisfactory completion of a periodontics or general practice
37 residency or other advanced education in a general dentistry
38 program approved by the board.

39 (c) Satisfactory completion of a board-approved educational
40 program on oral medications and sedation.

1 SEC. 21. Section 1647.19 of the Business and Professions
2 Code is amended to read:

3 1647.19. (a) Notwithstanding subdivision (a) of Section
4 1647.2, a dentist may not administer oral conscious sedation on
5 an outpatient basis to an adult patient unless the dentist possesses
6 a current license in good standing to practice dentistry in California,
7 and one of the following conditions is met:

8 (1) The dentist holds a valid general anesthesia permit, holds a
9 moderate sedation permit, has been certified by the board, pursuant
10 to Section 1647.20, to administer oral sedation to adult patients,
11 or has been certified by the board, pursuant to Section 1647.12, to
12 administer oral conscious sedation to minor patients.

13 (2) The dentist possesses a current permit issued under Section
14 1638 or 1640 and either holds a valid general anesthesia permit,
15 or moderate sedation permit, or possesses a certificate as a provider
16 of oral conscious sedation to adult patients in compliance with,
17 and pursuant to, this article.

18 (b) Certification as a provider of oral conscious sedation to adult
19 patients expires at the same time the license or permit of the dentist
20 expires unless renewed at the same time the dentist’s license or
21 permit is renewed after its issuance, unless certification is renewed
22 as provided in this article.

23 (c) This article shall not apply to the administration of local
24 anesthesia or a mixture of nitrous oxide and oxygen, or to the
25 administration, dispensing, or prescription of postoperative
26 medications.

27 SEC. 22. Article 2.87 (commencing with Section 1647.30) is
28 added to Chapter 4 of Division 2 of the Business and Professions
29 Code, to read:

30

31 Article 2.87. Use of Pediatric Minimal Sedation

32

33 1647.30. (a) As used in this article, “minimal sedation” means
34 a drug-induced state during which patients respond normally to
35 verbal commands. Cognitive function and physical coordination
36 may be impaired, but airway reflexes, ventilatory functions, and
37 cardiovascular functions are unaffected.

38 (b) The drugs and techniques used in minimal sedation shall
39 have a margin of safety wide enough to render unintended loss of
40 consciousness unlikely. Further, patients whose only response is

1 reflex withdrawal from painful stimuli shall not be considered to
2 be in a state of minimal sedation.

3 (c) For the very young or developmentally delayed individual,
4 incapable of the usually expected verbal response, a minimally
5 depressed level of consciousness should be maintained.

6 1647.31. (a) A dentist shall not administer or order the
7 administration of minimal sedation on an outpatient basis for
8 pediatric dental patients, defined as under 13 years of age, unless
9 one of the following conditions is met:

10 (1) The dentist possesses a current license in good standing to
11 practice dentistry in California and either holds a valid pediatric
12 minimal sedation permit or obtains a permit issued by the board
13 authorizing the dentist to administer minimal sedation.

14 (2) The dentist possesses a current permit under Section 1638
15 or 1640 and either holds a valid anesthesia permit or obtains a
16 permit issued by the board authorizing the dentist to administer
17 moderate sedation, deep sedation, or general anesthesia.

18 (b) A dentist who orders the administration of minimal sedation
19 shall be physically present in the treatment facility while the patient
20 is sedated.

21 (c) This article does not apply to the administration of local
22 anesthesia, moderate sedation, deep sedation, or general anesthesia.

23 1647.32. (a) A dentist who desires to administer or order the
24 administration of pediatric minimal sedation shall apply to the
25 board on an application form prescribed by the board. The dentist
26 shall submit an application fee and produce evidence showing that
27 he or she has successfully completed training in minimal sedation
28 that meets the requirements of subdivision (c).

29 (b) The application for a permit shall include documentation
30 that equipment and drugs required by the board are on the premises.

31 (c) Training in the administration of minimal sedation shall be
32 acceptable if it meets both of the following as approved by the
33 board:

34 (1) Consists of at least 24 hours of pediatric sedation instruction
35 in addition to one clinical case. The pediatric sedation instruction
36 shall include training in airway management and patient rescue
37 from moderate sedation.

38 (2) Includes completion of an accredited residency in pediatric
39 dentistry.

1 (d) A dentist is limited to administering a single dose of a single
2 drug via the oral route, plus a mix of nitrous oxide and oxygen
3 that is unlikely to produce a state of unintended moderate sedation.

4 (e) A minimum of one staff member, in addition to the dentist,
5 trained in the monitoring and resuscitation of pediatric patients
6 shall be present.

7 1647.33. (a) The application fee for a pediatric minimal
8 sedation permit or renewal under this article shall not exceed the
9 amount prescribed in Section 1724.

10 (b) It is the intent of the Legislature that the board hire sufficient
11 staff to administer the program and that the fees established
12 pursuant to this section be equivalent to administration and
13 enforcement costs incurred by the board in carrying out this article.

14 1647.34. A violation of any provision of this article constitutes
15 unprofessional conduct and is grounds for the revocation or
16 suspension of the dentist's permit or license, or both, or the dentist
17 may be reprimanded or placed on probation. The proceedings
18 under this section shall be conducted in accordance with Chapter
19 5 (commencing with Section 11500) of Part 1 of Division 3 of
20 Title 2 of the Government Code, and the board shall have all the
21 powers granted therein.

22 1647.35. *This article shall become operative on January 1,*
23 *2020.*

24 SEC. 23. Section 1682 of the Business and Professions Code
25 is amended to read:

26 1682. In addition to other acts constituting unprofessional
27 conduct under this chapter, it is unprofessional conduct for:

28 (a) Any dentist performing dental procedures to have more than
29 one patient undergoing moderate sedation or general anesthesia
30 on an outpatient basis at any given time unless each patient is being
31 continuously monitored on a one-to-one ratio while sedated by
32 either the dentist or another licensed health professional authorized
33 by law to administer moderate sedation or general anesthesia.

34 (b) Any dentist with patients recovering from moderate sedation
35 or general anesthesia to fail to have the patients closely monitored
36 by licensed health professionals experienced in the care and
37 resuscitation of patients recovering from moderate sedation or
38 general anesthesia. If one licensed professional is responsible for
39 the recovery care of more than one patient at a time, all of the
40 patients shall be physically in the same room to allow continuous

1 visual contact with all patients and the patient to recovery staff
2 ratio should not exceed three to one.

3 (c) Any dentist with patients who are undergoing moderate
4 sedation to fail to have these patients continuously monitored
5 during the dental procedure with a pulse oximeter or similar or
6 superior monitoring equipment required by the board.

7 (d) Any dentist with patients who are undergoing moderate
8 sedation to have dental office personnel directly involved with the
9 care of those patients who are not certified in basic cardiac life
10 support (CPR) and recertified biennially.

11 (e) (1) Any dentist to fail to obtain the written informed consent
12 of a patient prior to administering general anesthesia or moderate
13 sedation. In the case of a minor, the consent shall be obtained from
14 the child's parent or guardian.

15 (2) The written informed consent, in the case of a minor, shall
16 include, but not be limited to, the following information:

17 "The administration and monitoring of general anesthesia may
18 vary depending on the type of procedure, the type of practitioner,
19 the age and health of the patient, and the setting in which anesthesia
20 is provided. Risks may vary with each specific situation. You are
21 encouraged to explore all the options available for your child's
22 anesthesia for his or her dental treatment, and consult with your
23 dentist or pediatrician as needed."

24 (3) Nothing in this subdivision shall be construed to establish
25 the reasonable standard of care for administering or monitoring
26 oral conscious sedation, moderate sedation, or general anesthesia.

27 SEC. 24. Section 1724 of the Business and Professions Code
28 is amended to read:

29 1724. The amount of charges and fees for dentists licensed
30 pursuant to this chapter shall be established by the board as is
31 necessary for the purpose of carrying out the responsibilities
32 required by this chapter as it relates to dentists, subject to the
33 following limitations:

34 (a) The fee for an application for licensure qualifying pursuant
35 to paragraph (1) of subdivision (c) of Section 1632 shall not exceed
36 one thousand five hundred dollars (\$1,500). The fee for an
37 application for licensure qualifying pursuant to paragraph (2) of
38 subdivision (c) of Section 1632 shall not exceed one thousand
39 dollars (\$1,000).

- 1 (b) The fee for an application for licensure qualifying pursuant
2 to Section 1634.1 shall not exceed one thousand dollars (\$1,000).
- 3 (c) The fee for an application for licensure qualifying pursuant
4 to Section 1635.5 shall not exceed one thousand dollars (\$1,000).
- 5 (d) The fee for an initial license and for the renewal of a license
6 is five hundred twenty-five dollars (\$525). On and after January
7 1, 2016, the fee for an initial license shall not exceed six hundred
8 fifty dollars (\$650), and the fee for the renewal of a license shall
9 not exceed six hundred fifty dollars (\$650). On and after January
10 1, 2018, the fee for an initial license shall not exceed eight hundred
11 dollars (\$800), and the fee for the renewal of a license shall not
12 exceed eight hundred dollars (\$800).
- 13 (e) The fee for an application for a special permit shall not
14 exceed one thousand dollars (\$1,000), and the renewal fee for a
15 special permit shall not exceed six hundred dollars (\$600).
- 16 (f) The delinquency fee shall be 50 percent of the renewal fee
17 for such a license or permit in effect on the date of the renewal of
18 the license or permit.
- 19 (g) The penalty for late registration of change of place of
20 practice shall not exceed seventy-five dollars (\$75).
- 21 (h) The fee for an application for an additional office permit
22 shall not exceed seven hundred fifty dollars (\$750), and the fee
23 for the renewal of an additional office permit shall not exceed three
24 hundred seventy-five dollars (\$375).
- 25 (i) The fee for issuance of a replacement pocket license,
26 replacement wall certificate, or replacement engraved certificate
27 shall not exceed one hundred twenty-five dollars (\$125).
- 28 (j) The fee for a provider of continuing education shall not
29 exceed five hundred dollars (\$500) per year.
- 30 (k) The fee for application for a referral service permit and for
31 renewal of that permit shall not exceed twenty-five dollars (\$25).
- 32 (l) The fee for application for an extramural facility permit and
33 for the renewal of a permit shall not exceed twenty-five dollars
34 (\$25).
- 35 (m) The fee for an application for an elective facial cosmetic
36 surgery permit shall not exceed four thousand dollars (\$4,000),
37 and the fee for the renewal of an elective facial cosmetic surgery
38 permit shall not exceed eight hundred dollars (\$800).
- 39 (n) The fee for an application for an oral and maxillofacial
40 surgery permit shall not exceed one thousand dollars (\$1,000), and

1 the fee for the renewal of an oral and maxillofacial surgery permit
2 shall not exceed one thousand two hundred dollars (\$1,200).

3 (o) The fee for an application for a general anesthesia permit
4 shall not exceed one thousand dollars (\$1,000), and the fee for the
5 renewal of a general anesthesia permit shall not exceed six hundred
6 dollars (\$600).

7 (p) The fee for an onsite inspection and evaluation related to a
8 general anesthesia or conscious sedation permit shall not exceed
9 four thousand five hundred dollars (\$4,500).

10 (q) The fee for an application for a moderate sedation permit
11 shall not exceed one thousand dollars (\$1,000), and the fee for the
12 renewal of a moderate sedation permit shall not exceed six hundred
13 dollars (\$600).

14 (r) The fee for an application for an oral conscious sedation
15 permit shall not exceed one thousand dollars (\$1,000), and the fee
16 for the renewal of an oral conscious sedation permit shall not
17 exceed six hundred dollars (\$600).

18 (s) The fee for a certification of licensure shall not exceed one
19 hundred twenty-five dollars (\$125).

20 (t) The fee for an application for the law and ethics examination
21 shall not exceed two hundred fifty dollars (\$250).

22 The board shall report to the appropriate fiscal committees of
23 each house of the Legislature whenever the board increases any
24 fee pursuant to this section and shall specify the rationale and
25 justification for that increase.

26 SEC. 25. Section 1750.5 of the Business and Professions Code
27 is amended to read:

28 1750.5. A person holding a dental sedation assistant permit
29 pursuant to Section 1750.4 may perform the following duties under
30 the direct supervision of a licensed dentist or other licensed health
31 care professional authorized to administer conscious sedation or
32 general anesthesia in the dental office:

33 (a) All duties that a dental assistant is allowed to perform.

34 (b) Monitor patients undergoing moderate sedation or general
35 anesthesia utilizing data from noninvasive instrumentation such
36 as pulse oximeters, electrocardiograms, capnography, blood
37 pressure, pulse, and respiration rate monitoring devices. Evaluation
38 of the condition of a sedated patient shall remain the responsibility
39 of the dentist or other licensed health care professional authorized
40 to administer conscious sedation or general anesthesia, who shall

1 be at the patient’s chairside while conscious sedation or general
2 anesthesia is being administered.

3 (c) Drug identification and draw, limited to identification of
4 appropriate medications, ampule and vial preparation, and
5 withdrawing drugs of correct amount as verified by the supervising
6 licensed dentist.

7 (d) Add drugs, medications, and fluids to intravenous lines using
8 a syringe, provided that a supervising licensed dentist is present
9 at the patient’s chairside, limited to determining patency of
10 intravenous line, selection of injection port, syringe insertion into
11 injection port, occlusion of intravenous line and blood aspiration,
12 line release and injection of drugs for appropriate time interval.
13 The exception to this duty is that the initial dose of a drug or
14 medication shall be administered by the supervising licensed
15 dentist.

16 (e) Removal of intravenous lines.

17 (f) Any additional duties that the board may prescribe by
18 regulation.

19 (g) The duties listed in subdivisions (b) to (e), inclusive, may
20 not be performed in any setting other than a dental office or dental
21 clinic.

22 SEC. 26. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

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**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2078

AUTHOR: T. Daly

SPONSOR: Orange County
District Attorney

VERSION: Amended 06/21/2018

INTRODUCED: 02/07/2018

BILL STATUS: 08/06/2018 – In Senate: read
second time and amended.
Re-referred to Senate
Appropriations Committee.

BILL LOCATION: Senate
Appropriations
Committee

SUBJECT: Sex Offenses: Professional
Services.

**RELATED
BILLS:**

SUMMARY

Under existing law, a person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery punishable by imprisonment in a county jail for not more than one year or in the state prison for 2, 3, or 4 years, and a fine not to exceed \$10,000. Under existing law, the crimes of rape, sodomy, oral copulation, and sexual penetration, when the victim was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration or oral copulation served a professional purpose, are punishable by imprisonment in the state prison for 3, 6, or 8 years.

This bill would expand the crime of sexual battery to apply to a person who performs professional services that entail having access to another person's body and who touches an intimate part of that person's body while performing those services, and the touching was against the person's will and for the purpose of sexual arousal, sexual gratification, or sexual abuse. The bill would expand the definitions of each of the crimes of rape, sodomy, oral copulation, and sexual penetration to include any of those crimes performed against a victim's will by a professional whose services entail having access to the victim's body, if the conduct is performed by the professional while performing those services. By expanding the scope of these crimes, the bill would impose a state-mandated local program.

ANALYSIS

AB 2078 would expand the crimes of sexual battery, rape, sodomy, oral copulation, and sexual penetration to include non-consensual, sexual touching by a person who has been engaged by the victim for a professional purpose. This bill would amend existing language for Penal Code Sections 243.4, 261, 286, 287, 288a, and 289.

Specifically, this bill expands the crime of sexual battery to apply to a person who performs professional services that entail having access to another person's body who touches an intimate part of that person's body while performing those services and the touching was against the person's will and for the purpose of sexual arousal, sexual gratification, or sexual abuse.

It also punishes this form of sexual battery by either imprisonment in the county jail for not more than one year and a fine not exceeding \$2,000, or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding \$10,000.

This bill expands the crimes of rape, sodomy, oral copulation, and sexual penetration to include when any of those acts are performed against a victim's will by a professional whose services entail having access to the victim's body, if the conduct is performed by the professional in the course of the services.

Should AB 2078 pass in its current form, it is not anticipated to have significant impact on the Board.

REGISTERED SUPPORT/OPPOSITION

Support

Attorney General Xavier Becerra
The Arc and United Cerebral Palsy
California Collaboration
California State Sheriffs Association
California District Attorneys Association
California Attorneys for Criminal Justice

Oppose

None received

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN SENATE JUNE 21, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2078

Introduced by Assembly Member Daly

February 7, 2018

An act to amend Sections 243.4, 261, 286, 288a, and 289 of the Penal Code, relating to sex offenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 2078, as amended, Daly. Sex offenses: professional services.

Under existing law, a person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery punishable by imprisonment in a county jail for not more than one year or in the state prison for 2, 3, or 4 years, and a fine not to exceed \$10,000. Under existing law, the crimes of rape, sodomy, oral copulation, and sexual penetration, when the victim was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration or oral copulation served a professional purpose, are punishable by imprisonment in the state prison for 3, 6, or 8 years.

This bill would expand the crime of sexual battery to apply to a person who performs professional services that entail having access to another person's body and who touches an intimate part of that person's body while performing those services, and the touching was against the person's will and for the purpose of sexual arousal, sexual gratification, or sexual abuse. The bill would expand the definitions of each of the

crimes of rape, sodomy, oral copulation, and sexual penetration to include any of those crimes performed against a victim’s will by a professional whose services entail having access to the victim’s body, if the conduct is performed by the professional while performing those services. By expanding the scope of these crimes, the bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 288a of the Penal Code proposed by SB 1494 to be operative as specified.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 243.4 of the Penal Code is amended to
2 read:

3 243.4. (a) Any person who touches an intimate part of another
4 person while that person is unlawfully restrained by the accused
5 or an accomplice, and if the touching is against the will of the
6 person touched and is for the purpose of sexual arousal, sexual
7 gratification, or sexual abuse, is guilty of sexual battery. A violation
8 of this subdivision is punishable by imprisonment in a county jail
9 for not more than one year, and by a fine not exceeding two
10 thousand dollars (\$2,000); or by imprisonment in the state prison
11 for two, three, or four years, and by a fine not exceeding ten
12 thousand dollars (\$10,000).

13 (b) Any person who touches an intimate part of another person
14 who is institutionalized for medical treatment and who is seriously
15 disabled or medically incapacitated, if the touching is against the
16 will of the person touched, and if the touching is for the purpose
17 of sexual arousal, sexual gratification, or sexual abuse, is guilty
18 of sexual battery. A violation of this subdivision is punishable by
19 imprisonment in a county jail for not more than one year, and by
20 a fine not exceeding two thousand dollars (\$2,000); or by
21 imprisonment in the state prison for two, three, or four years, and
22 by a fine not exceeding ten thousand dollars (\$10,000).

1 (c) (1) Any person who touches an intimate part of another
2 person for the purpose of sexual arousal, sexual gratification, or
3 sexual abuse, and the victim is at the time unconscious of the nature
4 of the act because the perpetrator fraudulently represented that the
5 touching served a professional purpose, is guilty of sexual battery.

6 (2) Any person who performs professional services that entail
7 having access to another person's body and who touches an
8 intimate part of that person while performing those services, and
9 the touching is against the will of the person touched and for the
10 specific purpose of sexual arousal, sexual gratification, or sexual
11 abuse, is guilty of sexual battery.

12 (3) A violation of this subdivision is punishable by imprisonment
13 in a county jail for not more than one year and by a fine not
14 exceeding two thousand dollars (\$2,000), or by imprisonment in
15 the state prison for two, three, or four years and by a fine not
16 exceeding ten thousand dollars (\$10,000).

17 (d) Any person who, for the purpose of sexual arousal, sexual
18 gratification, or sexual abuse, causes another, against that person's
19 will while that person is unlawfully restrained either by the accused
20 or an accomplice, or is institutionalized for medical treatment and
21 is seriously disabled or medically incapacitated, to masturbate or
22 touch an intimate part of either of those persons or a third person,
23 is guilty of sexual battery. A violation of this subdivision is
24 punishable by imprisonment in a county jail for not more than one
25 year, and by a fine not exceeding two thousand dollars (\$2,000);
26 or by imprisonment in the state prison for two, three, or four years,
27 and by a fine not exceeding ten thousand dollars (\$10,000).

28 (e) (1) Any person who touches an intimate part of another
29 person, if the touching is against the will of the person touched,
30 and is for the specific purpose of sexual arousal, sexual
31 gratification, or sexual abuse, is guilty of misdemeanor sexual
32 battery, punishable by a fine not exceeding two thousand dollars
33 (\$2,000), or by imprisonment in a county jail not exceeding six
34 months, or by both that fine and imprisonment. However, if the
35 defendant was an employer and the victim was an employee of
36 the defendant, the misdemeanor sexual battery shall be punishable
37 by a fine not exceeding three thousand dollars (\$3,000), by
38 imprisonment in a county jail not exceeding six months, or by both
39 that fine and imprisonment. Notwithstanding any other provision
40 of law, any amount of a fine above two thousand dollars (\$2,000)

1 which is collected from a defendant for a violation of this
2 subdivision shall be transmitted to the State Treasury and, upon
3 appropriation by the Legislature, distributed to the Department of
4 Fair Employment and Housing for the purpose of enforcement of
5 the California Fair Employment and Housing Act (Part 2.8
6 (commencing with Section 12900) of Division 3 of Title 2 of the
7 Government Code), including, but not limited to, laws that
8 proscribe sexual harassment in places of employment. However,
9 in no event shall an amount over two thousand dollars (\$2,000)
10 be transmitted to the State Treasury until all fines, including any
11 restitution fines that may have been imposed upon the defendant,
12 have been paid in full.

13 (2) As used in this subdivision, “touches” means physical contact
14 with another person, whether accomplished directly, through the
15 clothing of the person committing the offense, or through the
16 clothing of the victim.

17 (f) As used in subdivisions (a), (b), (c), and (d), “touches” means
18 physical contact with the skin of another person whether
19 accomplished directly or through the clothing of the person
20 committing the offense.

21 (g) As used in this section, the following terms have the
22 following meanings:

23 (1) “Intimate part” means the sexual organ, anus, groin, or
24 buttocks of any person, and the breast of a female.

25 (2) “Sexual battery” does not include the crimes defined in
26 Section 261 or 289.

27 (3) “Seriously disabled” means a person with severe physical
28 or sensory disabilities.

29 (4) “Medically incapacitated” means a person who is
30 incapacitated as a result of prescribed sedatives, anesthesia, or
31 other medication.

32 (5) “Institutionalized” means a person who is located voluntarily
33 or involuntarily in a hospital, medical treatment facility, nursing
34 home, acute care facility, or mental hospital.

35 (6) “Minor” means a person under 18 years of age.

36 (h) This section does not limit or prevent prosecution under any
37 other law which also proscribes a course of conduct that also is
38 proscribed by this section.

39 (i) In the case of a felony conviction for a violation of this
40 section, the fact that the defendant was an employer and the victim

1 was an employee of the defendant shall be a factor in aggravation
2 in sentencing.

3 (j) A person who commits a violation of subdivision (a), (b),
4 (c), or (d) against a minor when the person has a prior felony
5 conviction for a violation of this section shall be guilty of a felony,
6 punishable by imprisonment in the state prison for two, three, or
7 four years and a fine not exceeding ten thousand dollars (\$10,000).

8 SEC. 2. Section 261 of the Penal Code is amended to read:

9 261. (a) Rape is an act of sexual intercourse accomplished
10 with a person not the spouse of the perpetrator, under any of the
11 following circumstances:

12 (1) Where a person is incapable, because of a mental disorder
13 or developmental or physical disability, of giving legal consent,
14 and this is known or reasonably should be known to the person
15 committing the act. Notwithstanding the existence of a
16 conservatorship pursuant to the provisions of the
17 Lanterman-Petris-Short Act (Part 1 (commencing with Section
18 5000) of Division 5 of the Welfare and Institutions Code), the
19 prosecuting attorney shall prove, as an element of the crime, that
20 a mental disorder or developmental or physical disability rendered
21 the alleged victim incapable of giving consent.

22 (2) Where it is accomplished against a person's will by means
23 of force, violence, duress, menace, or fear of immediate and
24 unlawful bodily injury on the person or another.

25 (3) Where a person is prevented from resisting by any
26 intoxicating or anesthetic substance, or any controlled substance,
27 and this condition was known, or reasonably should have been
28 known by the accused.

29 (4) Where a person is at the time unconscious of the nature of
30 the act, and this is known to the accused. As used in this paragraph,
31 "unconscious of the nature of the act" means incapable of resisting
32 because the victim meets any one of the following conditions:

33 (A) Was unconscious or asleep.

34 (B) Was not aware, knowing, perceiving, or cognizant that the
35 act occurred.

36 (C) Was not aware, knowing, perceiving, or cognizant of the
37 essential characteristics of the act due to the perpetrator's fraud in
38 fact.

39 (D) Was not aware, knowing, perceiving, or cognizant of the
40 essential characteristics of the act due to the perpetrator's fraudulent

1 representation that the sexual penetration served a professional
2 purpose when it served no professional purpose.

3 (5) Where a person submits under the belief that the person
4 committing the act is someone known to the victim other than the
5 accused, and this belief is induced by any artifice, pretense, or
6 concealment practiced by the accused, with intent to induce the
7 belief.

8 (6) Where the act is accomplished against the victim's will by
9 threatening to retaliate in the future against the victim or any other
10 person, and there is a reasonable possibility that the perpetrator
11 will execute the threat. As used in this paragraph, "threatening to
12 retaliate" means a threat to kidnap or falsely imprison, or to inflict
13 extreme pain, serious bodily injury, or death.

14 (7) Where the act is accomplished against the victim's will by
15 threatening to use the authority of a public official to incarcerate,
16 arrest, or deport the victim or another, and the victim has a
17 reasonable belief that the perpetrator is a public official. As used
18 in this paragraph, "public official" means a person employed by
19 a governmental agency who has the authority, as part of that
20 position, to incarcerate, arrest, or deport another. The perpetrator
21 does not actually have to be a public official.

22 (8) Where the act is accomplished against the victim's will by
23 a person while that person is performing professional services that
24 entail having access to the victim's body.

25 (b) As used in this section, "duress" means a direct or implied
26 threat of force, violence, danger, or retribution sufficient to coerce
27 a reasonable person of ordinary susceptibilities to perform an act
28 which otherwise would not have been performed, or acquiesce in
29 an act to which one otherwise would not have submitted. The total
30 circumstances, including the age of the victim, and his or her
31 relationship to the defendant, are factors to consider in appraising
32 the existence of duress.

33 (c) As used in this section, "menace" means any threat,
34 declaration, or act which shows an intention to inflict an injury
35 upon another.

36 SEC. 3. Section 286 of the Penal Code is amended to read:

37 286. (a) Sodomy is sexual conduct consisting of contact
38 between the penis of one person and the anus of another person.
39 Any sexual penetration, however slight, is sufficient to complete
40 the crime of sodomy.

1 (b) (1) Except as provided in Section 288, any person who
2 participates in an act of sodomy with another person who is under
3 18 years of age shall be punished by imprisonment in the state
4 prison, or in a county jail for not more than one year.

5 (2) Except as provided in Section 288, any person over 21 years
6 of age who participates in an act of sodomy with another person
7 who is under 16 years of age shall be guilty of a felony.

8 (c) (1) Any person who participates in an act of sodomy with
9 another person who is under 14 years of age and more than 10
10 years younger than he or she shall be punished by imprisonment
11 in the state prison for three, six, or eight years.

12 (2) (A) Any person who commits an act of sodomy when the
13 act is accomplished against the victim's will by means of force,
14 violence, duress, menace, or fear of immediate and unlawful bodily
15 injury on the victim or another person shall be punished by
16 imprisonment in the state prison for three, six, or eight years.

17 (B) Any person who commits an act of sodomy with another
18 person who is under 14 years of age when the act is accomplished
19 against the victim's will by means of force, violence, duress,
20 menace, or fear of immediate and unlawful bodily injury on the
21 victim or another person shall be punished by imprisonment in the
22 state prison for 9, 11, or 13 years.

23 (C) Any person who commits an act of sodomy with another
24 person who is a minor 14 years of age or older when the act is
25 accomplished against the victim's will by means of force, violence,
26 duress, menace, or fear of immediate and unlawful bodily injury
27 on the victim or another person shall be punished by imprisonment
28 in the state prison for 7, 9, or 11 years.

29 (D) This paragraph does not preclude prosecution under Section
30 269, Section 288.7, or any other provision of law.

31 (3) Any person who commits an act of sodomy where the act
32 is accomplished against the victim's will by threatening to retaliate
33 in the future against the victim or any other person, and there is a
34 reasonable possibility that the perpetrator will execute the threat,
35 shall be punished by imprisonment in the state prison for three,
36 six, or eight years.

37 (d) (1) Any person who, while voluntarily acting in concert
38 with another person, either personally or aiding and abetting that
39 other person, commits an act of sodomy when the act is
40 accomplished against the victim's will by means of force or fear

1 of immediate and unlawful bodily injury on the victim or another
2 person or where the act is accomplished against the victim's will
3 by threatening to retaliate in the future against the victim or any
4 other person, and there is a reasonable possibility that the
5 perpetrator will execute the threat, shall be punished by
6 imprisonment in the state prison for five, seven, or nine years.

7 (2) Any person who, while voluntarily acting in concert with
8 another person, either personally or aiding and abetting that other
9 person, commits an act of sodomy upon a victim who is under 14
10 years of age, when the act is accomplished against the victim's
11 will by means of force or fear of immediate and unlawful bodily
12 injury on the victim or another person, shall be punished by
13 imprisonment in the state prison for 10, 12, or 14 years.

14 (3) Any person who, while voluntarily acting in concert with
15 another person, either personally or aiding and abetting that other
16 person, commits an act of sodomy upon a victim who is a minor
17 14 years of age or older, when the act is accomplished against the
18 victim's will by means of force or fear of immediate and unlawful
19 bodily injury on the victim or another person, shall be punished
20 by imprisonment in the state prison for 7, 9, or 11 years.

21 (4) This subdivision does not preclude prosecution under Section
22 269, Section 288.7, or any other provision of law.

23 (e) Any person who participates in an act of sodomy with any
24 person of any age while confined in any state prison, as defined
25 in Section 4504, or in any local detention facility, as defined in
26 Section 6031.4, shall be punished by imprisonment in the state
27 prison, or in a county jail for not more than one year.

28 (f) (1) Any person who commits an act of sodomy, and the
29 victim is at the time unconscious of the nature of the act and this
30 is known to the person committing the act, shall be punished by
31 imprisonment in the state prison for three, six, or eight years. As
32 used in this subdivision, "unconscious of the nature of the act"
33 means incapable of resisting because the victim meets one of the
34 following conditions:

35 (A) Was unconscious or asleep.

36 (B) Was not aware, knowing, perceiving, or cognizant that the
37 act occurred.

38 (C) Was not aware, knowing, perceiving, or cognizant of the
39 essential characteristics of the act due to the perpetrator's fraud in
40 fact.

1 (D) Was not aware, knowing, perceiving, or cognizant of the
2 essential characteristics of the act due to the perpetrator's fraudulent
3 representation that the sexual penetration served a professional
4 purpose when it served no professional purpose.

5 (2) A person who performs professional services that entail
6 having access to the victim's body and who commits an act of
7 sodomy upon the victim while performing those services, and the
8 act is against the victim's will, shall be punished by imprisonment
9 in the state prison for three, six, or eight years.

10 (g) Except as provided in subdivision (h), a person who commits
11 an act of sodomy, and the victim is at the time incapable, because
12 of a mental disorder or developmental or physical disability, of
13 giving legal consent, and this is known or reasonably should be
14 known to the person committing the act, shall be punished by
15 imprisonment in the state prison for three, six, or eight years.
16 Notwithstanding the existence of a conservatorship pursuant to
17 the Lanterman-Petris-Short Act (Part 1 (commencing with Section
18 5000) of Division 5 of the Welfare and Institutions Code), the
19 prosecuting attorney shall prove, as an element of the crime, that
20 a mental disorder or developmental or physical disability rendered
21 the alleged victim incapable of giving consent.

22 (h) Any person who commits an act of sodomy, and the victim
23 is at the time incapable, because of a mental disorder or
24 developmental or physical disability, of giving legal consent, and
25 this is known or reasonably should be known to the person
26 committing the act, and both the defendant and the victim are at
27 the time confined in a state hospital for the care and treatment of
28 the mentally disordered or in any other public or private facility
29 for the care and treatment of the mentally disordered approved by
30 a county mental health director, shall be punished by imprisonment
31 in the state prison, or in a county jail for not more than one year.
32 Notwithstanding the existence of a conservatorship pursuant to
33 the Lanterman-Petris-Short Act (Part 1 (commencing with Section
34 5000) of Division 5 of the Welfare and Institutions Code), the
35 prosecuting attorney shall prove, as an element of the crime, that
36 a mental disorder or developmental or physical disability rendered
37 the alleged victim incapable of giving legal consent.

38 (i) Any person who commits an act of sodomy, where the victim
39 is prevented from resisting by an intoxicating or anesthetic
40 substance, or any controlled substance, and this condition was

1 known, or reasonably should have been known by the accused,
2 shall be punished by imprisonment in the state prison for three,
3 six, or eight years.

4 (j) Any person who commits an act of sodomy, where the victim
5 submits under the belief that the person committing the act is
6 someone known to the victim other than the accused, and this
7 belief is induced by any artifice, pretense, or concealment practiced
8 by the accused, with intent to induce the belief, shall be punished
9 by imprisonment in the state prison for three, six, or eight years.

10 (k) (1) Any person who commits an act of sodomy, where the
11 act is accomplished against the victim's will by threatening to use
12 the authority of a public official to incarcerate, arrest, or deport
13 the victim or another, and the victim has a reasonable belief that
14 the perpetrator is a public official, shall be punished by
15 imprisonment in the state prison for three, six, or eight years.

16 (2) As used in this subdivision, "public official" means a person
17 employed by a governmental agency who has the authority, as part
18 of that position, to incarcerate, arrest, or deport another. The
19 perpetrator does not actually have to be a public official.

20 (l) As used in subdivisions (c) and (d), "threatening to retaliate"
21 means a threat to kidnap or falsely imprison, or inflict extreme
22 pain, serious bodily injury, or death.

23 (m) In addition to any punishment imposed under this section,
24 the judge may assess a fine not to exceed seventy dollars (\$70)
25 against any person who violates this section, with the proceeds of
26 this fine to be used in accordance with Section 1463.23. The court,
27 however, shall take into consideration the defendant's ability to
28 pay, and no defendant shall be denied probation because of his or
29 her inability to pay the fine permitted under this subdivision.

30 SEC. 4. Section 288a of the Penal Code is amended to read:

31 288a. (a) Oral copulation is the act of copulating the mouth
32 of one person with the sexual organ or anus of another person.

33 (b) (1) Except as provided in Section 288, any person who
34 participates in an act of oral copulation with another person who
35 is under 18 years of age shall be punished by imprisonment in the
36 state prison, or in a county jail for a period of not more than one
37 year.

38 (2) Except as provided in Section 288, any person over 21 years
39 of age who participates in an act of oral copulation with another
40 person who is under 16 years of age is guilty of a felony.

1 (c) (1) Any person who participates in an act of oral copulation
2 with another person who is under 14 years of age and more than
3 10 years younger than he or she shall be punished by imprisonment
4 in the state prison for three, six, or eight years.

5 (2) (A) Any person who commits an act of oral copulation when
6 the act is accomplished against the victim's will by means of force,
7 violence, duress, menace, or fear of immediate and unlawful bodily
8 injury on the victim or another person shall be punished by
9 imprisonment in the state prison for three, six, or eight years.

10 (B) Any person who commits an act of oral copulation upon a
11 person who is under 14 years of age, when the act is accomplished
12 against the victim's will by means of force, violence, duress,
13 menace, or fear of immediate and unlawful bodily injury on the
14 victim or another person, shall be punished by imprisonment in
15 the state prison for 8, 10, or 12 years.

16 (C) Any person who commits an act of oral copulation upon a
17 minor who is 14 years of age or older, when the act is accomplished
18 against the victim's will by means of force, violence, duress,
19 menace, or fear of immediate and unlawful bodily injury on the
20 victim or another person, shall be punished by imprisonment in
21 the state prison for 6, 8, or 10 years.

22 (D) This paragraph does not preclude prosecution under Section
23 269, Section 288.7, or any other provision of law.

24 (3) Any person who commits an act of oral copulation where
25 the act is accomplished against the victim's will by threatening to
26 retaliate in the future against the victim or any other person, and
27 there is a reasonable possibility that the perpetrator will execute
28 the threat, shall be punished by imprisonment in the state prison
29 for three, six, or eight years.

30 (d) (1) Any person who, while voluntarily acting in concert
31 with another person, either personally or by aiding and abetting
32 that other person, commits an act of oral copulation (A) when the
33 act is accomplished against the victim's will by means of force or
34 fear of immediate and unlawful bodily injury on the victim or
35 another person, or (B) where the act is accomplished against the
36 victim's will by threatening to retaliate in the future against the
37 victim or any other person, and there is a reasonable possibility
38 that the perpetrator will execute the threat, or (C) where the victim
39 is at the time incapable, because of a mental disorder or
40 developmental or physical disability, of giving legal consent, and

1 this is known or reasonably should be known to the person
2 committing the act, shall be punished by imprisonment in the state
3 prison for five, seven, or nine years. Notwithstanding the
4 appointment of a conservator with respect to the victim pursuant
5 to the provisions of the Lanterman-Petris-Short Act (Part 1
6 (commencing with Section 5000) of Division 5 of the Welfare and
7 Institutions Code), the prosecuting attorney shall prove, as an
8 element of the crime described under paragraph (3), that a mental
9 disorder or developmental or physical disability rendered the
10 alleged victim incapable of giving legal consent.

11 (2) Any person who, while voluntarily acting in concert with
12 another person, either personally or aiding and abetting that other
13 person, commits an act of oral copulation upon a victim who is
14 under 14 years of age, when the act is accomplished against the
15 victim's will by means of force or fear of immediate and unlawful
16 bodily injury on the victim or another person, shall be punished
17 by imprisonment in the state prison for 10, 12, or 14 years.

18 (3) Any person who, while voluntarily acting in concert with
19 another person, either personally or aiding and abetting that other
20 person, commits an act of oral copulation upon a victim who is a
21 minor 14 years of age or older, when the act is accomplished
22 against the victim's will by means of force or fear of immediate
23 and unlawful bodily injury on the victim or another person, shall
24 be punished by imprisonment in the state prison for 8, 10, or 12
25 years.

26 (4) This paragraph does not preclude prosecution under Section
27 269, Section 288.7, or any other provision of law.

28 (e) Any person who participates in an act of oral copulation
29 while confined in any state prison, as defined in Section 4504 or
30 in any local detention facility as defined in Section 6031.4, shall
31 be punished by imprisonment in the state prison, or in a county
32 jail for a period of not more than one year.

33 (f) (1) Any person who commits an act of oral copulation, and
34 the victim is at the time unconscious of the nature of the act and
35 this is known to the person committing the act, shall be punished
36 by imprisonment in the state prison for a period of three, six, or
37 eight years. As used in this subdivision, "unconscious of the nature
38 of the act" means incapable of resisting because the victim meets
39 one of the following conditions:

40 (A) Was unconscious or asleep.

1 (B) Was not aware, knowing, perceiving, or cognizant that the
2 act occurred.

3 (C) Was not aware, knowing, perceiving, or cognizant of the
4 essential characteristics of the act due to the perpetrator's fraud in
5 fact.

6 (D) Was not aware, knowing, perceiving, or cognizant of the
7 essential characteristics of the act due to the perpetrator's fraudulent
8 representation that the oral copulation served a professional purpose
9 when it served no professional purpose.

10 (2) A person who performs professional services that entail
11 having access to the victim's body and who commits an act of oral
12 copulation upon the victim while performing those services, and
13 the act is against the victim's will, shall be punished by
14 imprisonment in the state prison for three, six, or eight years.

15 (g) Except as provided in subdivision (h), any person who
16 commits an act of oral copulation, and the victim is at the time
17 incapable, because of a mental disorder or developmental or
18 physical disability, of giving legal consent, and this is known or
19 reasonably should be known to the person committing the act,
20 shall be punished by imprisonment in the state prison, for three,
21 six, or eight years. Notwithstanding the existence of a
22 conservatorship pursuant to the provisions of the
23 Lanterman-Petris-Short Act (Part 1 (commencing with Section
24 5000) of Division 5 of the Welfare and Institutions Code), the
25 prosecuting attorney shall prove, as an element of the crime, that
26 a mental disorder or developmental or physical disability rendered
27 the alleged victim incapable of giving consent.

28 (h) Any person who commits an act of oral copulation, and the
29 victim is at the time incapable, because of a mental disorder or
30 developmental or physical disability, of giving legal consent, and
31 this is known or reasonably should be known to the person
32 committing the act, and both the defendant and the victim are at
33 the time confined in a state hospital for the care and treatment of
34 the mentally disordered or in any other public or private facility
35 for the care and treatment of the mentally disordered approved by
36 a county mental health director, shall be punished by imprisonment
37 in the state prison, or in a county jail for a period of not more than
38 one year. Notwithstanding the existence of a conservatorship
39 pursuant to the provisions of the Lanterman-Petris-Short Act (Part
40 1 (commencing with Section 5000) of Division 5 of the Welfare

1 and Institutions Code), the prosecuting attorney shall prove, as an
2 element of the crime, that a mental disorder or developmental or
3 physical disability rendered the alleged victim incapable of giving
4 legal consent.

5 (i) Any person who commits an act of oral copulation, where
6 the victim is prevented from resisting by any intoxicating or
7 anesthetic substance, or any controlled substance, and this condition
8 was known, or reasonably should have been known by the accused,
9 shall be punished by imprisonment in the state prison for a period
10 of three, six, or eight years.

11 (j) Any person who commits an act of oral copulation, where
12 the victim submits under the belief that the person committing the
13 act is someone known to the victim other than the accused, and
14 this belief is induced by any artifice, pretense, or concealment
15 practiced by the accused, with intent to induce the belief, shall be
16 punished by imprisonment in the state prison for a period of three,
17 six, or eight years.

18 (k) (1) Any person who commits an act of oral copulation,
19 where the act is accomplished against the victim's will by
20 threatening to use the authority of a public official to incarcerate,
21 arrest, or deport the victim or another, and the victim has a
22 reasonable belief that the perpetrator is a public official, shall be
23 punished by imprisonment in the state prison for a period of three,
24 six, or eight years.

25 (2) As used in this subdivision, "public official" means a person
26 employed by a governmental agency who has the authority, as part
27 of that position, to incarcerate, arrest, or deport another. The
28 perpetrator does not actually have to be a public official.

29 (l) As used in subdivisions (c) and (d), "threatening to retaliate"
30 means a threat to kidnap or falsely imprison, or to inflict extreme
31 pain, serious bodily injury, or death.

32 (m) In addition to any punishment imposed under this section,
33 the judge may assess a fine not to exceed seventy dollars (\$70)
34 against any person who violates this section, with the proceeds of
35 this fine to be used in accordance with Section 1463.23. The court
36 shall, however, take into consideration the defendant's ability to
37 pay, and no defendant shall be denied probation because of his or
38 her inability to pay the fine permitted under this subdivision.

39 *SEC. 4.5. Section 288a of the Penal Code is amended and*
40 *renumbered to read:*

1 288a.

2 287. (a) Oral copulation is the act of copulating the mouth of
3 one person with the sexual organ or anus of another person.

4 (b) (1) Except as provided in Section 288, any person who
5 participates in an act of oral copulation with another person who
6 is under 18 years of age shall be punished by imprisonment in the
7 state prison, or in a county jail for a period of not more than one
8 year.

9 (2) Except as provided in Section 288, any person over 21 years
10 of age who participates in an act of oral copulation with another
11 person who is under 16 years of age is guilty of a felony.

12 (c) (1) Any person who participates in an act of oral copulation
13 with another person who is under 14 years of age and more than
14 10 years younger than he or she shall be punished by imprisonment
15 in the state prison for three, six, or eight years.

16 (2) (A) Any person who commits an act of oral copulation when
17 the act is accomplished against the victim's will by means of force,
18 violence, duress, menace, or fear of immediate and unlawful bodily
19 injury on the victim or another person shall be punished by
20 imprisonment in the state prison for three, six, or eight years.

21 (B) Any person who commits an act of oral copulation upon a
22 person who is under 14 years of age, when the act is accomplished
23 against the victim's will by means of force, violence, duress,
24 menace, or fear of immediate and unlawful bodily injury on the
25 victim or another person, shall be punished by imprisonment in
26 the state prison for 8, 10, or 12 years.

27 (C) Any person who commits an act of oral copulation upon a
28 minor who is 14 years of age or older, when the act is accomplished
29 against the victim's will by means of force, violence, duress,
30 menace, or fear of immediate and unlawful bodily injury on the
31 victim or another person, shall be punished by imprisonment in
32 the state prison for 6, 8, or 10 years.

33 (D) This paragraph does not preclude prosecution under Section
34 269, Section 288.7, or any other provision of law.

35 (3) Any person who commits an act of oral copulation where
36 the act is accomplished against the victim's will by threatening to
37 retaliate in the future against the victim or any other person, and
38 there is a reasonable possibility that the perpetrator will execute
39 the threat, shall be punished by imprisonment in the state prison
40 for three, six, or eight years.

1 (d) (1) Any person who, while voluntarily acting in concert
2 with another person, either personally or by aiding and abetting
3 that other person, commits an act of oral copulation (A) when the
4 act is accomplished against the victim's will by means of force or
5 fear of immediate and unlawful bodily injury on the victim or
6 another person, or (B) where the act is accomplished against the
7 victim's will by threatening to retaliate in the future against the
8 victim or any other person, and there is a reasonable possibility
9 that the perpetrator will execute the threat, or (C) where the victim
10 is at the time incapable, because of a mental disorder or
11 developmental or physical disability, of giving legal consent, and
12 this is known or reasonably should be known to the person
13 committing the act, shall be punished by imprisonment in the state
14 prison for five, seven, or nine years. Notwithstanding the
15 appointment of a conservator with respect to the victim pursuant
16 to the provisions of the Lanterman-Petris-Short Act (Part 1
17 (commencing with Section 5000) of Division 5 of the Welfare and
18 Institutions Code), the prosecuting attorney shall prove, as an
19 element of the crime described under paragraph (3), that a mental
20 disorder or developmental or physical disability rendered the
21 alleged victim incapable of giving legal consent.

22 (2) Any person who, while voluntarily acting in concert with
23 another person, either personally or aiding and abetting that other
24 person, commits an act of oral copulation upon a victim who is
25 under 14 years of age, when the act is accomplished against the
26 victim's will by means of force or fear of immediate and unlawful
27 bodily injury on the victim or another person, shall be punished
28 by imprisonment in the state prison for 10, 12, or 14 years.

29 (3) Any person who, while voluntarily acting in concert with
30 another person, either personally or aiding and abetting that other
31 person, commits an act of oral copulation upon a victim who is a
32 minor 14 years of age or older, when the act is accomplished
33 against the victim's will by means of force or fear of immediate
34 and unlawful bodily injury on the victim or another person, shall
35 be punished by imprisonment in the state prison for 8, 10, or 12
36 years.

37 (4) This paragraph does not preclude prosecution under Section
38 269, Section 288.7, or any other provision of law.

39 (e) Any person who participates in an act of oral copulation
40 while confined in any state prison, as defined in Section 4504 or

1 in any local detention facility as defined in Section 6031.4, shall
2 be punished by imprisonment in the state prison, or in a county
3 jail for a period of not more than one year.

4 ~~(f) Any~~

5 (f) (1) Any person who commits an act of oral copulation, and
6 the victim is at the time unconscious of the nature of the act and
7 this is known to the person committing the act, shall be punished
8 by imprisonment in the state prison for a period of three, six, or
9 eight years. As used in this subdivision, “unconscious of the nature
10 of the act” means incapable of resisting because the victim meets
11 one of the following conditions:

12 ~~(1)~~

13 (A) Was unconscious or asleep.

14 ~~(2)~~

15 (B) Was not aware, knowing, perceiving, or cognizant that the
16 act occurred.

17 ~~(3)~~

18 (C) Was not aware, knowing, perceiving, or cognizant of the
19 essential characteristics of the act due to the perpetrator’s fraud in
20 fact.

21 ~~(4)~~

22 (D) Was not aware, knowing, perceiving, or cognizant of the
23 essential characteristics of the act due to the perpetrator’s fraudulent
24 representation that the oral copulation served a professional purpose
25 when it served no professional purpose.

26 (2) *A person who performs professional services that entail*
27 *having access to the victim’s body and who commits an act of oral*
28 *copulation upon the victim while performing those services, and*
29 *the act is against the victim’s will, shall be punished by*
30 *imprisonment in the state prison for three, six, or eight years.*

31 (g) Except as provided in subdivision (h), any person who
32 commits an act of oral copulation, and the victim is at the time
33 incapable, because of a mental disorder or developmental or
34 physical disability, of giving legal consent, and this is known or
35 reasonably should be known to the person committing the act,
36 shall be punished by imprisonment in the state prison, for three,
37 six, or eight years. Notwithstanding the existence of a
38 conservatorship pursuant to the provisions of the
39 Lanterman-Petris-Short Act (Part 1 (commencing with Section
40 5000) of Division 5 of the Welfare and Institutions Code), the

1 prosecuting attorney shall prove, as an element of the crime, that
2 a mental disorder or developmental or physical disability rendered
3 the alleged victim incapable of giving consent.

4 (h) Any person who commits an act of oral copulation, and the
5 victim is at the time incapable, because of a mental disorder or
6 developmental or physical disability, of giving legal consent, and
7 this is known or reasonably should be known to the person
8 committing the act, and both the defendant and the victim are at
9 the time confined in a state hospital for the care and treatment of
10 the mentally disordered or in any other public or private facility
11 for the care and treatment of the mentally disordered approved by
12 a county mental health director, shall be punished by imprisonment
13 in the state prison, or in a county jail for a period of not more than
14 one year. Notwithstanding the existence of a conservatorship
15 pursuant to the provisions of the Lanterman-Petris-Short Act (Part
16 1 (commencing with Section 5000) of Division 5 of the Welfare
17 and Institutions Code), the prosecuting attorney shall prove, as an
18 element of the crime, that a mental disorder or developmental or
19 physical disability rendered the alleged victim incapable of giving
20 legal consent.

21 (i) Any person who commits an act of oral copulation, where
22 the victim is prevented from resisting by any intoxicating or
23 anesthetic substance, or any controlled substance, and this condition
24 was known, or reasonably should have been known by the accused,
25 shall be punished by imprisonment in the state prison for a period
26 of three, six, or eight years.

27 (j) Any person who commits an act of oral copulation, where
28 the victim submits under the belief that the person committing the
29 act is someone known to the victim other than the accused, and
30 this belief is induced by any artifice, pretense, or concealment
31 practiced by the accused, with intent to induce the belief, shall be
32 punished by imprisonment in the state prison for a period of three,
33 six, or eight years.

34 ~~(k) Any~~

35 (k) (1) Any person who commits an act of oral copulation, where
36 the act is accomplished against the victim's will by threatening to
37 use the authority of a public official to incarcerate, arrest, or deport
38 the victim or another, and the victim has a reasonable belief that
39 the perpetrator is a public official, shall be punished by

1 imprisonment in the state prison for a period of three, six, or eight
2 years.

3 ~~As~~

4 (2) *As* used in this subdivision, “public official” means a person
5 employed by a governmental agency who has the authority, as part
6 of that position, to incarcerate, arrest, or deport another. The
7 perpetrator does not actually have to be a public official.

8 (l) *As* used in subdivisions (c) and (d), “threatening to retaliate”
9 means a threat to kidnap or falsely imprison, or to inflict extreme
10 pain, serious bodily injury, or death.

11 (m) In addition to any punishment imposed under this section,
12 the judge may assess a fine not to exceed seventy dollars (\$70)
13 against any person who violates this section, with the proceeds of
14 this fine to be used in accordance with Section 1463.23. The court
15 shall, however, take into consideration the defendant’s ability to
16 pay, and no defendant shall be denied probation because of his or
17 her inability to pay the fine permitted under this subdivision.

18 SEC. 5. Section 289 of the Penal Code is amended to read:

19 289. (a) (1) (A) Any person who commits an act of sexual
20 penetration when the act is accomplished against the victim’s will
21 by means of force, violence, duress, menace, or fear of immediate
22 and unlawful bodily injury on the victim or another person shall
23 be punished by imprisonment in the state prison for three, six, or
24 eight years.

25 (B) Any person who commits an act of sexual penetration upon
26 a child who is under 14 years of age, when the act is accomplished
27 against the victim’s will by means of force, violence, duress,
28 menace, or fear of immediate and unlawful bodily injury on the
29 victim or another person, shall be punished by imprisonment in
30 the state prison for 8, 10, or 12 years.

31 (C) Any person who commits an act of sexual penetration upon
32 a minor who is 14 years of age or older, when the act is
33 accomplished against the victim’s will by means of force, violence,
34 duress, menace, or fear of immediate and unlawful bodily injury
35 on the victim or another person, shall be punished by imprisonment
36 in the state prison for 6, 8, or 10 years.

37 (D) This paragraph does not preclude prosecution under Section
38 269, Section 288.7, or any other provision of law.

39 (2) Any person who commits an act of sexual penetration when
40 the act is accomplished against the victim’s will by threatening to

1 retaliate in the future against the victim or any other person, and
2 there is a reasonable possibility that the perpetrator will execute
3 the threat, shall be punished by imprisonment in the state prison
4 for three, six, or eight years.

5 (b) Except as provided in subdivision (c), any person who
6 commits an act of sexual penetration, and the victim is at the time
7 incapable, because of a mental disorder or developmental or
8 physical disability, of giving legal consent, and this is known or
9 reasonably should be known to the person committing the act or
10 causing the act to be committed, shall be punished by imprisonment
11 in the state prison for three, six, or eight years. Notwithstanding
12 the appointment of a conservator with respect to the victim pursuant
13 to the provisions of the Lanterman-Petris-Short Act (Part 1
14 (commencing with Section 5000) of Division 5 of the Welfare and
15 Institutions Code), the prosecuting attorney shall prove, as an
16 element of the crime, that a mental disorder or developmental or
17 physical disability rendered the alleged victim incapable of giving
18 legal consent.

19 (c) Any person who commits an act of sexual penetration, and
20 the victim is at the time incapable, because of a mental disorder
21 or developmental or physical disability, of giving legal consent,
22 and this is known or reasonably should be known to the person
23 committing the act or causing the act to be committed and both
24 the defendant and the victim are at the time confined in a state
25 hospital for the care and treatment of the mentally disordered or
26 in any other public or private facility for the care and treatment of
27 the mentally disordered approved by a county mental health
28 director, shall be punished by imprisonment in the state prison, or
29 in a county jail for a period of not more than one year.
30 Notwithstanding the existence of a conservatorship pursuant to
31 the provisions of the Lanterman-Petris-Short Act (Part 1
32 (commencing with Section 5000) of Division 5 of the Welfare and
33 Institutions Code), the prosecuting attorney shall prove, as an
34 element of the crime, that a mental disorder or developmental or
35 physical disability rendered the alleged victim incapable of giving
36 legal consent.

37 (d) (1) Any person who commits an act of sexual penetration,
38 and the victim is at the time unconscious of the nature of the act
39 and this is known to the person committing the act or causing the
40 act to be committed, shall be punished by imprisonment in the

1 state prison for three, six, or eight years. As used in this
2 subdivision, “unconscious of the nature of the act” means incapable
3 of resisting because the victim meets one of the following
4 conditions:

5 (A) Was unconscious or asleep.

6 (B) Was not aware, knowing, perceiving, or cognizant that the
7 act occurred.

8 (C) Was not aware, knowing, perceiving, or cognizant of the
9 essential characteristics of the act due to the perpetrator’s fraud in
10 fact.

11 (D) Was not aware, knowing, perceiving, or cognizant of the
12 essential characteristics of the act due to the perpetrator’s fraudulent
13 representation that the sexual penetration served a professional
14 purpose when it served no professional purpose.

15 (2) A person who performs professional services that entail
16 having access to the victim’s body and who commits an act of
17 sexual penetration upon the victim while performing those services,
18 and the act is against the victim’s will, shall be punished by
19 imprisonment in the state prison for three, six, or eight years.

20 (e) Any person who commits an act of sexual penetration when
21 the victim is prevented from resisting by any intoxicating or
22 anesthetic substance, or any controlled substance, and this condition
23 was known, or reasonably should have been known by the accused,
24 shall be punished by imprisonment in the state prison for a period
25 of three, six, or eight years.

26 (f) Any person who commits an act of sexual penetration when
27 the victim submits under the belief that the person committing the
28 act or causing the act to be committed is someone known to the
29 victim other than the accused, and this belief is induced by any
30 artifice, pretense, or concealment practiced by the accused, with
31 intent to induce the belief, shall be punished by imprisonment in
32 the state prison for a period of three, six, or eight years.

33 (g) Any person who commits an act of sexual penetration when
34 the act is accomplished against the victim’s will by threatening to
35 use the authority of a public official to incarcerate, arrest, or deport
36 the victim or another, and the victim has a reasonable belief that
37 the perpetrator is a public official, shall be punished by
38 imprisonment in the state prison for a period of three, six, or eight
39 years.

1 As used in this subdivision, “public official” means a person
2 employed by a governmental agency who has the authority, as part
3 of that position, to incarcerate, arrest, or deport another. The
4 perpetrator does not actually have to be a public official.

5 (h) Except as provided in Section 288, any person who
6 participates in an act of sexual penetration with another person
7 who is under 18 years of age shall be punished by imprisonment
8 in the state prison or in a county jail for a period of not more than
9 one year.

10 (i) Except as provided in Section 288, any person over 21 years
11 of age who participates in an act of sexual penetration with another
12 person who is under 16 years of age shall be guilty of a felony.

13 (j) Any person who participates in an act of sexual penetration
14 with another person who is under 14 years of age and who is more
15 than 10 years younger than he or she shall be punished by
16 imprisonment in the state prison for three, six, or eight years.

17 (k) As used in this section:

18 (1) “Sexual penetration” is the act of causing the penetration,
19 however slight, of the genital or anal opening of any person or
20 causing another person to so penetrate the defendant’s or another
21 person’s genital or anal opening for the purpose of sexual arousal,
22 gratification, or abuse by any foreign object, substance, instrument,
23 or device, or by any unknown object.

24 (2) “Foreign object, substance, instrument, or device” shall
25 include any part of the body, except a sexual organ.

26 (3) “Unknown object” shall include any foreign object,
27 substance, instrument, or device, or any part of the body, including
28 a penis, when it is not known whether penetration was by a penis
29 or by a foreign object, substance, instrument, or device, or by any
30 other part of the body.

31 (l) As used in subdivision (a), “threatening to retaliate” means
32 a threat to kidnap or falsely imprison, or inflict extreme pain,
33 serious bodily injury or death.

34 (m) As used in this section, “victim” includes any person who
35 the defendant causes to penetrate the genital or anal opening of
36 the defendant or another person or whose genital or anal opening
37 is caused to be penetrated by the defendant or another person and
38 who otherwise qualifies as a victim under the requirements of this
39 section.

1 *SEC. 6. Section 4.5 of this bill incorporates amendments to*
2 *Section 288a of the Penal Code proposed by both this bill and*
3 *Senate Bill 1494. Section 4.5 shall only become operative if (1)*
4 *both bills are enacted, without regard to the order of enactment,*
5 *and become effective on or before January 1, 2019, and (2) each*
6 *bill amends Section 288a of the Penal Code, in which case Section*
7 *4 of this bill shall not become operative.*

8 ~~SEC. 6.~~

9 *SEC. 7. No reimbursement is required by this act pursuant to*
10 *Section 6 of Article XIII B of the California Constitution because*
11 *the only costs that may be incurred by a local agency or school*
12 *district will be incurred because this act creates a new crime or*
13 *infraction, eliminates a crime or infraction, or changes the penalty*
14 *for a crime or infraction, within the meaning of Section 17556 of*
15 *the Government Code, or changes the definition of a crime within*
16 *the meaning of Section 6 of Article XIII B of the California*
17 *Constitution.*

O

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2086

AUTHOR: J. Gallagher

SPONSOR: Assemblymember
Gallagher

VERSION: Amended 04/03/2018

INTRODUCED: 02/07/2018

BILL STATUS: 08/06/2018 – In Senate. Read
third time. To Consent
Calendar.

BILL LOCATION: Senate Third
Reading File

SUBJECT: Controlled substances:
CURES database

**RELATED
BILLS:** AB 1751,
AB 1752, AB
1753, AB 1963,
AB 2384, AB
2486, AB 2487,
AB 2741, AB
2760, AB 2783,
AB 2789, AB
2859

SUMMARY

Existing law classifies certain controlled substances into designated schedules. Additionally, existing law requires the Department of Justice (DOJ) to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish or dispense any of the aforementioned schedule controlled substances.

This bill would allow prescribers to access the CURES database for a list of patients for whom that prescriber is listed as a prescriber in the database.

ANALYSIS

In October 2017, the White House declared the opioid crisis a public health emergency. Opioids are a class of drugs prescribed and administered by health professionals to manage pain. Modern use of the term “opioid” typically describes both naturally occurring opiates derived from the opium poppy as well as their manufactured synthetics. Common examples of prescription opioids include oxycodone (OxyContin,

Percocet); hydrocodone (Vicodin, Norco, Lorcet); codeine; morphine; and fentanyl. Heroin is also an opioid.

In addition to providing pain relief, opioids can be used as a cough suppressant, an antidiarrheal, a method of sedation, and a treatment for shortness of breath. The majority of pharmaceutical opioids are Schedule II drugs under the federal Controlled Substances Act, considered by the federal Drug Enforcement Agency (DEA) to have a high potential for abuse that may lead to severe psychological or physical dependence. However, combination drugs containing lower doses of opioids combined with other active ingredients are typically less restricted; for example, cough syrups containing low doses of codeine are frequently classified Schedule V medications.

The author noted that “AB 2086 will help authorities identify fraudulent prescriptions of controlled substances by allowing prescribers to request a list for patients for whom they are listed as being the prescriber in the CURES database.”

In addition to preventing fraudulent prescriptions, the hope is to keep medication from those who should not have them. Research shows that opioid abuse is very prevalent in California, particularly in rural counties. The opioid crisis must be addressed on many levels including by health professionals.

Supporters of the bill noted that allowing prescribers to review their prescribing history to verify their accuracy, flag fraudulent activity (i.e. a prescription pad was stolen from an office), and utilize the CURES database to its full extent will help save lives.

This bill would not have a fiscal impact upon the Dental Board of California (Board). AB 2086 may lead to the Board’s licensees assisting in detecting fraud and prescription abuse.

REGISTERED SUPPORT/OPPOSITION

Support

Cal Chiefs
California Dental Association
California District Attorneys Association
CaliforniaHealth+ Advocates
California Hospital Association
California Medical Association
California Society of Anesthesiologists
America’s Physician Group
California Academy of Family Physicians
California Chiropractic Association

Oppose

None on file.

STAFF RECOMMENDATION

BOARD POSITION:

SUPPORT: X OPPOSE: _____ NEUTRAL: _____ WATCH: _____

AMENDED IN ASSEMBLY APRIL 3, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2086

**Introduced by Assembly Member Gallagher
(Coauthors: Assembly Members Gipson and Mathis)**

February 7, 2018

An act to amend Section 11165 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2086, as amended, Gallagher. Controlled substances: CURES database.

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

This bill would allow prescribers to ~~request from the Department of Justice~~ *access the CURES database* for a list of patients for whom that prescriber is listed as a prescriber in the CURES database.

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

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

1 SECTION 1. Section 11165 of the Health and Safety Code is
2 amended to read:

3 11165. (a) To assist health care practitioners in their efforts
4 to ensure appropriate prescribing, ordering, administering,
5 furnishing, and dispensing of controlled substances, law
6 enforcement and regulatory agencies in their efforts to control the
7 diversion and resultant abuse of Schedule II, Schedule III, and
8 Schedule IV controlled substances, and for statistical analysis,
9 education, and research, the Department of Justice shall, contingent
10 upon the availability of adequate funds in the CURES Fund,
11 maintain the Controlled Substance Utilization Review and
12 Evaluation System (CURES) for the electronic monitoring of, and
13 Internet access to information regarding, the prescribing and
14 dispensing of Schedule II, Schedule III, and Schedule IV controlled
15 substances by all practitioners authorized to prescribe, order,
16 administer, furnish, or dispense these controlled substances.

17 (b) The Department of Justice may seek and use grant funds to
18 pay the costs incurred by the operation and maintenance of
19 CURES. The department shall annually report to the Legislature
20 and make available to the public the amount and source of funds
21 it receives for support of CURES.

22 (c) (1) The operation of CURES shall comply with all
23 applicable federal and state privacy and security laws and
24 regulations.

25 (2) (A) CURES shall operate under existing provisions of law
26 to safeguard the privacy and confidentiality of patients. Data
27 obtained from CURES shall only be provided to appropriate state,
28 local, and federal public agencies for disciplinary, civil, or criminal
29 purposes and to other agencies or entities, as determined by the
30 Department of Justice, for the purpose of educating practitioners
31 and others in lieu of disciplinary, civil, or criminal actions. Data
32 may be provided to public or private entities, as approved by the
33 Department of Justice, for educational, peer review, statistical, or
34 research purposes, provided that patient information, including
35 any information that may identify the patient, is not compromised.
36 Further, data disclosed to any individual or agency as described
37 in this subdivision shall not be disclosed, sold, or transferred to
38 any third party, unless authorized by, or pursuant to, state and

1 federal privacy and security laws and regulations. The Department
2 of Justice shall establish policies, procedures, and regulations
3 regarding the use, access, evaluation, management, implementation,
4 operation, storage, disclosure, and security of the information
5 within CURES, consistent with this subdivision.

6 (B) Notwithstanding subparagraph (A), a regulatory board whose
7 licensees do not prescribe, order, administer, furnish, or dispense
8 controlled substances shall not be provided data obtained from
9 CURES.

10 (C) A prescriber ~~may request from the Department of Justice~~
11 *shall be allowed to access the CURES database for* a list of patients
12 for whom that prescriber is listed as a prescriber in the CURES
13 database.

14 (3) In accordance with federal and state privacy laws and
15 regulations, a health care practitioner may provide a patient with
16 a copy of the patient's CURES patient activity report as long as
17 no additional CURES data is provided and keep a copy of the
18 report in the patient's medical record in compliance with
19 subdivision (d) of Section 11165.1.

20 (d) For each prescription for a Schedule II, Schedule III, or
21 Schedule IV controlled substance, as defined in the controlled
22 substances schedules in federal law and regulations, specifically
23 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
24 of the Code of Federal Regulations, the dispensing pharmacy,
25 clinic, or other dispenser shall report the following information to
26 the Department of Justice as soon as reasonably possible, but not
27 more than seven days after the date a controlled substance is
28 dispensed, in a format specified by the Department of Justice:

29 (1) Full name, address, and, if available, telephone number of
30 the ultimate user or research subject, or contact information as
31 determined by the Secretary of the United States Department of
32 Health and Human Services, and the gender, and date of birth of
33 the ultimate user.

34 (2) The prescriber's category of licensure, license number,
35 national provider identifier (NPI) number, if applicable, the federal
36 controlled substance registration number, and the state medical
37 license number of any prescriber using the federal controlled
38 substance registration number of a government-exempt facility.

39 (3) Pharmacy prescription number, license number, NPI number,
40 and federal controlled substance registration number.

- 1 (4) National Drug Code (NDC) number of the controlled
2 substance dispensed.
- 3 (5) Quantity of the controlled substance dispensed.
- 4 (6) International Statistical Classification of Diseases, 9th
5 revision (ICD-9) or 10th revision (ICD-10) Code, if available.
- 6 (7) Number of refills ordered.
- 7 (8) Whether the drug was dispensed as a refill of a prescription
8 or as a first-time request.
- 9 (9) Date of origin of the prescription.
- 10 (10) Date of dispensing of the prescription.
- 11 (e) The Department of Justice may invite stakeholders to assist,
12 advise, and make recommendations on the establishment of rules
13 and regulations necessary to ensure the proper administration and
14 enforcement of the CURES database. All prescriber and dispenser
15 invitees shall be licensed by one of the boards or committees
16 identified in subdivision (d) of Section 208 of the Business and
17 Professions Code, in active practice in California, and a regular
18 user of CURES.
- 19 (f) The Department of Justice shall, prior to upgrading CURES,
20 consult with prescribers licensed by one of the boards or
21 committees identified in subdivision (d) of Section 208 of the
22 Business and Professions Code, one or more of the boards or
23 committees identified in subdivision (d) of Section 208 of the
24 Business and Professions Code, and any other stakeholder
25 identified by the department, for the purpose of identifying
26 desirable capabilities and upgrades to the CURES Prescription
27 Drug Monitoring Program (PDMP).
- 28 (g) The Department of Justice may establish a process to educate
29 authorized subscribers of the CURES PDMP on how to access and
30 use the CURES PDMP.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2138

AUTHOR: D. Chiu and E. Low

SPONSOR: Anti-Recidivism
Coalition, East Bay
Community Law
Center, Legal
Services for
Prisoners with
Children, Root &
Rebound

VERSION: Amended 06/20/2018

INTRODUCED: 02/12/2018

BILL STATUS: 08/06/2018 – Senate
Committee on Appropriations.
To Suspense File.

BILL LOCATION: Senate
Appropriations
Committee

SUBJECT: Licensing boards: denial of
application: revocation or
suspension of licensure:
criminal conviction

**RELATED
BILLS:** AB 3039,
AB 2409, SB
1298

SUMMARY

Assembly Bill (AB) 2138 would authorize licensing boards (boards) to, among other things, deny, revoke, or suspend a license if the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction occurred within the preceding seven (7) years (except for serious felonies). The crime must be “substantially” related to the qualifications, functions, or duties of the business or profession. Additionally, this bill would require boards to develop criteria for determining whether a crime is “substantially” related.

AB 2138 would prohibit boards from denying a person a license based on the conviction of a crime, the acts that underlie a conviction for a crime, a conviction that has been dismissed or expunged, if the person has provided evidence of rehabilitation, a person that has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. This bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

AB 2138 would require a board to find that a person has provided evidence of rehabilitation if certain conditions are met. AB 2138 would require boards to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. If boards were to deny an application based solely or in part on an applicant's conviction history, the board shall notify the applicant of the denial as well as their right to challenge or appeal the board's decision, as well as obtain a copy of their own rap sheet.

This bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

AB 2138 would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

This bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed.

ANALYSIS

Today, the Department of Consumer Affairs (DCA) oversees 38 boards, bureaus, and other regulatory bodies. The practice act for each profession licensed by a regulatory board under the DCA typically includes sunset provisions providing for regular review by the Legislature. Due to the unique nature of each individual profession licensed and regulated by entities under the DCA, the various professional practice acts contain their own standards and enforcement criteria for individuals applying for or in receipt of special occupational privileges from the state. There are some umbrella statutes that govern the discretion of these regulatory bodies generally.

In 2017, the Assembly Business and Professions Committee discussed barriers to licensure generally in its sunset background paper for the DCA. Specifically, the committee considered how criminal convictions eligible for license disqualification in California are limited in the sense that they must be "substantially related" to the profession into which the license allows entry. Concern was expressed that there is a "serious lack of clarity for applicants as to what 'substantially related' means and this determination is often left to the discretion of individual boards." The Assembly Business and Professions Committee staff recommendation was for the DCA to take steps to improve transparency and consistency in the use of applicants' criminal histories by boards and bureaus.

Each regulatory board under the DCA has the broad authority to take disciplinary action against its licensees based on the provisions of its specific practice act and the standard of conduct for its licensee population. Additionally, existing law (Business and Professions Code [B&PC] Section 490) allows a board to suspend or revoke a license on the ground that a licensee has been convicted of a crime that is substantially related

to the qualifications, functions, or duties of the business or profession for which the license was issued. A number of disciplinary actions against licensees have been identified as cases resulting directly from the result of parallel criminal proceedings. Many stakeholders have voiced concerned that these cases are overly punitive and can frequently be cause for a licensee to be unable to practice his or her profession long after the criminal misconduct has occurred. AB 2138 intends to reform this process in addition to amend to provisions governing the issuance of initial licensure applications.

AB 2138 would amend B&PC Section 480 to require boards to retain application forms and other documents submitted by applicant (including notice provided to an applicant, communication and criminal history). B&PC Section 480 would also mandate data collection and public reporting in regards to how criminal convictions are used to deny or revoke or suspend licenses. The Board currently does not do this and would likely require additional staff to complete this requirement. AB 2138 also requires boards to annually submit a report to the Legislature and make available to the public through their website deidentified information collected regarding the number of applicants with a criminal record who: received notice of denial or disqualification of licensure, provided evidence of mitigation or rehabilitation, or appealed any denial or disqualification of a license. Although the Board does retain application forms the Board does not currently make information available to the public regarding the number of applicants with criminal records. This would require more staff time and possibly an additional staff member to obtain the information, compile the data into a report for the Legislature, and provide data online to the public.

Specifically, it would remove the Board's authority to deny an application for licensure based on "acts" for which there has been no due process in a criminal or disciplinary proceeding. The effect of this provision is unknown however, the potential consequences of removing this could mean that inappropriate or illegal behavior where a city or private individual chooses not to pursue criminal charges could not be a basis for denying a license. Thus, in effect, creating a "it doesn't count unless you were convicted" mentality.

The bill would institute a seven-year "washout period" for criminal convictions. Under these provisions, crimes that are older than seven years may no longer be considered for purposes of denying a licensure application or revoking or suspending a current license. Notably, this seven-year period would apply only to convictions and not sentence completion. Which could mean an applicant could still be completing requirements a result of the sentencing but would not be required to disclose this information when applying for license with the Board. However, this washout period would not apply to serious felonies, which are already codified under Penal Code Section 667.5.

AB 2138 has the potential to significantly impact the Board because this bill would change how the Board can assess the fitness of an applicant as it relates to convictions and could provide a fragmented view of an applicant. Specifically, B&PC Section 480 would be amended to remove the require that an applicant disclose their criminal

history. The Board currently allows applicants the ability to disclose on their application if he or she has ever been convicted of a crime. Specifically, the Board requests an applicant provide certified copies of the arresting agency report, certified copies of court documents, and a descriptive explanation of the circumstances surrounding the conviction (i.e., dates and location of the incident(s) and all circumstances surrounding the incident(s)). However, an applicant's failure to disclose a conviction is not an automatic bar to licensure. A comprehensive background is necessary to promoting public protection and ensuring licensees have the qualification needed to work with the public. Although bills like Senate Bill (SB) 1238 to change the amount of criminal history report, AB 2138 the Board would be prohibited from requiring an applicant to disclose any information or provide documentation regarding their criminal history. If AB 2138 passes in its current form, Board staff will need to update their applications and as a result regulation, which incorporate some of these applications by reference, to reflect the changes as required by law.

Additionally, AB 2138 would narrow the Board's discretion to deny a professional license to when an applicant has been subjected to formal discipline by a licensing board within the preceding seven that would've been for discipline before the Board. This could be a potential issue for the Board especially if the misconduct was egregious but would not be considered because it falls outside of the seven-year period.

AB 2138 would also amend B&PC Section 493 to state that a board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

The Pacific Advocacy Group, representing the Plumbing-Heating-Cooling Contractors Association of California; the Western Electrical Contractors Association; and the San Diego, Southern and Central California Chapters of Associated Builders and Contractors opposes the bill. These groups argue that "the number of applicants denied licensure at [the Contractors State Licensing Board] CSLB because of a criminal conviction is very low." They requested that CSLB should be exempt from changes in AB 2138.

REGISTERED SUPPORT/OPPOSITION

Support

Anti-Recidivism Coalition (Sponsor)

East Bay Community Law Center (Sponsor)

Legal Services for Prisoners with Children (Sponsor)

Root & Rebound (Sponsor)

American Civil Liberties Union (ACLU)

American Federation of State, County, and Municipal Employees (AFSCME)

Alameda County Public Defender

All of Us or None

Alliance for Boys and Men of Color

Anchor of Hope Ministries

Bay Area Legal Aid
Bayview Hunters Point Foundation
Because Black is Still Beautiful
California Immigrant Policy Center
Californians for Prop 57
Californians for Safety and Justice
California Workforce Organization
Center for Employment Opportunities (CEO)
Center for Juvenile and Criminal Justice
Center for Living and Learning
Checkr
Courage Campaign
Downtown Women's Center
Ella Baker Center for Human Rights
Hillview Mental Health Center
Homeboy Industries
Hunters Point Family
Lawyer's Committee for Civil Rights
Leadership for Urban Renewal Network
Legal Services of North California
Leonard Carter
Los Angeles Regional Reentry Partnership (LARRP)
National Association of Social Workers - California Chapter
National Employment Law Project
New Door Ventures
Oakland Private Industry Council
Planting Justice
Prisoner Reentry Network
Project Rebound: Expanded
REDF (Roberts Enterprise Development Fund)
Rise Together Bay Area
Rubicon Programs
San Francisco Adult Probation Department
San Francisco Conservation Corps
San Francisco Public Defender Jeff Adachi
San Francisco State University Project Rebound
San Jose State University Record Clearance Project
The Rock Found
The Young Women's Freedom Center
Three Individuals

Oppose

Plumbing-Heating Cooling Contractors Association of California
Western Electrical Contractors Association
San Diego, Southern and Central California Chapters of Associated Builders and Contractors

STAFF RECOMMENDATION

Oppose

BOARD POSITION:

SUPPORT: _____ OPPOSE: _____ NEUTRAL: _____ WATCH: X

AMENDED IN SENATE JUNE 20, 2018

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend Sections 7.5, 480, 481, 482, 488, ~~490, 492,~~ 493, and 11345.2 ~~of, and to add Section 481.5 to,~~ of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to

determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding ~~5~~ 7 years, except for ~~violent~~ *serious* felonies, and would require the crime to be ~~directly and adversely~~ *substantially* related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has ~~made a showing~~ *provided evidence* of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. ~~The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.~~

The bill would require the board to develop criteria for determining whether a crime is ~~directly and adversely~~ *substantially* related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

~~Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the~~

~~licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.~~

~~This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.~~

~~Existing law authorizes a board board, after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the licensee: actions in relation to denying or granting the applicant the license.~~

~~This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days: revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.~~

~~This bill would also make necessary conforming changes.~~

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

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

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a plea of nolo
- 5 contendere or finding of guilt. Any action which a board is
- 6 permitted to take following the establishment of a conviction may

1 be taken when the time for appeal has elapsed, or the judgment of
 2 conviction has been affirmed on appeal or when an order granting
 3 probation is made suspending the imposition of sentence. However,
 4 a board may not deny a license to an applicant who is otherwise
 5 qualified pursuant to subdivision (b) or (c) of Section 480.

6 (b) (1) Nothing in this section shall apply to the licensure of
 7 persons pursuant to Chapter 4 (commencing with Section 6000)
 8 of Division 3.

9 (2) *The changes made to this section by the act adding this*
 10 *paragraph do not in any way modify or otherwise affect the existing*
 11 *authority of the following entities in regard to licensure:*

12 (A) *The State Athletic Commission.*

13 (B) *The Bureau for Private Postsecondary Education.*

14 (c) Except as provided in subdivision (b), this section controls
 15 over and supersedes the definition of conviction contained within
 16 individual practice acts under this code.

17 SEC. 2. Section 480 of the Business and Professions Code is
 18 amended to read:

19 480. (a) ~~(1)~~ Notwithstanding any other provision of this code,
 20 a board may deny a license regulated by this code on the grounds
 21 that the applicant has been convicted of a crime or has been subject
 22 to formal discipline only if either of the following conditions are
 23 met:

24 ~~(A)~~

25 (1) The applicant has been convicted of a crime for which the
 26 applicant is presently incarcerated or for which the conviction
 27 occurred within the preceding ~~five~~ *seven* years. However, the
 28 preceding ~~five-year~~ *seven-year* limitation shall not apply to a
 29 conviction for a ~~violent~~ *serious* felony, as defined in ~~Section 667.5~~
 30 ~~of~~ the Penal Code.

31 The board may deny a license pursuant to this subparagraph only
 32 if the crime is ~~directly and adversely~~ *substantially* related to the
 33 qualifications, functions, or duties of the business or profession
 34 for which application is made.

35 ~~(B)~~

36 (2) The applicant has been subjected to formal discipline by a
 37 licensing board within the preceding five years based on
 38 professional misconduct that would have been cause for discipline
 39 before the board for which the present application is made and that
 40 is ~~directly and adversely~~ *substantially* related to the qualifications,

1 functions, or duties of the business or profession for which the
2 present application is made. However, prior disciplinary action by
3 a licensing board within the preceding ~~five~~ *seven* years shall not
4 be the basis for denial of a license if the basis for that disciplinary
5 action was a conviction that has been dismissed pursuant to Section
6 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable
7 dismissal or expungement.

8 ~~(2) Denial of a license includes denial of an unrestricted license
9 by issuance of a restricted or probationary license.~~

10 (b) Notwithstanding any other provision of this code, a person
11 shall not be denied a license on the basis that he or she has been
12 convicted of a crime, or on the basis of acts underlying a conviction
13 for a crime, if he or she has obtained a certificate of rehabilitation
14 under Chapter 3.5 (commencing with Section 4852.01) of Title 6
15 of Part 3 of the Penal Code, has been granted clemency or a pardon
16 by a state or federal executive, or ~~has made a showing~~ *provided*
17 *evidence* of rehabilitation pursuant to Section 482.

18 (c) Notwithstanding any other provision of this code, a person
19 shall not be denied a license on the basis of any conviction, or on
20 the basis of the acts underlying the conviction, that has been
21 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the
22 Penal Code, or a comparable dismissal or expungement. An
23 applicant who has a conviction that has been dismissed pursuant
24 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code
25 shall provide proof of the dismissal if it is not reflected on the
26 report furnished by the Department of Justice.

27 (d) Notwithstanding any other provision of this code, a board
28 shall not deny a license on the basis of an arrest that resulted in a
29 disposition other than a conviction, including an arrest that resulted
30 in an infraction, citation, or a juvenile adjudication.

31 (e) A board may deny a license regulated by this code on the
32 ground that the applicant knowingly made a false statement of fact
33 that is required to be revealed in the application for the license. A
34 board shall not deny a license based solely on an applicant's failure
35 to disclose a fact that would not have been cause for denial of the
36 license had it been disclosed.

37 (f) A board shall follow the following procedures in requesting
38 or acting on an applicant's criminal history information:

- 1 (1) A board shall not require an applicant for licensure to
2 disclose any information or documentation regarding the
3 applicant's criminal history.
- 4 (2) If a board decides to deny an application based solely or in
5 part on the applicant's conviction history, the board shall notify
6 the applicant in writing of all of the following:
- 7 (A) The denial or disqualification of licensure.
 - 8 (B) Any existing procedure the board has for the applicant to
9 challenge the decision or to request reconsideration.
 - 10 (C) That the applicant has the right to appeal the board's
11 decision.
 - 12 (D) The processes for the applicant to request a copy of his or
13 her complete conviction history and question the accuracy or
14 completeness of the record pursuant to Sections 11122 to 11127
15 of the Penal Code.
- 16 (g) (1) For a minimum of three years, each board under this
17 code shall retain application forms and other documents submitted
18 by an applicant, any notice provided to an applicant, all other
19 communications received from and provided to an applicant, and
20 criminal history reports of an applicant.
- 21 (2) Each board under this code shall retain the number of
22 applications received for each license and the number of
23 applications requiring inquiries regarding criminal history. In
24 addition, each licensing authority shall retain all of the following
25 information:
- 26 (A) The number of applicants with a criminal record who
27 received notice of denial or disqualification of licensure.
 - 28 (B) The number of applicants with a criminal record who
29 provided evidence of mitigation or rehabilitation.
 - 30 (C) The number of applicants with a criminal record who
31 appealed any denial or disqualification of licensure.
 - 32 (D) The final disposition and demographic information,
33 including, but not limited to, voluntarily provided information on
34 race or gender, of any applicant described in subparagraph (A),
35 (B), or (C).
- 36 (3) (A) Each board under this code shall annually make
37 available to the public through the board's Internet Web site and
38 through a report submitted to the appropriate policy committees
39 of the Legislature deidentified information collected pursuant to

1 this subdivision. Each board shall ensure confidentiality of the
2 individual applicants.

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

5 (h) "Conviction" as used in this section shall have the same
6 meaning as defined in Section 7.5.

7 ~~(i) This section supersedes any contradictory provision in a
8 licensing act under this code or initiative act referred to in Division
9 2 (commencing with Section 500) that authorizes license denial
10 based on a criminal conviction, arrest, or the acts underlying an
11 arrest or conviction.~~

12 *(i) The changes made to this section by the act adding this
13 subdivision do not in any way modify or otherwise affect the
14 existing authority of the following entities in regard to licensure:*

15 *(1) The State Athletic Commission.*

16 *(2) The Bureau for Private Postsecondary Education.*

17 SEC. 3. Section 481 of the Business and Professions Code is
18 amended to read:

19 481. (a) Each board under this code shall develop criteria to
20 aid it, when considering the denial, suspension, or revocation of
21 a license, to determine whether a crime is ~~directly and adversely~~
22 *substantially* related to the qualifications, functions, or duties of
23 the business or profession it regulates.

24 (b) Criteria for determining whether a crime is ~~directly and~~
25 ~~adversely~~ *substantially* related to the qualifications, functions, or
26 duties of the business or profession a board regulates shall include
27 all of the following:

28 (1) The nature and gravity of the offense.

29 (2) The number of years elapsed since the date of the offense.

30 (3) The nature and duties of the profession in which the applicant
31 seeks licensure or in which the licensee is licensed.

32 (c) A board shall not deny a license based in whole or in part
33 on a conviction without considering evidence of rehabilitation.

34 (d) Each board shall post on its Internet Web site a summary of
35 the criteria used to consider whether a crime is considered to be
36 ~~directly and adversely~~ *substantially* related to the qualifications,
37 functions, or duties of the business or profession it regulates
38 consistent with this section.

1 (e) The changes made to this section by the act adding this
 2 subdivision do not in any way modify or otherwise affect the
 3 existing authority of the following entities in regard to licensure:

- 4 (1) The State Athletic Commission.
- 5 (2) The Bureau for Private Postsecondary Education.

6 ~~SEC. 4.~~ Section 481.5 is added to the Business and Professions
 7 Code, to read:

8 481.5. (a) Probationary terms or restrictions placed on a license
 9 by a board shall be limited to two years or less. Any additional
 10 conditions may be imposed only if the board determines that there
 11 is clear and convincing evidence that additional conditions are
 12 necessary to address a risk shown by clear and convincing
 13 evidence.

14 (b) Each board under this code shall develop criteria to aid it
 15 when considering the imposition of probationary conditions or
 16 restrictions to determine what conditions may be imposed to
 17 address a risk shown by clear and convincing evidence.

18 (c) (1) A licensee or registrant whose license or registration
 19 has been placed on probation may petition the board for a change
 20 to the probation, including modification or termination of
 21 probation, one year from the effective date of the decision. The
 22 board shall issue its decision on the petition within 90 days of
 23 submission of the petition. The petition shall be deemed granted
 24 by operation of law if the board does not file a decision denying
 25 the petition within 90 days of submission of the petition.

26 (2) The one-year time period to petition for modification or
 27 termination of penalty shall control over longer time periods under
 28 a licensing act under this code or initiative act referred to in
 29 Division 2 (commencing with Section 500).

30 ~~SEC. 5.~~

31 *SEC. 4.* Section 482 of the Business and Professions Code is
 32 amended to read:

33 482. (a) Each board under this code shall develop criteria to
 34 evaluate the rehabilitation of a person when doing either of the
 35 following:

- 36 (1) Considering the denial of a license by the board under
 37 Section 480.
- 38 (2) Considering suspension or revocation of a license under
 39 Section 490.

1 (b) Each board shall ~~find~~ *consider* that an applicant or licensee
2 has made a showing of rehabilitation if ~~any~~ *either* of the following
3 are met:

4 (1) The applicant or licensee has completed the criminal
5 sentence at issue without a violation of parole or probation.

6 ~~(2) (A) The applicant or licensee documents that he or she has~~
7 ~~worked in a related field continuously for at least one year prior~~
8 ~~to licensure or successfully completed a course of training in a~~
9 ~~related field, unless the board finds a public record of an official~~
10 ~~finding that the applicant committed professional misconduct in~~
11 ~~the course of that work.~~

12 ~~(B) Work in a related field may include, but is not limited to,~~
13 ~~work performed without compensation and work performed while~~
14 ~~incarcerated.~~

15 ~~(C) "Related field," for purposes of this paragraph, means a~~
16 ~~field of employment whose duties are substantially similar to the~~
17 ~~field regulated by the board.~~

18 ~~(3)~~

19 (2) The applicant or licensee has satisfied criteria for
20 rehabilitation developed by the board.

21 (c) *The changes made to this section by the act adding this*
22 *subdivision do not in any way modify or otherwise affect the*
23 *existing authority of the following entities in regard to licensure:*

24 (1) *The State Athletic Commission.*

25 (2) *The Bureau for Private Postsecondary Education.*

26 ~~SEC. 6.~~

27 *SEC. 5.* Section 488 of the Business and Professions Code is
28 amended to read:

29 488. Except as otherwise provided by law, following a hearing
30 requested by an applicant pursuant to subdivision (b) of Section
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing
33 requirements by the applicant.

34 ~~(b) Grant the license effective upon completion of all licensing~~
35 ~~requirements by the applicant, grant the license and immediately~~
36 ~~issue a public reproof pursuant to Section 495, immediately revoke~~
37 ~~the license, stay the revocation, and impose probationary conditions~~
38 ~~on the license, which may include suspension.~~

39 (e)

40 (b) Deny the license.

1 ~~(d)~~
 2 (c) Take other action in relation to denying or granting the
 3 license as the board in its discretion may deem proper.

4 (d) *The changes made to this section by the act adding this*
 5 *subdivision do not in any way modify or otherwise affect the*
 6 *existing authority of the following entities in regard to licensure:*

- 7 (1) *The State Athletic Commission.*
- 8 (2) *The Bureau for Private Postsecondary Education.*

9 ~~SEC. 7. Section 490 of the Business and Professions Code is~~
 10 ~~amended to read:~~

11 ~~490. (a) (1) In addition to any other action that a board is~~
 12 ~~permitted to take against a licensee, a board may suspend or revoke~~
 13 ~~a license on the ground that the licensee has been convicted of a~~
 14 ~~crime for which the applicant is presently incarcerated or for which~~
 15 ~~the conviction occurred within the preceding five years. However,~~
 16 ~~the preceding five year limitation shall not apply to a conviction~~
 17 ~~for a violent felony, as defined in Section 667.5 of the Penal Code.~~

18 ~~(2) The board may suspend or revoke a license pursuant to this~~
 19 ~~subdivision only if the crime is directly and adversely related to~~
 20 ~~the qualifications, functions, or duties of the business or profession~~
 21 ~~for which application is made.~~

22 ~~(b) Notwithstanding any other provision of law, a board may~~
 23 ~~exercise any authority to discipline a licensee for conviction of a~~
 24 ~~crime that is independent of the authority granted under subdivision~~
 25 ~~(a) only if both of the following are met:~~

26 ~~(1) The crime is directly and adversely related to the~~
 27 ~~qualifications, functions, or duties of the business or profession~~
 28 ~~for which the licensee's license was issued.~~

29 ~~(2) The licensee was convicted of the crime within the preceding~~
 30 ~~five years or is presently incarcerated for the crime. However, the~~
 31 ~~preceding five year limitation shall not apply to a conviction for~~
 32 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

33 ~~(e) Notwithstanding any other provision of this code, a board~~
 34 ~~shall not suspend or revoke a license on the basis of a conviction,~~
 35 ~~or of the acts underlying a conviction, where that conviction has~~
 36 ~~been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or~~
 37 ~~1203.42 of the Penal Code or a comparable dismissal or~~
 38 ~~expungement.~~

39 ~~(d) Notwithstanding any other provision of this code, a board~~
 40 ~~shall not suspend or revoke a license on the basis of an arrest that~~

1 resulted in a disposition other than a conviction, including an arrest
2 that resulted in an infraction, citation, or juvenile adjudication.

3 (e) ~~The board shall use the following procedures in requesting
4 or acting on a licensee's criminal history information:~~

5 (1) ~~A board shall not require a licensee to disclose any
6 information or documentation regarding the licensee's criminal
7 history.~~

8 (2) ~~If a board chooses to file an accusation against a licensee
9 based solely or in part on the licensee's conviction history, the
10 board shall notify the licensee in writing of the processes for the
11 licensee to request a copy of the licensee's complete conviction
12 history and question the accuracy or completeness of his or her
13 criminal record pursuant to Sections 11122 to 11127, inclusive,
14 of the Penal Code.~~

15 (f) (1) ~~For a minimum of three years, each board under this
16 code shall retain all documents submitted by a licensee, notices
17 provided to a licensee, all other communications received from or
18 provided to a licensee, and criminal history reports of a licensee.~~

19 (2) ~~Each board under this code shall retain all of the following
20 information:~~

21 (A) ~~The number of licensees with a criminal record who received
22 notice of potential revocation or suspension of their license or who
23 had their license suspended or revoked.~~

24 (B) ~~The number of licensees with a criminal record who
25 provided evidence of mitigation or rehabilitation.~~

26 (C) ~~The number of licensees with a criminal record who
27 appealed any suspension or revocation of a license.~~

28 (D) ~~The final disposition and demographic information,
29 including, but not limited to, voluntarily provided information on
30 race or gender, of any applicant described in subparagraph (A),
31 (B), or (C).~~

32 (3) (A) ~~Each board under this code shall annually make
33 available to the public through the board's Internet Web site and
34 through a report submitted to the appropriate policy committees
35 of the Legislature deidentified information collected pursuant to
36 this subdivision. Each board shall ensure the confidentiality of the
37 individual licensees.~~

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

1 ~~(g) (1) This section supersedes any contradictory provision in~~
 2 ~~a licensing act under this code or initiative act referred to in~~
 3 ~~Division 2 (commencing with Section 500) that authorizes action~~
 4 ~~based on a criminal conviction, arrest, or the acts underlying an~~
 5 ~~arrest or conviction.~~

6 ~~(2) This section shall not prohibit any agency from taking~~
 7 ~~disciplinary action against a licensee for professional misconduct~~
 8 ~~in the course and scope of the licensee's profession that is based~~
 9 ~~on evidence that is independent of an arrest.~~

10 ~~SEC. 8. Section 492 of the Business and Professions Code is~~
 11 ~~amended to read:~~

12 ~~492. (a) Notwithstanding any other provision of law, successful~~
 13 ~~completion of any diversion program under the Penal Code,~~
 14 ~~successful completion by a licensee or applicant of any~~
 15 ~~nonstatutory diversion program, deferred entry of judgment, or~~
 16 ~~successful completion of an alcohol and drug problem assessment~~
 17 ~~program under Article 5 (commencing with Section 23249.50) of~~
 18 ~~Chapter 12 of Division 11 of the Vehicle Code, shall prohibit any~~
 19 ~~board from taking disciplinary action against a licensee or from~~
 20 ~~denying a license for professional misconduct.~~

21 ~~(b) This section shall not prohibit any agency established under~~
 22 ~~Division 2 (commencing with Section 500) of this code, or any~~
 23 ~~initiative act referred to in that division, from taking disciplinary~~
 24 ~~action against a licensee for professional misconduct in the course~~
 25 ~~and scope of the profession, which is based on evidence that is~~
 26 ~~independent of an arrest.~~

27 ~~SEC. 9.~~

28 ~~SEC. 6. Section 493 of the Business and Professions Code is~~
 29 ~~amended to read:~~

30 ~~493. (a) Notwithstanding any other provision of law, in a~~
 31 ~~proceeding conducted by a board within the department pursuant~~
 32 ~~to law to deny an application for a license or to suspend or revoke~~
 33 ~~a license or otherwise take disciplinary action against a person~~
 34 ~~who holds a license, upon the ground that the applicant or the~~
 35 ~~licensee has been convicted of a crime directly and adversely~~
 36 ~~*substantially* related to the qualifications, functions, and duties of~~
 37 ~~the licensee in question, the record of conviction of the crime shall~~
 38 ~~be conclusive evidence of the fact that the conviction occurred,~~
 39 ~~but only of that fact.~~

1 (b) (1) Criteria for determining whether a crime is ~~directly and~~
2 ~~adversely~~ *substantially* related to the qualifications, functions, or
3 duties of the business or profession the board regulates shall include
4 all of the following:

5 (A) The nature and gravity of the offense.

6 (B) The number of years elapsed since the date of the offense.

7 (C) The nature and duties of the profession.

8 (2) A board shall not categorically bar an applicant based solely
9 on the type of conviction without considering evidence of
10 rehabilitation.

11 (c) As used in this section, “license” includes “certificate,”
12 “permit,” “authority,” and “registration.”

13 (d) *The changes made to this section by the act adding this*
14 *subdivision do not in any way modify or otherwise affect the*
15 *existing authority of the following entities in regard to licensure:*

16 (1) *The State Athletic Commission.*

17 (2) *The Bureau for Private Postsecondary Education.*

18 ~~SEC. 10.~~

19 *SEC. 7.* Section 11345.2 of the Business and Professions Code
20 is amended to read:

21 11345.2. (a) An individual shall not act as a controlling person
22 for a registrant if any of the following apply:

23 (1) The individual has entered a plea of guilty or no contest to,
24 or been convicted of, a felony. If the individual’s felony conviction
25 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
26 of the Penal Code, the bureau may allow the individual to act as
27 a controlling person.

28 (2) The individual has had a license or certificate to act as an
29 appraiser or to engage in activities related to the transfer of real
30 property refused, denied, canceled, or revoked in this state or any
31 other state.

32 (b) Any individual who acts as a controlling person of an
33 appraisal management company and who enters a plea of guilty
34 or no contest to, or is convicted of, a felony, or who has a license
35 or certificate as an appraiser refused, denied, canceled, or revoked
36 in any other state shall report that fact or cause that fact to be
37 reported to the office, in writing, within 10 days of the date he or
38 she has knowledge of that fact.

O

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2483

AUTHOR: R. Voepel

SPONSOR: Voepel

VERSION: Amended 04/09/2018

INTRODUCED: 02/14/2018

BILL STATUS: 05/17/2018 – To Senate
Judiciary Committee.

BILL LOCATION: Senate Judiciary
Committee

SUBJECT: Indemnification of public
officers and employees:
antitrust awards

**RELATED
BILLS:**

SUMMARY

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

ANALYSIS

In March 2016, the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee (Committees) conducted multiple joint oversight hearings to review 11 regulatory boards within the DCA and one regulatory entity outside of the DCA. One of the specific issues raised in the Committees' 2016 Background Paper was the potential antitrust liability for boards under the DCA.

The concerns arose in the wake of the Supreme Court's 2015 decision in "United States in North Carolina State Board of Dental Examiners (NC Dental) v. Federal Trade

Commission (FTC).” The case involved actions taken by NC Dental to stop shopping mall kiosks and other retail settings from offering teeth whitening services. NC Dental argued that shopping mall kiosks and other retail settings that offered teeth whitening services constituted the unlicensed practice of dentistry. The FTC, noting that the majority of NC Dental was comprised of active dentists with a financial incentive to reduce competition in a lucrative market, brought antitrust charges against the board.

Prior to the “NC Dental” case, the common presumption was that licensing board members were subordinate agency actors who needed only to further a state policy for their actions to be immunized from antitrust charges. However, in the Court’s decision, it was ruled that “a state board on which a controlling number of decision makers are active market participants in the occupation the board regulates” must meet the requirement for active state supervision to receive immunity. In effect, “NC Dental” called into question whether certain regulatory schemes were vulnerable to litigation alleging deliberate anticompetitive behavior.

Concerned that boards under the DCA may be at risk of antitrust litigation similar to the charges filed in “NC Dental,” Senator Jerry Hill requested an attorney general (AG) opinion regarding “what constitutes ‘active state supervision’ of a state licensing board for purposes of the state action immunity doctrine in antitrust actions, and what measures might be taken to guard against antitrust liability for board members.”

The AG explained that although, the Government Claims Act (Act) allows a public employee to request its agency to pay the amount of a judgment secured against official conduct this would not apply to punitive damages. Furthermore, it was unclear whether treble damages authorized in antitrust litigation fit either category. The AG’s recommended that uncertainty about the legal status of treble damages as it relates to board members “...could be reduced significantly by amending state law to specify that treble damage antitrust awards are not punitive damages within the meaning of the..Act.” AB 2483 seeks to enact the AG’s recommendation.

REGISTERED SUPPORT/OPPOSITION

Support

None on file since the bill was gutted and amended.

Oppose

None on file since the bill was gutted and amended.

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT: _____ **OPPOSE:** _____ **NEUTRAL:** _____ **WATCH:** _____

AMENDED IN ASSEMBLY APRIL 9, 2018

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Voepel

February 14, 2018

An act to add Chapter 10 (commencing with Section 473) to Division 1 of the Business and Professions amend Section 825 of the Government Code, relating to professions: *liability*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Voepel. ~~Department of Consumer Affairs: Office of Supervision of Occupational Boards. Indemnification of public officers and employees: antitrust awards.~~

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

~~Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.~~

~~This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a “covered board,” defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board’s rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.~~

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

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

- 1 SECTION 1. Section 825 of the Government Code is amended
- 2 to read:
- 3 825. (a) Except as otherwise provided in this section, if an
- 4 employee or former employee of a public entity requests the public
- 5 entity to defend him or her against any claim or action against him
- 6 or her for an injury arising out of an act or omission occurring

1 within the scope of his or her employment as an employee of the
2 public entity and the request is made in writing not less than 10
3 days before the day of trial, and the employee or former employee
4 reasonably cooperates in good faith in the defense of the claim or
5 action, the public entity shall pay any judgment based thereon or
6 any compromise or settlement of the claim or action to which the
7 public entity has agreed.

8 If the public entity conducts the defense of an employee or
9 former employee against any claim or action with his or her
10 reasonable good-faith cooperation, the public entity shall pay any
11 judgment based thereon or any compromise or settlement of the
12 claim or action to which the public entity has agreed. However,
13 where the public entity conducted the defense pursuant to an
14 agreement with the employee or former employee reserving the
15 rights of the public entity not to pay the judgment, compromise,
16 or settlement until it is established that the injury arose out of an
17 act or omission occurring within the scope of his or her
18 employment as an employee of the public entity, the public entity
19 is required to pay the judgment, compromise, or settlement only
20 if it is established that the injury arose out of an act or omission
21 occurring in the scope of his or her employment as an employee
22 of the public entity.

23 Nothing in this section authorizes a public entity to pay that part
24 of a claim or judgment that is for punitive or exemplary damages.

25 (b) Notwithstanding subdivision (a) or any other provision of
26 law, a public entity is authorized to pay that part of a judgment
27 that is for punitive or exemplary damages if the governing body
28 of that public entity, acting in its sole discretion except in cases
29 involving an entity of the state government, finds all of the
30 following:

31 (1) The judgment is based on an act or omission of an employee
32 or former employee acting within the course and scope of his or
33 her employment as an employee of the public entity.

34 (2) At the time of the act giving rise to the liability, the employee
35 or former employee acted, or failed to act, in good faith, without
36 actual malice and in the apparent best interests of the public entity.

37 (3) Payment of the claim or judgment would be in the best
38 interests of the public entity.

39 As used in this subdivision with respect to an entity of state
40 government, “a decision of the governing body” means the

1 approval of the Legislature for payment of that part of a judgment
2 that is for punitive damages or exemplary damages, upon
3 recommendation of the appointing power of the employee or
4 former employee, based upon the finding by the Legislature and
5 the appointing authority of the existence of the three conditions
6 for payment of a punitive or exemplary damages claim. The
7 provisions of subdivision (a) of Section 965.6 shall apply to the
8 payment of any claim pursuant to this subdivision.

9 The discovery of the assets of a public entity and the introduction
10 of evidence of the assets of a public entity shall not be permitted
11 in an action in which it is alleged that a public employee is liable
12 for punitive or exemplary damages.

13 The possibility that a public entity may pay that part of a
14 judgment that is for punitive damages shall not be disclosed in any
15 trial in which it is alleged that a public employee is liable for
16 punitive or exemplary damages, and that disclosure shall be
17 grounds for a mistrial.

18 (c) Except as provided in subdivision (d), if the provisions of
19 this section are in conflict with the provisions of a memorandum
20 of understanding reached pursuant to Chapter 10 (commencing
21 with Section 3500) of ~~Division 4 of Title 1, 4~~, the memorandum
22 of understanding shall be controlling without further legislative
23 action, except that if those provisions of a memorandum of
24 understanding require the expenditure of funds, the provisions
25 shall not become effective unless approved by the Legislature in
26 the annual Budget Act.

27 (d) The subject of payment of punitive damages pursuant to this
28 section or any other provision of law shall not be a subject of meet
29 and confer under the provisions of Chapter 10 (commencing with
30 Section 3500) of ~~Division 4 of Title 1, 4~~, or pursuant to any other
31 law or authority.

32 (e) Nothing in this section shall affect the provisions of Section
33 818 prohibiting the award of punitive damages against a public
34 entity. This section shall not be construed as a waiver of a public
35 entity's immunity from liability for punitive damages under Section
36 1981, 1983, or 1985 of Title 42 of the United States Code.

37 (f) (1) Except as provided in paragraph (2), a public entity shall
38 not pay a judgment, compromise, or settlement arising from a
39 claim or action against an elected official, if the claim or action is
40 based on conduct by the elected official by way of tortiously

1 intervening or attempting to intervene in, or by way of tortiously
2 influencing or attempting to influence the outcome of, any judicial
3 action or proceeding for the benefit of a particular party by
4 contacting the trial judge or any commissioner, court-appointed
5 arbitrator, court-appointed mediator, or court-appointed special
6 referee assigned to the matter, or the court clerk, bailiff, or marshal
7 after an action has been filed, unless he or she was counsel of
8 record acting lawfully within the scope of his or her employment
9 on behalf of that party. Notwithstanding Section 825.6, if a public
10 entity conducted the defense of an elected official against such a
11 claim or action and the elected official is found liable by the trier
12 of fact, the court shall order the elected official to pay to the public
13 entity the cost of that defense.

14 (2) If an elected official is held liable for monetary damages in
15 the action, the plaintiff shall first seek recovery of the judgment
16 against the assets of the elected official. If the elected official's
17 assets are insufficient to satisfy the total judgment, as determined
18 by the court, the public entity may pay the deficiency if the public
19 entity is authorized by law to pay that judgment.

20 (3) To the extent the public entity pays any portion of the
21 judgment or is entitled to reimbursement of defense costs pursuant
22 to paragraph (1), the public entity shall pursue all available
23 creditor's remedies against the elected official, including
24 garnishment, until that party has fully reimbursed the public entity.

25 (4) This subdivision shall not apply to any criminal or civil
26 enforcement action brought in the name of the people of the State
27 of California by an elected district attorney, city attorney, or
28 attorney general.

29 (g) *Notwithstanding subdivision (a), a public entity shall pay*
30 *for a judgment or settlement for treble damage antitrust awards*
31 *against a member of a regulatory board within the Department of*
32 *Consumer Affairs for an act or omission occurring within the scope*
33 *of the member's official capacity as a member of that regulatory*
34 *board.*

35 (h) *For purposes of this section, treble damages awarded*
36 *pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,*
37 *of Title 15 of, and Sections 52 and 53 of Title 29 of, the United*
38 *States Code) for a violation of the federal Sherman Act (Sections*
39 *1 to 7, inclusive, of Title 15 of the United States Code) are not*
40 *punitive or exemplary damages under this division.*

1 SECTION 1. ~~Chapter 10 (commencing with Section 473) is~~
2 ~~added to Division 1 of the Business and Professions Code, to read:~~

3
4 CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL
5 BOARDS
6

7 473. ~~The following are policies of the state:~~

8 (a) ~~Occupational licensing laws should be construed and applied~~
9 ~~to increase economic opportunity, promote competition, and~~
10 ~~encourage innovation.~~

11 (b) ~~Regulators should displace competition through occupational~~
12 ~~licensing only where less restrictive regulation will not suffice to~~
13 ~~protect consumers from present, significant, and substantiated~~
14 ~~harms that threaten public health, safety, or welfare.~~

15 (c) ~~An occupational licensing restriction should be enforced~~
16 ~~against an individual only to the extent the individual sells goods~~
17 ~~and services that are included explicitly in the statute or regulation~~
18 ~~that defines the occupation's scope of practice.~~

19 473.1. ~~As used in this chapter:~~

20 (a) ~~“Covered board” means any entity listed in Section 101.~~

21 (b) ~~“Office” means the Office of Supervision of Occupational~~
22 ~~Boards established in Section 473.2.~~

23 473.2. (a) ~~There is hereby established an Office of Supervision~~
24 ~~of Occupational Boards within the department.~~

25 (b) (1) ~~Notwithstanding Section 109, the office shall be~~
26 ~~responsible for exercising active supervision over each covered~~
27 ~~board to ensure compliance with the policies in Section 473.~~

28 (2) ~~In exercising active supervision over covered boards under~~
29 ~~paragraph (1), the office shall independently do the following:~~

30 (A) ~~Play a substantial role in the development of a covered~~
31 ~~board's rules and policies to ensure they benefit consumers and~~
32 ~~do not serve the private interests of providers of goods and services~~
33 ~~regulated by the covered board.~~

34 (B) ~~Disapprove the use of any rule or policy of a covered board~~
35 ~~and terminate any enforcement action, including any action pending~~
36 ~~on January 1, 2019, that is not consistent with Section 473.~~

37 (C) ~~Exercise control over each covered board by reviewing and~~
38 ~~affirmatively approving only rules, policies, and enforcement~~
39 ~~actions that are consistent with Section 473.~~

1 ~~(D) Analyze existing and proposed rules and policies and~~
2 ~~conduct investigations to gain additional information to promote~~
3 ~~compliance with Section 473, including, but not limited to, less~~
4 ~~restrictive regulatory approaches.~~

5 ~~(3) In exercising active supervision over covered boards under~~
6 ~~paragraph (1), the office shall be staffed by not fewer than one~~
7 ~~attorney who does not provide general counsel to any covered~~
8 ~~board.~~

9 ~~(e) (1) Notwithstanding Section 109, the office shall review~~
10 ~~and approve or reject any rule, policy, enforcement action, or other~~
11 ~~occupational licensure action proposed by each covered board~~
12 ~~before the covered board may adopt or implement the rule, policy,~~
13 ~~enforcement action, or other occupational licensure action.~~

14 ~~(2) For purposes of paragraph (1), approval by the office shall~~
15 ~~be express and silence or failure to act shall not constitute approval.~~

16 ~~473.3. (a) Any person may file a complaint to the office about~~
17 ~~a rule, policy, enforcement action, or other occupational licensure~~
18 ~~action of a covered board that the person believes is not consistent~~
19 ~~with Section 473.~~

20 ~~(b) Not later than 90 days after the date on which the office~~
21 ~~receives a complaint filed under paragraph (1), notwithstanding~~
22 ~~Section 109, the office shall investigate the complaint, identify~~
23 ~~remedies, and instruct the covered board to take action as the office~~
24 ~~determines to be appropriate, and respond in writing to the~~
25 ~~complainant.~~

26 ~~(c) (1) There shall be no right to appeal a decision of the office~~
27 ~~under subdivision (b) unless the challenged rule, policy,~~
28 ~~enforcement action, or other occupational licensure action would~~
29 ~~prevent the complainant from engaging in a lawful occupation or~~
30 ~~employing or contracting others for the performance of a lawful~~
31 ~~occupation and the complainant has taken material steps in an~~
32 ~~attempt to engage in a lawful occupation or employ or contract~~
33 ~~others for the performance of a lawful occupation.~~

34 ~~(2) Any appeal authorized under paragraph (1) shall be to the~~
35 ~~superior court.~~

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**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2643

AUTHOR: J. Irwin

SPONSOR: California Dental Association,
California Society of Pediatric Dentistry

VERSION: 04/26/2018

INTRODUCED: 02/15/2018

BILL STATUS: 05/25/2018 – Held in Assembly Appropriations Committee.

BILL LOCATION: Assembly Appropriations Committee

SUBJECT: Dentistry: general anesthesia: health care coverage

RELATED BILLS: SB 501

SUMMARY

Assembly Bill (AB) 2643 would revise the required written informed consent statement with respect to the use of anesthesia, applicable to minors, to specify that it is required in the case of general anesthesia. The bill also revises the content of that statement to require inclusion of a provision to encourage exploring nonsurgical dental treatment options, as specified.

Existing law provides that specified health care service plan contracts and disability insurance policies and certificates are deemed to cover general anesthesia and associated facility charges for dental procedures if certain other conditions are present. Under existing law, these provisions apply to those procedures rendered in a hospital or surgery center. This bill, with respect to contracts or policies issued, amended, or renewed on or after January 1, 2019, would remove the language that limits coverage to procedures rendered in a hospital or surgery center.

ANALYSIS

Board staff does not anticipate a significant fiscal impact if AB 2643 were to pass in its current form. This bill clarifies that written informed consent is required specifically for general anesthesia pursuant to Business and Professions Code (Bus. and Prof. Code) Section 1682. Additionally, this bill clarifies within Bus. and Prof. Code Section 1682 options available for a child's anesthesia to include nonsurgical treatment options. Furthermore, the written informed consent encourages a consultation with the minor's dentist for surgical dental treatment options available that may reduce, delay, or eliminate the need for anesthesia for surgical dental treatment prior to granting this consent. This would not result an additional cost for BreEZe nor would the Board need

to implement regulations as a result of this bill as the information to be added to Bus. and Prof. Code Section 1682 provides sufficient clarity. The bill would not result in a change in how investigations are conducted nor will it result in a fiscal cost.

The remainder of this bill (Health and Safety Code 1367.71 and Insurance Code Section 10119.9) deals with removing language that limits coverage to procedures rendered in a hospital or surgery center. Health care service plan contracts and insurance coverage changes would not affect the Board because we do not handle billing of dental services.

REGISTERED SUPPORT/OPPOSITION

Support

- California Dental Association (cosponsor)
- California Society of Pediatric Dentistry (cosponsor)
- California Association of Oral and Maxillofacial Surgeons
- California Society of Anesthesiologists
- California Society of Nurse Anesthetists

Oppose

- America's Health Insurance Plans
- Association of California Life and Health Insurance Companies
- California Association of Health Plans
- California Chamber of Commerce
- California Society of Health Plans
- Local Health Plans of California

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN ASSEMBLY APRIL 26, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2643

Introduced by Assembly Member Irwin

February 15, 2018

An act to amend Section 1682 of the Business and Professions Code, to amend Section 1367.71 of the Health and Safety Code, and to amend Section 10119.9 of the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2643, as amended, Irwin. Dentistry: general anesthesia: health care coverage.

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for any dentist to fail to obtain the written informed consent of a patient prior to administering general anesthesia or conscious sedation. With respect to a minor, the act also requires that the written informed consent include a specified statement that, among other things, encourages the parent or guardian to explore all the options available for a child's anesthesia for his or her dental treatment.

This bill would revise the required written informed consent statement, applicable for minors, to specify that it is required in the case of general anesthesia. The bill would also revise the content of that statement to require it to include a provision to encourage exploring nonsurgical ~~dental treatment options~~: *options, as specified*.

Existing law, the Knox-Keene Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the

Department of Managed Health Care and make a willful violation of that act a crime. Existing law also provides for the regulation of policies of disability insurance by the Insurance Commissioner.

Existing law provides that specified health care service plan contracts and disability insurance policies and certificates are deemed to cover general anesthesia and associated facility charges for dental procedures, upon specified authorization for enrollees or insureds under 7 years of age, enrollees or insureds who are developmentally disabled, or enrollees or insureds whose health is compromised and for whom general anesthesia is medically necessary, if certain other conditions are present. Under existing law, these provisions apply to those procedures rendered in a hospital or surgery center.

This bill, with respect to contracts or policies issued, amended, or renewed on or after January 1, 2019, would remove the language that limits coverage to procedures rendered in a hospital or surgery center.

Because a willful violation of that requirement by a health care service plan would be a crime, the bill would impose a state-mandated local program.

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

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

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

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

- 1 SECTION 1. Section 1682 of the Business and Professions
- 2 Code is amended to read:
- 3 1682. In addition to other acts constituting unprofessional
- 4 conduct under this chapter, it is unprofessional conduct for:
- 5 (a) Any dentist performing dental procedures to have more than
- 6 one patient undergoing conscious sedation or general anesthesia
- 7 on an outpatient basis at any given time unless each patient is being
- 8 continuously monitored on a one-to-one ratio while sedated by
- 9 either the dentist or another licensed health professional authorized
- 10 by law to administer conscious sedation or general anesthesia.
- 11 (b) Any dentist with patients recovering from conscious sedation
- 12 or general anesthesia to fail to have the patients closely monitored

1 by licensed health professionals experienced in the care and
2 resuscitation of patients recovering from conscious sedation or
3 general anesthesia. If one licensed professional is responsible for
4 the recovery care of more than one patient at a time, all of the
5 patients shall be physically in the same room to allow continuous
6 visual contact with all patients and the patient to recovery staff
7 ratio should not exceed three to one.

8 (c) Any dentist with patients who are undergoing conscious
9 sedation to fail to have these patients continuously monitored
10 during the dental procedure with a pulse oximeter or similar or
11 superior monitoring equipment required by the board.

12 (d) Any dentist with patients who are undergoing conscious
13 sedation to have dental office personnel directly involved with the
14 care of those patients who are not certified in basic cardiac life
15 support (CPR) and recertified biennially.

16 (e) (1) Any dentist to fail to obtain the written informed consent
17 of a patient prior to administering general anesthesia or conscious
18 sedation. In the case of a minor, the consent shall be obtained from
19 the child's parent or guardian.

20 (2) The written informed consent for general anesthesia, in the
21 case of a minor, shall include, but not be limited to, the following
22 information:

23 "The administration and monitoring of general anesthesia may
24 vary depending on the type of procedure, the type of practitioner,
25 the age and health of the patient, and the setting in which anesthesia
26 is provided. Risks may vary with each specific situation. You are
27 encouraged to explore all the options available for your child's
28 anesthesia for his or her dental treatment, including nonsurgical
29 ~~treatment options;~~ *treatment* and consult with your dentist or
30 pediatrician as ~~needed.~~ *needed. You are further encouraged to*
31 *consult with your dentist on all of the nonsurgical dental treatment*
32 *options available that may reduce, delay, or eliminate the need*
33 *for anesthesia for surgical dental treatment prior to granting this*
34 *consent."*

35 (3) Nothing in this subdivision shall be construed to establish
36 the reasonable standard of care for administering or monitoring
37 oral conscious sedation, conscious sedation, or general anesthesia.

38 SEC. 2. Section 1367.71 of the Health and Safety Code is
39 amended to read:

1 1367.71. (a) Every health care service plan contract, other than
 2 a specialized health care service plan contract, that is issued,
 3 amended, renewed, or delivered on or after January 1, 2019, shall
 4 be deemed to cover general anesthesia and associated facility
 5 charges for dental procedures when the clinical status or underlying
 6 medical condition of the patient requires dental procedures that
 7 ordinarily would not require general anesthesia. The health care
 8 service plan may require prior authorization of general anesthesia
 9 and associated charges required for dental care procedures in the
 10 same manner that prior authorization is required for other covered
 11 diseases or conditions.

12 (b) This section shall apply only to general anesthesia and
 13 associated facility charges for only the following enrollees, and
 14 only if the enrollees meet the criteria in subdivision (a):

- 15 (1) Enrollees who are under seven years of age.
- 16 (2) Enrollees who are developmentally disabled, regardless of
 17 age.
- 18 (3) Enrollees whose health is compromised and for whom
 19 general anesthesia is medically necessary, regardless of age.

20 (c) Nothing in this section shall require the health care service
 21 plan to cover any charges for the dental procedure itself, including,
 22 but not limited to, the professional fee of the dentist. Coverage for
 23 anesthesia and associated facility charges pursuant to this section
 24 shall be subject to all other terms and conditions of the plan that
 25 apply generally to other benefits.

26 (d) Nothing in this section shall be construed to allow a health
 27 care service plan to deny coverage for basic health care services,
 28 as defined in Section 1345.

29 (e) A health care service plan may include coverage specified
 30 in subdivision (a) at any time prior to January 1, 2019.

31 SEC. 3. Section 10119.9 of the Insurance Code is amended to
 32 read:

33 10119.9. (a) A disability insurance policy or certificate
 34 covering hospital, surgical, or medical expenses, that meets the
 35 definition of "health benefit plan" in subdivision (a) of Section
 36 10198.6, that is issued, amended, renewed, or delivered on or after
 37 January 1, 2019, shall be deemed to cover general anesthesia and
 38 associated facility charges for dental procedures when the clinical
 39 status or underlying medical condition of the insured requires
 40 dental procedures that ordinarily would not require general

1 anesthesia. The disability insurance policy or certificate may
2 require prior authorization of general anesthesia and associated
3 charges required for dental care procedures in the same manner
4 that prior authorization is required for other covered diseases or
5 conditions.

6 (b) This section shall apply only to general anesthesia and
7 associated facility charges for only the following insureds, and
8 only if the insureds meet the criteria in subdivision (a):

9 (1) Insureds who are under seven years of age.

10 (2) Insureds who are developmentally disabled, regardless of
11 age.

12 (3) Insureds whose health is compromised and for whom general
13 anesthesia is medically necessary, regardless of age.

14 (c) Nothing in this section shall require insurers to cover any
15 charges for the dental procedure itself, including the professional
16 fee of the dentist. Coverage for anesthesia and associated facility
17 charges pursuant to this section shall be subject to all other terms
18 and conditions of the policy or certificate that apply generally to
19 other benefits.

20 (d) Nothing in this section shall require insurers to cover
21 anesthesia or related facility charges for dental procedures that
22 ordinarily would require general anesthesia and that do not meet
23 the requirements of subdivision (a), (b), or (c).

24 (e) A disability insurance policy may include coverage specified
25 in subdivision (a) at any time prior to January 1, 2019.

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

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**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2789

AUTHOR: J. Wood

SPONSOR:

VERSION: Amended 07/03/2018

INTRODUCED: 02/16/2018

BILL STATUS: 08/07/2018 – In Senate. Read second time. To third reading.

BILL LOCATION: Senate Second Reading File

SUBJECT: Health care practitioners: prescriptions: electronic data transmission.

RELATED BILLS:

SUMMARY

Existing law provides for the regulation of health care practitioners and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. The Pharmacy Law provides that a prescription is an oral, written, or electronic data transmission order and requires electronic data transmission prescriptions to be transmitted and processed in accordance with specified requirements.

Assembly Bill (AB) 2789 would require, on and after January 1, 2022, health care practitioners authorized to issue prescriptions to have the capability to transmit electronic data transmission prescriptions, and would require pharmacies to have the capability to receive those transmissions. Additionally, this bill, on and after January 1, 2022, would require those health care practitioners to issue prescriptions as an electronic data transmission prescription, unless specified exceptions are met.

AB 2789 would not require the pharmacy to verify that a written, oral, or faxed prescription satisfies the specified exemptions. The bill would require the pharmacy receiving the electronic data transmission prescription to immediately notify the prescriber if the electronic data transmission prescription fails, is incomplete, or is otherwise not appropriately received. Additionally, this bill would authorize the pharmacy to transmit the prescription to another pharmacy at the request of the patient, as specified.

AB 2789 would make a violation of any of the aforementioned provisions and would subject the health care practitioner to referral for discipline by the board charged with regulating his or her license.

ANALYSIS

Supporters of AB 2789 noted that this bill would address the opioid crisis by providing stronger consumer protection, ensuring the quantity prescribed is correct, reducing both prescriber and pharmacist prescription errors.

The Board staff does not anticipate a significant fiscal impact if AB 2789 passed in its current form. Pursuant to Business and Professions Code Section 1680 (m) violating a provision of law in regards to the procurement, dispensing or administration of a dangerous drugs outlined as a form of unprofessional conduct. If necessary, to further clarify that a failure to comply with these provisions (transmitting electronic transmission prescriptions) would be deemed unprofessional conduct as a result of AB 2789, the Board would likely need to update regulations regarding unprofessional conduct (California Code of Regulations Section 1018.05) to refer to the added Business and Professions Code sections as a result of this bill. This bill this would not result in a change in how investigations are conducted nor result in a fiscal cost.

REGISTERED SUPPORT/OPPOSITION

Support

- Aegis Treatment Centers
- America’s Physician Groups
- California Association of Health Underwriters
- California Pharmacists Association
- California State Board of Pharmacy
- Healthcare Distribution Alliance
- Imprivata
- McKesson Corporation

Oppose

- California Medical Association

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ OPPOSE:_____ NEUTRAL:_____ WATCH:_____

AMENDED IN SENATE JULY 3, 2018
AMENDED IN SENATE JUNE 20, 2018
AMENDED IN ASSEMBLY APRIL 3, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2789

Introduced by Assembly Member Wood

February 16, 2018

An act to add Section 688 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2789, as amended, Wood. Health care practitioners: prescriptions: electronic data transmission.

Existing law provides for the regulation of health care practitioners and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. The Pharmacy Law provides that a prescription is an oral, written, or electronic data transmission order and requires electronic data transmission prescriptions to be transmitted and processed in accordance with specified requirements.

This bill, on and after January 1, 2022, would require health care practitioners authorized to issue prescriptions to have the capability to transmit electronic data transmission prescriptions, and would require pharmacies to have the capability to receive those transmissions. The bill would require those health care practitioners to issue prescriptions as an electronic data transmission prescription, unless specified exceptions are met. The bill would not require the pharmacy to verify that a written, oral, or faxed prescription satisfies the specified exemptions. The bill would require the pharmacy receiving the electronic

data transmission prescription to immediately notify the prescriber if the electronic data transmission prescription fails, is incomplete, or is otherwise not appropriately received. The bill would ~~authorize~~ *require* the pharmacy to ~~transmit~~ *transfer or forward* the prescription to another pharmacy at the request of the patient, as specified. The bill would require ~~that a health care professional who violates specified provisions to practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements imposed by this bill~~ be referred to the appropriate state professional licensing board solely for administrative sanctions, as provided.

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

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

- 1 SECTION 1. Section 688 is added to the Business and
- 2 Professions Code, to read:
- 3 688. (a) On and after January 1, 2022, a health care practitioner
- 4 authorized to issue a prescription pursuant to Section 4040 shall
- 5 have the capability to issue an electronic data transmission
- 6 prescription, as defined under Section 4040, on behalf of a patient
- 7 and to transmit that electronic data transmission prescription to a
- 8 pharmacy selected by the patient.
- 9 (b) On and after January 1, 2022, a pharmacy, pharmacist, or
- 10 other practitioner authorized under California law to dispense or
- 11 furnish a prescription pursuant to Section 4040 shall have the
- 12 capability to receive an electronic data transmission prescription
- 13 on behalf of a patient.
- 14 (c) For a prescription for a controlled substance, as defined by
- 15 Section 4021, generation and transmission of the electronic data
- 16 transmission prescription shall comply with Parts 1300, 1304,
- 17 1306, and 1311 of Title 21 of the Code of Federal Regulations, as
- 18 amended from time to time.
- 19 (d) On and after January 1, 2022, a prescription prescribed by
- 20 a health care practitioner shall be issued as an electronic data
- 21 transmission prescription. This subdivision shall not apply to
- 22 prescriptions issued pursuant to ~~subdivisions (e) and (f)~~. *subdivision*
- 23 *(e)*.
- 24 (e) Subdivision (d) shall not apply to any of the following:

- 1 (1) The prescription is issued pursuant to Section 11159.2 of
2 the Health and Safety Code.
- 3 (2) An electronic data transmission prescription is not available
4 due to a temporary technological or electrical failure. For purposes
5 of this paragraph, “temporary technological or electrical failure”
6 means failure of a computer system, application, or device, or the
7 loss of electrical power to that system, application, or device, or
8 any other service interruption affecting the certified electronic data
9 transmission prescription application used to transmit the
10 prescription.
- 11 (3) The prescribing health care practitioner is issuing a
12 prescription to be dispensed by a pharmacy located outside
13 California.
- 14 (4) (A) *The prescription is issued in a hospital emergency*
15 *department or urgent care clinic and one or more of the following*
16 *conditions are present:*
- 17 (i) *The patient resides outside California.*
- 18 (ii) *The patient resides outside the geographic area of the*
19 *hospital.*
- 20 (iii) *The patient is homeless or indigent and does not have a*
21 *preferred pharmacy.*
- 22 (iv) *The prescription is issued at a time when a patient’s regular*
23 *or preferred pharmacy is likely to be closed.*
- 24 (B) *Under any of the conditions described in subparagraph (A),*
25 *a prescription shall be electronically issued but does not require*
26 *electronic transmission and may be provided directly to the patient.*
- 27 ~~(4)~~
- 28 (5) The prescription is issued by a veterinarian.
- 29 ~~(5)~~
- 30 (6) The prescription is for eyeglasses or contact lenses.
- 31 ~~(6)~~
- 32 (7) The prescribing health care practitioner and the dispenser
33 are the same entity.
- 34 ~~(7)~~
- 35 (8) The prescription is issued by a prescribing health care
36 practitioner under circumstances whereby the practitioner
37 reasonably determines that it would be impractical for the patient
38 to obtain ~~controlled~~ substances prescribed by an electronic data
39 transmission prescription in a timely manner, and the delay would
40 adversely impact the patient’s medical condition.

1 ~~(8)~~

2 (9) The prescription that is issued includes elements not covered
3 by the latest version of the National Council for Prescription Drug
4 Programs' SCRIPT standard, as amended from time to time.

5 ~~(f) (1) Subdivision (d) shall not apply when the prescription is
6 issued in a hospital emergency department or urgent care clinic
7 and one or more of the following conditions are present:~~

8 ~~(A) The patient resides outside California.~~

9 ~~(B) The patient resides outside the geographic service area of
10 the hospital.~~

11 ~~(C) The patient is homeless or indigent and does not have a
12 regular or preferred pharmacy.~~

13 ~~(D) The prescription is issued at a time when a patient's regular
14 or preferred pharmacy is likely to be closed.~~

15 ~~(2) A prescription issued pursuant to paragraph (1) does not
16 require electronic transmission and may be provided directly to
17 the patient.~~

18 ~~(g)~~

19 (f) A health care practitioner who issues a prescription for a
20 controlled substance but does not transmit the prescription as an
21 electronic data transmission prescription shall document the reason
22 in the patient's medical record as soon as practicable and within
23 72 hours of the end of the technological or electrical failure that
24 prevented the electronic data transmission of the prescription.

25 ~~(h)~~

26 (g) A pharmacy that receives an electronic data transmission
27 prescription from a prescribing health care practitioner who has
28 issued the prescription but has not dispensed the medication to the
29 patient ~~may, shall,~~ at the request of the patient or a person
30 authorized to make a request on behalf of the patient, immediately
31 transfer or forward the electronic data transmission prescription
32 to an alternative pharmacy designated by the requester.

33 ~~(i)~~

34 (h) If a pharmacy, or its staff, is aware than an attempted
35 transmission of an electronic data transmission prescription failed,
36 is incomplete, or is otherwise not appropriately received, the
37 pharmacy shall immediately notify the prescribing health care
38 practitioner.

39 ~~(j)~~

1 (i) A pharmacist who receives a written, oral, or faxed
2 prescription shall not be required to verify that the prescription
3 properly falls under one of the exceptions in subdivision ~~(e)~~ or ~~(f)~~.
4 (e). Pharmacists may continue to dispense medications from legally
5 valid written, oral, or fax prescriptions pursuant to this division.

6 ~~(k)~~

7 (j) A health care ~~practitioner~~ *practitioner, pharmacist, or*
8 *pharmacy* who fails to meet the ~~electronic capability standards of~~
9 ~~subdivisions (a) and (b) and who fails to electronically transmit~~
10 ~~prescriptions as required by subdivision (d)~~ *applicable*
11 *requirements of this section* shall be referred to the appropriate
12 state professional licensing board solely for administrative
13 sanctions, as deemed appropriate by that board. This section does
14 not create a private right of action against a health care practitioner.
15 This section does not limit a health care practitioner's liability for
16 the negligent failure to diagnose or treat a patient.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Assembly Bill 2958

AUTHOR: B. Quirk

SPONSOR:

VERSION: Amended 08/06/2018

INTRODUCED: 02/16/2018

BILL STATUS: 08/06/2018 – In Assembly:
read second time and
amended. Re-referred to
Assembly Appropriations
Committee.

BILL LOCATION: Senate Third
Reading File.

SUBJECT: State bodies: meetings:
teleconference.

**RELATED
BILLS:** AB 1976,
SB 103, SB 962,
SB 519, AB 277,
AB 192, SB 95.

SUMMARY

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. Existing law does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. Existing law, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, to identify each teleconference location in the notice and agenda, and to make each teleconference location accessible to the public. Existing law requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, as specified.

This bill, for a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body, would authorize an additional way of holding a meeting by teleconference, as prescribed, provided it also complies with all other applicable requirements of the Bagley-Keene Open Meeting Act. In this context, the bill would require a member of a state body participating by teleconference to be listed in the meeting minutes and that notice, as specified, identifying that member be provided to the public at least 24 hours before the meeting. The bill would require a state body to designate a primary physical meeting location where members of the public may attend the meeting and participate. The bill would require the state body, if a member participates remotely, to provide the public a way to hear the meeting or to observe it and to provide public notice, as specified, of

how this would be done. Upon discovering that a means of remote access has failed during a meeting, the bill would require the body to end or adjourn the meeting, as specified, and would prescribe certain notice requirements and procedures in this connection.

ANALYSIS

This bill would require the Board Members of the Dental Board of California to comply with the Bagley-Keene Open Meeting Act when they participate in a teleconference relating to the Board.

The criteria for adherence are members who participate in a teleconference shall be listed in the meeting minutes and the Board agenda must identify those individual(s) at least 24 hours in advance to interested parties and on the Board website. A quorum at a physical location is still required.

When a teleconference is utilized the board shall provide a means for the public to remotely hear audio and provide audio access information a minimum of 24 hours in advance.

If the teleconference means of remote access has failed the Board shall adjourn the meeting and inform the public by electronic and physical means.

REGISTERED SUPPORT/OPPOSITION

Support

Oppose

None received.

STAFF RECOMMENDATION

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN SENATE AUGUST 6, 2018

AMENDED IN SENATE JUNE 18, 2018

AMENDED IN ASSEMBLY APRIL 25, 2018

AMENDED IN ASSEMBLY APRIL 12, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2958

Introduced by Assembly Member Quirk

February 16, 2018

An act to add Section 11123.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2958, as amended, Quirk. State bodies: meetings: teleconference. Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. Existing law does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. Existing law, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, to identify each teleconference location in the notice and agenda, and to make each teleconference location accessible to the public. Existing law requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, as specified.

This bill, for *a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body that does not have rulemaking authority,* would instead *body, would authorize an additional way of holding a meeting by teleconference, as prescribed, provided it also complies with all other applicable requirements of the Bagley-Keene Open Meeting Act. In this context, the bill would require a member of a state body participating by teleconference to be listed in the meeting minutes. minutes and that notice, as specified, identifying that member be provided to the public at least 24 hours before the meeting.* The bill would require a state body ~~that meets this description~~ to designate a primary physical meeting location where ~~a quorum of the members of the state body will attend and where participants may physically~~ *members of the public may attend the meeting and participate.* ~~The bill would require a quorum of the body's members to be present at the primary physical meeting location and that decisions during the teleconference meeting be made by rollcall vote.~~ The bill would require ~~that the agenda include the teleconference phone number and, if applicable, the Internet Web site or other information indicating how the public can access the meeting remotely.~~ *The bill would require these state bodies, on and after January 1, 2019, to adopt teleconferencing guidelines, as specified, before holding a meeting by teleconference pursuant to these provisions: require the state body, if a member participates remotely, to provide the public a way to hear the meeting or to observe it and to provide public notice, as specified, of how this would be done. Upon discovering that a means of remote access has failed during a meeting, the bill would require the body to end or adjourn the meeting, as specified, and would prescribe certain notice requirements and procedures in this connection.*

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

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

- 1 SECTION 1. Section 11123.5 is added to the Government Code,
- 2 to read:
- 3 11123.5. (a) In addition to the authorization to hold a meeting
- 4 by teleconference pursuant to subdivision (b) of Section 11123,
- 5 any state body that is an advisory board, advisory commission,
- 6 advisory committee, advisory subcommittee, or similar

1 *multimember advisory body may hold a meeting by teleconference*
2 *as described in this section, provided the meeting complies with*
3 *all of the section's requirements and, except as set forth in this*
4 *section, it also complies with all other applicable requirements of*
5 *this article.*

6 *(b) A member of a state body as described in subdivision (a)*
7 *who participates in a teleconference meeting from a remote*
8 *location subject to this section's requirements shall be listed in*
9 *the minutes of the meeting. The state body shall provide notice to*
10 *the public at least 24 hours before the meeting that identifies any*
11 *member who will participate remotely by posting the notice on its*
12 *Internet Web site and by emailing notice to any person who has*
13 *requested notice of meetings of the state body under this article.*
14 *The location of a member of a state body participating remotely*
15 *is not required be disclosed in the public notice or email and need*
16 *not be accessible to the public. This section does not affect the*
17 *requirement prescribed by this article that the state body post an*
18 *agenda at least 10 days in advance of the meeting.*

19 *(c) A state body described in subdivision (a) shall designate the*
20 *primary physical meeting location where members of the public*
21 *may physically attend the meeting and participate. A quorum of*
22 *the members of the state body shall be in attendance at the primary*
23 *physical meeting location, and members of the state body*
24 *participating remotely shall not count towards establishing a*
25 *quorum. All decisions taken during a meeting by teleconference*
26 *shall be by rollcall vote.*

27 *(d) When a member of a state body described in subdivision (a)*
28 *participates remotely in a meeting subject to this section's*
29 *requirements, the state body shall provide a means by which the*
30 *public may remotely hear audio of the meeting or remotely observe*
31 *the meeting. The applicable teleconference phone number or*
32 *Internet Web site, or other information indicating how the public*
33 *can access the meeting remotely, shall be in the 24-hour notice*
34 *described in subdivision (a) that is available to the public.*

35 *(e) Upon discovering that a means of remote access required*
36 *by subdivision (c) has failed during a meeting, the state body*
37 *described in subdivision (a) shall end or adjourn the meeting in*
38 *accordance with Section 11128.5. In addition to any other*
39 *requirements that may apply, the state body shall provide notice*
40 *of the meeting's end or adjournment on its Internet Web site and*

1 *by email to any person who has requested notice of meetings of*
2 *the state body under this article. If the meeting will be adjourned*
3 *and reconvened on the same day, further notice shall be provided*
4 *by an automated message on a telephone line posted on the state*
5 *body’s agenda, or by a similar means, that will communicate when*
6 *the state body intends to reconvene the meeting and how a member*
7 *of the public may hear audio of the meeting or observe the meeting.*

8 SECTION 1. ~~Section 11123.5 is added to the Government~~
9 ~~Code, to read:~~

10 11123.5. ~~Notwithstanding any other law, all of the following~~
11 ~~shall apply to a meeting held by teleconference under this article~~
12 ~~by an advisory board, advisory commission, advisory committee,~~
13 ~~advisory subcommittee, or similar multimember advisory body~~
14 ~~that does not have rulemaking authority, as described in subdivision~~
15 ~~(e) of Section 11121:~~

16 (a) ~~A member of a state body described in this section~~
17 ~~participating by teleconference shall be listed in the minutes of the~~
18 ~~meeting and shall provide notice of his or her participation by~~
19 ~~teleconference at least 24 hours before the meeting.~~

20 (b) ~~A state body described in this section shall designate a~~
21 ~~primary physical meeting location where participants may~~
22 ~~physically attend the meeting and participate. A quorum of the~~
23 ~~members of the state body shall be in attendance at the primary~~
24 ~~physical meeting location.~~

25 (c) ~~The teleconference phone number and, if applicable, the~~
26 ~~Internet Web site or other information indicating how the public~~
27 ~~can access the meeting remotely, shall be included in the agenda,~~
28 ~~which shall be available to the public.~~

29 (d) (1) ~~Nothing in this section shall exempt a state body~~
30 ~~described in this section from providing information regarding the~~
31 ~~physical location of a state body meeting or any teleconference~~
32 ~~participation information, including the identity of a state body~~
33 ~~member who might be participating by teleconference.~~

34 (2) ~~On and after January 1, 2019, prior to holding a meeting by~~
35 ~~teleconference pursuant to this section, a state body described in~~
36 ~~this section shall adopt teleconferencing guidelines consistent with~~
37 ~~this section to address issues that include, but are not limited to,~~

- 1 ~~cancellations as a result of technical difficulties, ensuring~~
- 2 ~~transparency, and public participation.~~

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MEMORANDUM

DATE	August 8, 2018
TO	Members of the Dental Board of California
FROM	Karen Fischer, Executive Officer Dental Board of California
SUBJECT	Agenda Item 14 B x: Senate Bill 501

Background:

The Board has been following the progression of Senate Bill 501 (Glazer) relating to anesthesia since it was introduced February 16, 2017. The last published version of the bill was May 1, 2017. The bill currently is in the Assembly Appropriations Committee and has been significantly amended since the May 1, 2017 version. Staff is providing a copy of the amendments that are currently being considered. What follows this memo is an analysis of the May 1, 2017 version of the bill; followed by the actual May 1, 2017 language. A colored sheet of paper separates the "new language", titled PROPOSED AMENDMENTS, RN 18 17097 07 dated 08/03/18 3:58 PM.

I have indicated to Assembly Appropriations Committee staff that the Board has not seen the proposed language since the amendments have not been formally published; therefore the Board has not taken a position on the bill. However, Board staff has reviewed the proposed amendments and is in the process of identifying the implementation challenges.

First and foremost, a critical challenge for the Board based on the proposed amendments is that an implementation deadline of 2021 is not realistically feasible. If the bill is signed by the Governor, it would go into effect January 1, 2019. Even if the bill becomes an urgency measure upon signature, two more months on the front end does not alter the timeline.

Board staff indicated in the fiscal analysis that the increased workload to implement this legislation is not absorbable with current staffing levels. Therefore, additional analytical staff have been requested. If approved, the recruitment of the position(s) would not begin until July 1, 2019; with new hires starting work in the Fall of 2019. Due to the new requirements for the sedation permits, the Board would be required to promulgate new regulations, which routinely takes a minimum of 18 to 24 months. The existing licenses and new licenses must be altered or created in the BreEZe licensing program, a process which cannot be initiated until the regulations become effective - which pushes the implementation deadline farther out. The earliest realistic deadline for implementation would be 2025.

Staff is preparing additional information on these amendments which will be presented at the meeting.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 501

AUTHOR: S. Glazer

SPONSOR: California
Association of Oral
and Maxillofacial
Surgeons

VERSION: Amended 05/01/2017

INTRODUCED: 02/16/2017

BILL STATUS: 09/01/2017 – In Assembly
Appropriations Committee.
Not heard.

BILL LOCATION: Assembly
Appropriations
Committee

SUBJECT: Dentistry: anesthesia and
sedation: report.

**RELATED
BILLS:** AB 224

SUMMARY

Senate Bill (SB) 501 would broadly enact recommendations from the Dental Board of California's (Board) Pediatric Anesthesia Study of 2016. Senator Jerry Hill requested an investigation of the present laws, regulations, and policies related to pediatric dental anesthesia to ensure patient safety. The Board recommended updating terminology, staffing requirements, educational requirements, and monitoring standards to further improve the safety of pediatric dental anesthesia and sedation.

Current law states that dentists are licensed and regulated by the Board. In order to administer general anesthesia (GA) to a dental patient, a licensed dentist must also have a GA permit from the Board. This requirement also applies to physicians who administer GA in a dental office. Dentists that administer drugs that result in conscious sedation are required to have either a GA permit or a conscious sedation permit from the Board.

This bill as amended will have various effects on current statutes and regulations in place as it relates to the administration of outpatient anesthesia and sedation by dentists. Aside from the workload required to update regulations, the requirements of SB 501 are not absorbable by the Board and will most likely require fee increases. The Board will be required to update statutes and regulations, solicit vendors, develop contracts to produce reports, increase fees, and hire staff by 2019.

SB 501 repeals provisions related to producing a pediatric anesthesia report to the Legislature. Additionally, the bill requires the Board to produce two new reports

(regarding pediatric deaths and access to care with the implementation of a second general anesthesia (GA) permitholder) for the Legislature as well as requiring the Board to conduct a review of pediatric morbidity and mortality.

This bill also repeals provisions related to oral conscious sedation for pediatric and adult patients. Additionally, this bill redefines the terms GA, deep sedation, moderate sedation (formerly known as conscious sedation), and minimal sedation. SB 501 extends the licensing criteria and outlines the permit requirements for dentists who wish to administer GA or deep sedation, and moderate sedation on an outpatient basis. This bill also outlines the requirements for dentists who wish to perform procedures on children under the age of 13. Moreover, this bill authorizes a current licensed physician and surgeon to administer deep sedation and GA in a licensed dentist's office, even if the dentist does not have a GA permit, if the surgeon or physician meets certain requirements. Furthermore, this bill requires a patient to submit to a physical examination and disclose medical history to the dentist before any deep sedation or GA may be administered.

SB 501 extends the licensing criteria and outlines the permit requirements to dentists who administer minimal sedation on an outpatient basis and who wish to perform procedures utilizing the administration of pediatric minimal sedation. Notably, any pediatric endorsements for the aforementioned permits will require a dentist to obtain specified training as outlined in the bill. Violations of any of the provisions would constitute unprofessional conduct and could result in the revocation or suspension of the dentist's permit or license.

ANALYSIS

Business and Professions Code (Code) Section (§) 1601.4, 1601.7, and 1616.1

Reports

SB 501 deletes provisions in law that requires the Board to submit a report to the Legislature, on or before January 1, 2017, in relation to the adequacy of patient protection in regards to pediatric anesthesia. However, the Board would be required to submit a report to the Legislature on pediatric deaths related to GA and deep sedation in dentistry at its 2020 sunset review. Additionally, on or before January 1, 2019, the Board would be required to submit a report to the Legislature that addresses the effects on access to care for pediatric dental patients related to the addition of requiring a second GA permitholder be present when the patient is seven years of age or younger during the administration of GA by a current GA permitholder. Furthermore, on or before January 1, 2019, the Board would be required to conduct a review of pediatric morbidity and mortality data since January 1, 2017 to improve safety.

The cost of the data collection, analysis, and review necessary to develop the reports cannot be absorbed by the Board due to the significant increase on costs and workload. Additionally, the Board lacks the authority to track the impact on access to care for pediatric dental patients and the Board would be required to contract out to a research entity to conduct the study and analysis.

Additionally, the request to complete a review of pediatric mobility and mortality data cannot be absorbed by the Board. The Board would likely need to contract out to a research authority to complete this review and this cost could not be absorbed. Additionally, this statute does not specify the type of data collected.

Code § 1646, 1647.1, and 1647.30 *GA, Deep Sedation, Moderate Sedation, and Minimal Sedation Definitions*

SB 501 repeals the provisions pertaining to the use of oral conscious sedation for both pediatric and adult patients. Additionally, the bill redefines the GA, deep sedation, moderate sedation (formerly known as conscious sedation), and minimal sedation.

The Board would be required to update regulations to define GA, deep sedation, moderate sedation, and minimal sedation consistent with this bill.

Code § 1646.1, 1646.3 *GA or deep sedation for Outpatient Basis Requirements*

SB 501 extends the licensing criteria to dentists who administer GA or deep sedation on an outpatient basis for dental patients. Dentists would be required to: (1) possess a GA permit issued by the Board; (2) possess a pediatric endorsement on their GA permit to administer GA or deep sedation to patients under seven; (3) physically be within the dental office at the time of ordering, and during administration of, GA or deep sedation; (4) have at least two support staff, in addition to the dentist, present during a procedure involving GA or deep sedation if the patient is between the ages of seven to 13 (the dentist must be certified in Pediatric Advanced Life Support [PALS] and at least one support staff must be trained in pediatric life support and airway management, this staff member will be dedicated to monitoring the patient throughout the procedure); and (5) have at least two people, in addition to the dentist, present during a procedure involving GA or deep sedation if the patient is under the age of seven (both people must be trained in pediatric life support and airway management, however one person must be dedicated to monitoring the patient throughout the procedure while the other person assist in the procedure as needed. Special requirements are necessary if a dedicated anesthesia provider is utilized). As a requirement of renewal of the GA permit, a permittee is also required to complete 24 hours of approved course in relation to GA or deep sedation. This bill prohibits dentists from administering deep sedation for reasons other than dental treatment. This bill also requires a patient undergo a physical examination and medical history before the administration deep sedation or GA. Any dentist that holds a GA permit will be required to maintain a patient's medical history, physical evaluation, deep sedation, and GA records as required by the Board's regulations.

SB 501 would require the Board to change the current permit title from "GA" to "deep sedation or GA". However, further clarification is needed to identify whether the title or name of the permit would need to be updated to identify the type of sedation/anesthesia provided (ex: GA permit vs. GA permit, under 13).

The Board would need to update regulations to define the requirements to obtain a permit for GA or deep sedation and how many staff members are required to be present depending upon the age of the patient. Additionally, it is unclear whether the current GA permit holders must reapply for new permits for the administration of GA to treat a patient under the age of seven, pursuant to § 1646.1(b) or if this is only a requirement for new applicants that apply as of January 1, 2019. Specifically, the requirement of a pediatric endorsement to treat patients under seven may be an issue for the GA permittees since the permits do not have that designation currently. Further clarification is needed to explain if existing GA permit holders will be grandfathered into the program. Additionally, with the pediatric endorsement, the Board would likely need to modify the current on-site inspection and evaluation programs. It is unclear whether permit holders will need to be evaluated separately in the administration of GA/deep sedation on adult, under 13, and under seven patients.

SB 501 bill does not explicitly state whether the Board or the GA permit holder would be responsible for maintaining proof that at least one support staff is trained in PALS and airway management (as required by this bill) to treat a patient between the ages of seven to 13. Currently, the Board does not have a license for dental auxiliaries that would capture this information.

SB 501 would require the Board to update regulations defining the rules and requirements regarding the need to perform a physical evaluation and medical history before the administration of GA or deep sedation and maintenance of those records.

Code § 1646.2 *Dentist Requirements to Administer GA or Deep Sedation Pediatric Endorsement*

This bill extends the licensing criteria to obtain a GA permit to administer GA and deep sedation. However, beginning January 1, 2019, SB 501 requires dentists who wish to have a pediatric endorsement on their GA permit to have: (1) completed a Commission on Dental Accreditation (CODA) accredited or equivalent residency training program providing competency in the administration of deep sedation and GA on children under seven years of age; (2) provided proof of successful completion of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency, for both the initial application and renewal; and (3) provided proof of current and continuous certification in Advanced Cardiac Life Support (ACLS) and PALS for the duration of holding the permit. Dentists who would otherwise qualify for the endorsement but lack sufficient cases in pediatric sedation are allowed to provide deep sedation and GA to patients under seven under direct supervision of a GA permitholder that possess a pediatric endorsement.

This bill does not specify what is to be submitted as “proof of completion” of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency.

Because of the pediatric endorsement, the Board may need to modify the current on-site inspection and evaluation programs. It is unclear whether permit holders will need

to be evaluated separately in the administration of GA/deep sedation on adult, under 13, and under seven patients. The Board would also be required to create three new permits for GA (adult, under 13, and under 7) and request numerous updates to the Breeze system. Currently, the Board does not track permit holders performing pediatric dentistry. If all GA permit holders are required to reapply for a permit, there will be an influx of applications for review. This would likely lead to an increased workload of GA permits.

Code § 1646.9 *Deep Sedation or GA License for Surgeon and Physician*

SB 501 authorizes a current licensed physician and surgeon to administer deep sedation (in addition to GA which is in the statute) in a licensed dentist's office for dental patients if the physician/surgeon could provide proof of their license to practice medicine in California (CA) and a valid GA permit issued by the Board. This bill would require physicians and surgeons to provide proof of the following before obtaining the GA permit: training that provides competency in the administration of deep sedation and GA on children, as well as submit current and continuous certification in ACLS and PALS for the duration of holding the permit.

The Board would be required to update regulations defining the rules and educational requirements to obtain a GA permit for surgeons and physicians.

Code § 1647.2 *Moderate Sedation for Outpatient Basis Requirements*

SB 501 extends the licensing criteria to dentists who administer moderate sedation on an outpatient basis for dental patients. Dentists would be required to: (1) possess a GA permit or possess a moderate sedation permit; (2) possess a pediatric endorsement on their moderate sedation permit to administer moderate sedation to patients under 13; (3) be physically present within the treatment facility while the patient is sedated; (4) have at least one other support staff present at all times during a procedure involving moderate sedation if a patient is between the ages of seven to 13 and that staff member must be trained in pediatric life support and airway management; and (5) have at least two support staff present, in addition to the dentist, at all times during a procedure involving moderate sedation if a patient is under seven with one staff member trained in pediatric life support and airway management and dedicated to monitoring the patient throughout the procedure.

The Board would be required to update regulations defining the rules and revise the educational requirement to obtain a moderate sedation permit, and for consistency, to change the designation from conscious sedation to moderate sedation.

Additionally, pursuant to § 1682(b) a dentist can allow a licensed health professional experienced in the care and resuscitation of patients recovering from conscious sedation or GA, to monitor a patient while recovering from sedation. Further clarification is needed to explain the where the dentist must be in the facility, while the patient is under moderate sedation, when it appears that § 1682(b) allows a licensed health professional experience to fill the dentist's role while a patient is recovering.

The Board would be required to update regulations regarding the number of staff members required to be present during moderate sedation. Additionally, it is unclear whether the current conscious sedation permit holders must reapply for new permits for the administration of GA to treat a patient under the age of seven, or if this is just for new applicants applying as of January 1, 2019. Specifically, the requirement of a pediatric endorsement to treat patients under seven may be an issue for the permittees since the permits do not have that designation because it was not initially required. Further clarification is needed to explain if existing permit holders will be grandfathered into the program. Moreover, in regards to the pediatric endorsement, the Board may need to modify the current on-site inspection and evaluation programs. It is unclear whether permit holders will need to be evaluated separately in the administration of moderate sedation on adult, under 13, and under seven patients.

The Board would also be required to create three new permits for moderate sedation (adult, under 13, and under 7) and request numerous updates to the Breeze system. As stated previously, the Board does not track permit holders performing pediatric dentistry. If all moderate sedation permit holders are required to reapply for a permit, there will be an influx of applications for review.

Code § 1647.3 *Moderate Sedation Permit Requirements for Dentists*

SB 501 requires dentists to apply for a moderate sedation permit from the board before performing and administering moderate sedation. This bill would include new training requirements in the administration of moderate sedation to comply with the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students of the ADA. Pediatric endorsements for moderate sedation would require the dentist to be trained in PALS and airway management and completion of moderate sedation courses. This bill would also require physical examination and medical history to be taken of the patient before administering moderate sedation. Any dentist that holds a GA permit would be required to maintain medical history, physical evaluations, and moderate sedation records as required by the Board's regulations.

The Board would be required to update regulations defining the rules and requirement regarding moderate sedation to remain consistent with this bill. The Board would also need to update regulations to define the new permit application process. There are approximately 515 Conscious Sedation permit holders in CA (which the Board assumes would be now defined as moderate sedation). This bill would change the permit process with several different pathways for permits, which includes submitting 20 cases for review by staff and SME for competency.

The Board would be required to update regulations defining the rules and requirements regarding the need to perform a physical evaluation and medical history before the administration of moderate sedation and maintenance of those records.

Code§ 1647.31 *Pediatric Minimal Sedation Licensing Permit Requirements*

This bill would extend the licensing criteria in regards to dentists who administer minimal sedation on an outpatient basis for dental patients under the age of 13, if they hold: a

valid pediatric minimal sedation permit, GA permit issued by the board, or a valid anesthesia permit issued by the Board that authorizes moderate sedation, deep sedation, or GA. However, the dentist who would administer minimal sedation must be physically present in the treatment facility while the patient is sedated.

In relation to § 1647.31, regarding who can administer minimal sedation, the Board would need to update regulations defining the rules and requirement which may be absorbable.

Code § 1647.32 *Pediatric Minimal Sedation Permit Requirements*

This bill would require dentists who wish to perform and administer pediatric minimal sedation to apply for a pediatric minimal sedation permit with the Board. Dentists would be required to include documentation that the equipment and drugs required by the Board are on the premises and training in the administration of pediatric minimal sedation. This training is to include: proof of 24 hours of pediatric minimal sedation (in addition to one clinical case) that covers training in airway management and patient rescue from moderate sedation, as well as provide completion of an accredited residency in pediatric dentistry. Dentists are limited to administering a single dose that is unlikely to produce a state of unintended moderate sedation. A minimum of one staff member, in addition to the dentist, must be present during the procedure as well as trained in the monitoring and resuscitation of pediatric patients.

SB 501 would require that to qualify for a pediatric minimal sedation permit a dentist must include completion of an accredited residency in pediatric dentistry but does not specify if this a program approved by CODA. Additionally, further clarification is needed to explain the training required for the additional staff member in monitoring and resuscitation of pediatric patients.

Code § 1647.33 *Request for Board to be Responsible for Pediatric Minimal Sedation Program*

It is the intent of the Legislature, and this bill, that the Board hire staff to administer the pediatric minimal sedation program and establish fees sufficient to the administration and enforcement costs incurred by the Board in carrying out this program.

This would require the Board to create a new permit issued by the Board. The Board would need to work with developers to create an additional license, make additions to Breeze, correspondence, certificates, and cashiering. The Board would also need to make changes to the current website and applications/forms.

Code § 1647.34 *Consequences of Violating the Provisions*

A violation of any provision of the provisions outlined in this bill constitutes unprofessional conducts and is grounds for the revocation or suspension of the dentist's permit or license, or both.

The only costs that may be incurred by a local agency relate to crimes and infractions.

Fiscal Impact

As noted in the Senate Appropriations Committee, this bill would result in changes to the current use and regulation of anesthesia and sedation by dentists. These include one-time costs of over \$5 million to prepare the reports, hire new staff to review permit applications, and obtain additional office space to house the new staff to achieve the requirements implemented by the bill. Additionally, another \$1.1 million in ongoing costs would be required for additional staff and office space. An estimated \$3.6 million will be needed per year for additional site inspections at dental offices and clinics to ensure compliance with the requirements outlined in this bill.

REGISTERED SUPPORT/OPPOSITION

Support

California Association of Oral and Maxillofacial Surgery (sponsor)
California Dental Association

Oppose

American Academy of Pediatrics
California Society of Dentist Anesthesiologists
PDI Surgery Center

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN SENATE MAY 1, 2017
AMENDED IN SENATE APRIL 20, 2017
AMENDED IN SENATE APRIL 17, 2017

SENATE BILL

No. 501

Introduced by Senator Glazer

February 16, 2017

An act to amend Sections 1601.4, 1646, 1646.1, 1646.2, 1646.3, 1646.4, 1646.5, 1646.8, 1646.9, 1647, 1647.1, 1647.2, 1647.3, 1647.5, 1647.6, and 1647.7 of, to amend the heading of Article 2.7 (commencing with Section 1646) of Chapter 4 of Division 2 of, to add Sections 1601.7, 1616.1, 1646.6.5, and 1647.8.5 to, to add Article 2.87 (commencing with Section 1647.30) to Chapter 4 of Division 2 of, and to repeal Article 2.85 (commencing with Section 1647.10) and Article 2.86 (commencing with Section 1647.18) of Chapter 4 of Division 2 of, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

SB 501, as amended, Glazer. Dentistry: anesthesia and sedation: report.

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California within the Department of Consumer Affairs. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for a dentist to engage in certain conduct, including failing to obtain written consent prior to administering general anesthesia or conscious sedation. The act also makes a willful violation of its provisions, including practicing without

a valid certificate or license, a crime, and defines various terms relating to anesthesia and sedation.

This bill would repeal those provisions relating to the use of oral ~~conscious~~ *conscious* sedation for pediatric and adult patients. The bill would redefine general anesthesia for these purposes and additionally would define “deep sedation” to mean a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation, as specified.

The Dental Practice Act prohibits a dentist from administering or ordering the administration of general anesthesia on an outpatient basis for dental patients unless the dentist meets certain licensing criteria.

This bill would extend that licensing criteria to dentists administering deep sedation. The bill would require dentists, beginning January 1, 2019, to have a pediatric endorsement of their general anesthesia permit and have completed a Commission on Dental Accreditation accredited or equivalent residency training program providing competency in the administration of deep sedation or general anesthesia to be eligible to administer these drugs to patients under 7 years of age. The bill also would require dentists, beginning January 1, 2019, to have completed at least 20 cases to establish competency for patients under 7 years of age, and would require dentists to perform a physical evaluation and a medical history before administering deep sedation or general anesthesia. The bill would further require that, for any procedure involving deep sedation or general anesthesia for patients between 7 and 13 years of age, the dentist and at least 2 support staff be present and would require the dentist and at least one support staff to have certain advanced life support and airway management training, as specified. The bill also would require at least 3 people to be present during procedures on children under 7 years of age and would require the other attendees to hold specified certifications and have certain advanced life support and airway management training, as specified.

The Dental Practice Act prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist meets certain licensing criteria.

This bill would replace the term “conscious sedation” with “moderate sedation,” meaning a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands and meets other criteria. The bill would authorize a dentist to administer or order the administration of moderate sedation on an outpatient basis to a

dental patient if the dentist meets specified licensing criteria and has applied to the board, submitted an application fee, and shown successful completion of training in moderate sedation. The bill would require a dentist who orders the administration of moderate sedation to be physically present in the treatment facility while the patient is sedated. The bill would specify that training in the administration of moderate sedation is acceptable if it consists of a certain number of instructional hours and completion of cases and complies with certain guidelines for teaching pain control and sedation. The bill would specify that a pediatric endorsement requires a dentist to obtain specified training. The bill also would require for a child under 7 years of age that there be at least 2 support staff persons in addition to the practicing dentist at all times during the procedure, with one staff member serving as a dedicated patient monitor.

The bill also would establish new requirements for dentists administering or ordering the administration of minimal sedation, defined as a drug-induced state during which patients respond normally to verbal commands, as specified, for pediatric patients under 13 years of age. These new requirements would include that the dentist possess specified licensing credentials, and would require any dentist who desires to administer or order the administration of minimal sedation to apply to the board, as specified, and to submit an application fee. The bill would make a violation of these provisions governing minimal sedation unprofessional conduct, constituting grounds for the revocation or suspension of the dentist's ~~permit or other forms of reprimand~~, *permit, or both*. Additionally, by expanding the scope of an existing crime for violations of the Dental Practice Act, the bill would impose a state-mandated local program. This bill also would authorize the board to conduct a review of pediatric morbidity and mortality data, as provided, for the purpose of obtaining high-quality pediatric sedation and anesthesia-related data.

This bill, on or before January 1, 2019, would require the board to provide to the Legislature a report and analysis, as specified, of the effects on access to care for pediatric dental patients specifically as it relates to requiring the addition of a 2nd general anesthesia permitholder to be present during the administration of general anesthesia on a patient 7 years of age or younger, if the provider is currently a general anesthesia permitholder.

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

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

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

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

1 SECTION 1. Section 1601.4 of the Business and Professions
2 Code is amended to read:

3 1601.4. The board shall provide a report on pediatric deaths
4 related to general anesthesia and deep sedation in dentistry at the
5 time of its sunset review pursuant to subdivision (d) of Section
6 1601.1.

7 SEC. 2. Section 1601.7 is added to the Business and Professions
8 Code, to read:

9 1601.7. (a) On or before January 1, 2019, the board shall
10 provide to the Legislature a report and analysis of the effects on
11 access to care for pediatric dental patients specifically as it relates
12 to requiring the addition of a second general anesthesia
13 permitholder to be present during the administration of general
14 anesthesia on a patient seven years of age or younger, if the
15 provider is currently a general anesthesia permitholder. The
16 analysis should include costs of sedation and anesthesia, resource
17 constraints of the health care system, including Denti-Cal compared
18 to private insurance, and feasibility issues that include, but are not
19 limited to, time, skills, staff availability, and equipment availability
20 for the provider to carry out necessary dental procedures. The
21 board shall make the report publicly available on the board's
22 Internet Web site.

23 (b) (1) A report to be submitted pursuant to subdivision (a)
24 shall be submitted in compliance with Section 9795 of the
25 Government Code.

26 (2) Pursuant to Section 10231.5 of the Government Code, this
27 section is repealed on January 1, 2023.

28 SEC. 3. Section 1616.1 is added to the Business and Professions
29 Code, to read:

1 1616.1. On or before January 1, 2019, the board shall conduct
2 a review of pediatric morbidity and mortality data beginning
3 January 1, 2017, for the purpose of obtaining high-quality data
4 about outcomes and complications related to pediatric dental
5 sedation and anesthesia. It is the intent of this section that the
6 collection of data shall lead to further quality improvement and
7 safety.

8 SEC. 4. The heading of Article 2.7 (commencing with Section
9 1646) of Chapter 4 of Division 2 of the Business and Professions
10 Code is amended to read:

11
12 Article 2.7. Use of Deep Sedation and General Anesthesia

13
14 SEC. 5. Section 1646 of the Business and Professions Code is
15 amended to read:

16 1646. As used in this article, the following definitions apply:

17 (a) “Deep sedation” means a drug-induced depression of
18 consciousness during which patients cannot be easily aroused but
19 respond purposefully following repeated or painful stimulation.
20 The ability to independently maintain ventilatory function may be
21 impaired. Patients may require assistance in maintaining a patent
22 airway, and spontaneous ventilation may be inadequate.
23 Cardiovascular function is usually maintained.

24 (b) “General anesthesia” means a drug-induced loss of
25 consciousness during which patients are not arousable, even by
26 painful stimulation. The ability to independently maintain
27 ventilatory function is often impaired. Patients often require
28 assistance in maintaining a patent airway, and positive
29 pressureventilation may be required because of depressed
30 spontaneous ventilation or drug-induced depression of
31 neuromuscular function. Cardiovascular function may be impaired.

32 SEC. 6. Section 1646.1 of the Business and Professions Code
33 is amended to read:

34 1646.1. (a) A dentist must possess either a general anesthesia
35 permit issued by the board or a permit under Section 1638 or 1640
36 and a general anesthesia permit issued by the board in order to
37 administer or order the administration of deep sedation or general
38 anesthesia on an outpatient basis for dental patients.

39 (b) A dentist must possess a pediatric endorsement for the
40 general anesthesia permit to administer or order the administration

1 of deep sedation or general anesthesia to patients under seven years
2 of age.

3 (c) A dentist must be physically within the dental office at the
4 time of ordering, and during the administration of, general
5 anesthesia or deep sedation.

6 (d) For patients seven to 13 years of age, inclusive, the dentist
7 and at least two support staff shall be present for the procedure
8 involving general anesthesia or deep sedation. The dentist shall
9 be currently certified in Pediatric Advanced Life Support (PALS)
10 and at least one support staff member shall be trained in pediatric
11 life support and airway management, equivalent to the American
12 Academy of Pediatrics and American Academy of Pediatric
13 Dentistry (AAP-AAPD) Guidelines or as determined by the board.
14 That staff member shall be dedicated to monitoring the patient
15 throughout the procedure.

16 (e) For children under seven years of age, there shall be at least
17 three people present during the procedure involving general
18 anesthesia or deep sedation, including the dentist. One person
19 present shall be solely dedicated to monitoring the patient and shall
20 be trained in pediatric life support and airway management,
21 equivalent to the AAP-AAPD Guidelines or as determined by the
22 board. The second person shall also be trained in pediatric life
23 support and airway management, equivalent to the AAP-AAPD
24 Guidelines or as determined by the board, and may assist in the
25 procedure as needed. If a dedicated anesthesia provider is utilized,
26 that person shall be a general anesthesia permitholder with a current
27 pediatric endorsement and shall be certified in ACLS and PALS.

28 (f) This article does not apply to the administration of local
29 anesthesia, minimal sedation, or moderate sedation.

30 SEC. 7. Section 1646.2 of the Business and Professions Code
31 is amended to read:

32 1646.2. (a) A dentist who desires to administer or order the
33 administration of deep sedation or general anesthesia shall apply
34 to the board on an application form prescribed by the board. The
35 dentist must submit an application fee and produce evidence
36 showing that he or she has successfully completed a minimum of
37 one year of advanced training in anesthesiology and related
38 academic subjects approved by the board, or equivalent training
39 or experience approved by the board, beyond the undergraduate
40 school level.

1 (b) The application for a permit shall include documentation
2 that equipment and drugs required by the board are on the premises.

3 (c) Beginning January 1, 2019, a dentist may apply for a
4 pediatric endorsement for the general anesthesia permit by:

5 (1) Providing proof of successful completion of a Commission
6 on Dental Accreditation (CODA) accredited or equivalent residency
7 training program that provides competency in the administration
8 of deep sedation and general anesthesia on children under seven
9 years of age.

10 (2) Providing proof of successful completion of at least 20 cases
11 of pediatric sedation to patients under seven years of age to
12 establish competency, both at the time of initial application and at
13 renewal.

14 (3) Providing evidence of current and continuous certification
15 in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced
16 Life Support (PALS) for the duration of holding the permit.

17 (d) Initial applicants for a pediatric endorsement who otherwise
18 qualify for the pediatric endorsement but lack sufficient cases of
19 pediatric sedation to patients under age seven years of age shall
20 be allowed to provide deep sedation and general anesthesia on
21 patients under seven years of age under the direct supervision of
22 a general anesthesia permit holder with a pediatric endorsement.
23 The applicant may count these cases toward the 20 necessary in
24 order to qualify for the applicant's pediatric endorsement.

25 SEC. 8. Section 1646.3 of the Business and Professions Code
26 is amended to read:

27 1646.3. (a) A physical evaluation and medical history shall
28 be taken before the administration of deep sedation or general
29 anesthesia.

30 (b) Any dentist holding a permit shall maintain medical history,
31 physical evaluation, deep sedation, and general anesthesia records
32 as required by board regulations.

33 SEC. 9. Section 1646.4 of the Business and Professions Code
34 is amended to read:

35 1646.4. (a) Prior to the issuance or renewal of a permit for the
36 use of deep sedation or general anesthesia, the board may, at its
37 discretion, require an onsite inspection and evaluation of the
38 licensee and the facility, equipment, personnel, and procedures
39 utilized by the licensee. The permit of any dentist who has failed
40 an onsite inspection and evaluation shall be automatically

1 suspended 30 days after the date on which the board notifies the
2 dentist of the failure, unless within that time period the dentist has
3 retaken and passed an onsite inspection and evaluation. Every
4 dentist issued a permit under this article shall have an onsite
5 inspection and evaluation at least once every five years. Refusal
6 to submit to an inspection shall result in automatic denial or
7 revocation of the permit.

8 (b) The board may contract with public or private organizations
9 or individuals expert in dental outpatient general anesthesia to
10 perform onsite inspections and evaluations. The board may not,
11 however, delegate its authority to issue permits or to determine
12 the persons or facilities to be inspected.

13 SEC. 10. Section 1646.5 of the Business and Professions Code
14 is amended to read:

15 1646.5. A permittee shall be required to complete 24 hours of
16 approved courses of study related to deep sedation or general
17 anesthesia as a condition of renewal of a permit. Those courses of
18 study shall be credited toward any continuing education required
19 by the board pursuant to Section 1645.

20 SEC. 11. Section 1646.6.5 is added to the Business and
21 Professions Code, to read:

22 1646.6.5. A general anesthesia permit shall expire on the date
23 provided in Section 1715 that next occurs after its issuance, unless
24 it is renewed as provided in this article.

25 SEC. 12. Section 1646.8 of the Business and Professions Code
26 is amended to read:

27 1646.8. Nothing in this chapter shall be construed to authorize
28 a dentist to administer or directly supervise the administration of
29 general anesthesia or deep sedation for reasons other than dental
30 treatment, as defined in Section 1625.

31 SEC. 13. Section 1646.9 of the Business and Professions Code
32 is amended to read:

33 1646.9. (a) Notwithstanding any other provision of law,
34 including, but not limited to, Section 1646.1, a physician and
35 surgeon licensed pursuant to Chapter 5 (commencing with Section
36 2000) may administer deep sedation or general anesthesia in the
37 office of a licensed dentist for dental patients, without regard to
38 whether the dentist possesses a permit issued pursuant to this
39 article, if both of the following conditions are met:

1 (1) The physician and surgeon possesses a current license in
2 good standing to practice medicine in this state.

3 (2) The physician and surgeon holds a valid general anesthesia
4 permit issued by the Dental Board of California pursuant to
5 subdivision (b).

6 (b) (1) A physician and surgeon who desires to administer deep
7 sedation or general anesthesia as set forth in subdivision (a) shall
8 apply to the Dental Board of California on an application form
9 prescribed by the board and shall submit all of the following:

10 (A) The payment of an application fee prescribed by this article.

11 (B) Evidence satisfactory to the Medical Board of California
12 showing that the applicant has successfully completed a
13 postgraduate residency training program in anesthesiology that is
14 recognized by the American Council on Graduate Medical
15 Education, as set forth in Section 2079, and provides competency
16 in the administration of deep sedation and general anesthesia on
17 children under seven years of age. The applicant shall show proof
18 of successful completion of at least 20 cases of pediatric sedation
19 to patients under seven years of age to establish competency, both
20 at the time of initial application and at renewal.

21 (C) Documentation demonstrating that all equipment and drugs
22 required by the Dental Board of California are possessed by the
23 applicant and shall be available for use in any dental office in
24 which he or she administers deep sedation or general anesthesia.

25 (D) Information relative to the current membership of the
26 applicant on hospital medical staffs.

27 (E) Evidence of current and continuous certification in Advanced
28 Cardiac Life Support (ACLS) and Pediatric Advanced Life Support
29 (PALS) for the duration of holding the permit.

30 (2) Prior to issuance or renewal of a permit pursuant to this
31 section, the Dental Board of California may, at its discretion,
32 require an onsite inspection and evaluation of the facility,
33 equipment, personnel, including, but not limited to, the physician
34 and surgeon, and procedures utilized. At least one of the persons
35 evaluating the procedures utilized by the physician and surgeon
36 shall be a licensed physician and surgeon expert in outpatient deep
37 sedation or general anesthesia who has been authorized or retained
38 under contract by the Dental Board of California for this purpose.

39 (3) The permit of a physician and surgeon who has failed an
40 onsite inspection and evaluation shall be automatically suspended

1 30 days after the date on which the board notifies the physician
2 and surgeon of the failure unless within that time period the
3 physician and surgeon has retaken and passed an onsite inspection
4 and evaluation. Every physician and surgeon issued a permit under
5 this article shall have an onsite inspection and evaluation at least
6 once every five years. Refusal to submit to an inspection shall
7 result in automatic denial or revocation of the permit.

8 SEC. 14. Section 1647 of the Business and Professions Code
9 is amended to read:

10 1647. (a) The Legislature finds and declares that a
11 commendable patient safety record has been maintained in the past
12 by dentists and those other qualified providers of anesthesia
13 services who, pursuant to a dentist's authorization, administer
14 patient sedation, and that the increasing number of pharmaceuticals
15 and techniques used to administer them for patient sedation require
16 additional regulation to maintain patient safety in the future.

17 (b) The Legislature further finds and declares all of the
18 following:

19 (1) That previous laws enacted in 1980 contained separate and
20 distinct definitions for general anesthesia and the state of
21 consciousness.

22 (2) That in dental practice, there is a continuum of sedation used
23 which cannot be adequately defined in terms of consciousness and
24 general anesthesia.

25 (3) That the administration of sedation through this continuum
26 results in different states of consciousness that may or may not be
27 predictable in every instance.

28 (4) That in most instances, the level of sedation will result in a
29 predictable level of consciousness during the entire time of
30 sedation.

31 (c) The Legislature further finds and declares that the
32 educational standards presently required for deep sedation and
33 general anesthesia should be required when the degree of sedation
34 in the continuum of sedation is such that there is a reasonable
35 possibility that loss of consciousness may result, even if
36 unintended. However, achieving the degree of moderate sedation,
37 where a margin of safety exists wide enough to render unintended
38 loss of consciousness unlikely, requires educational standards
39 appropriate to the administration of the resulting predictable level
40 of consciousness.

1 SEC. 15. Section 1647.1 of the Business and Professions Code
2 is amended to read:

3 1647.1. (a) As used in this article, “moderate sedation” means
4 a drug-induced depression of consciousness during which a patient
5 responds purposefully to verbal commands, either alone or
6 accompanied by light tactile stimulation, no interventions are
7 required to maintain a patient’s airway, spontaneous ventilation
8 is adequate, and cardiovascular function is usually maintained.

9 (b) The drugs and techniques used in moderate sedation shall
10 have a margin of safety wide enough to render unintended loss of
11 consciousness unlikely. Further, patients whose only response is
12 reflex withdrawal from painful stimuli shall not be considered to
13 be in a state of moderate sedation.

14 (c) For very young patients or patients with intellectual
15 disabilities, incapable of the usually expected verbal response, a
16 minimally depressed level of consciousness for that patient should
17 be maintained.

18 SEC. 16. Section 1647.2 of the Business and Professions Code
19 is amended to read:

20 1647.2. (a) A dentist may administer or order the
21 administration of moderate sedation on an outpatient basis for a
22 dental patient if one of the following conditions is met:

23 (1) The dentist either holds a valid general anesthesia permit or
24 obtains a moderate sedation permit.

25 (2) The dentist possesses a current permit under Section 1638
26 or 1640 and either holds a valid general anesthesia permit or
27 obtains a moderate sedation permit.

28 (b) A dentist must obtain a pediatric endorsement on the
29 moderate sedation permit prior to performing moderate sedation
30 on a patient under 13 years of age.

31 (c) A dentist who orders the administration of moderate sedation
32 shall be physically present in the treatment facility while the patient
33 is sedated.

34 (d) For patients seven to 13 years of age, inclusive, there shall
35 be at least one support staff in addition to the dentist present at all
36 times during the procedure involving moderate sedation. That staff
37 member shall be trained in pediatric life support and airway
38 management, equivalent to the AAP-AAPD Guidelines or as
39 determined by the board.

1 (e) For a patient under seven years of age, there shall be at least
2 two support staff persons, in addition to the dentist, present at all
3 times during the procedure involving moderate sedation. One staff
4 member shall be solely dedicated to monitoring the patient, and
5 shall be trained in pediatric life support and airway management,
6 equivalent to the AAP-AAPD Guidelines or as determined by the
7 board.

8 (f) This article shall not apply to the administration of local
9 anesthesia, minimal sedation, deep sedation, or general anesthesia.

10 SEC. 17. Section 1647.3 of the Business and Professions Code
11 is amended to read:

12 1647.3. (a) A dentist who desires to administer or to order the
13 administration of moderate sedation shall apply to the board on
14 an application form prescribed by the board. The dentist shall
15 submit an application fee and produce evidence showing that he
16 or she has successfully completed training in moderate sedation
17 that meets the requirements of subdivision (c).

18 (b) The application for a permit shall include documentation
19 that equipment and drugs required by the board are on the premises.

20 (c) Training in the administration of moderate sedation shall be
21 acceptable if it meets all of the following as approved by the board:

- 22 (1) Consists of at least 60 hours of instruction.
- 23 (2) Requires satisfactory completion of at least 20 cases of
24 administration of moderate sedation for a variety of dental
25 procedures.
- 26 (3) Complies with the requirements of the Guidelines for
27 Teaching Pain Control and Sedation to Dentists and Dental
28 Students of the American Dental Association, including, but not
29 limited to, certification of competence in rescuing patients from a
30 deeper level of sedation than intended, and managing the airway,
31 intravascular or intraosseous access, and reversal medications.

32 (d) A pediatric endorsement requires the dentist to be trained
33 in Pediatric Advanced Life Support (PALS) and airway
34 management, equivalent to the American Academy of Pediatrics
35 and the American Academy of Pediatric Dentistry (AAP-AAPD)
36 Guidelines, or as determined by the board, and successful
37 completion of any of the following:

- 38 (1) A moderate sedation course consisting of at least 60 hours
39 of didactic instruction and at least 20 clinical cases, as described

1 in subdivision (c), but that is directed at treating pediatric patients
2 under 13 years of age.

3 (2) A moderate sedation course, as described in subdivision (c),
4 that is directed at treating patients 13 years of age or older, in
5 addition to at least 24 hours of didactic instruction in pediatric
6 moderate sedation and at least 10 clinical cases in pediatric
7 moderate sedation.

8 (3) A moderate sedation course that is directed at treating
9 patients 13 years of age or older, as described in subdivision (c),
10 in addition to completion of an accredited pediatric dental residency
11 program. The pediatric moderate sedation permit holder shall
12 provide proof of completion of at least 20 cases to establish
13 competency, both at the time of the initial application and at
14 renewal.

15 SEC. 18. Section 1647.5 of the Business and Professions Code
16 is amended to read:

17 1647.5. A permittee shall be required to complete 15 hours of
18 approved courses of study related to moderate sedation as a
19 condition of renewal of a permit. Those courses of study shall be
20 credited toward any continuing education required by the board
21 pursuant to Section 1645.

22 SEC. 19. Section 1647.6 of the Business and Professions Code
23 is amended to read:

24 1647.6. A physical evaluation and medical history shall be
25 taken before the administration of moderate sedation. Any dentist
26 holding a permit shall maintain records of the physical evaluation,
27 medical history, and moderate sedation procedures used as required
28 by board regulations.

29 SEC. 20. Section 1647.7 of the Business and Professions Code
30 is amended to read:

31 1647.7. (a) Prior to the issuance or renewal of a permit to
32 administer moderate sedation, the board may, at its discretion,
33 require an onsite inspection and evaluation of the licentiate and
34 the facility, equipment, personnel, and procedures utilized by the
35 licentiate. The permit of any dentist who has failed an onsite
36 inspection and evaluation shall be automatically suspended 30
37 days after the date on which the board notifies the dentist of the
38 failure unless, within that time period, the dentist has retaken and
39 passed an onsite inspection and evaluation. Every dentist issued a
40 permit under this article shall have an onsite inspection and

1 evaluation at least once in every six years. Refusal to submit to an
2 inspection shall result in automatic denial or revocation of the
3 permit.

4 (b) An applicant who has successfully completed the course
5 required by Section 1647.3 may be granted a one-year temporary
6 permit by the board prior to the onsite inspection and evaluation.
7 Failure to pass the inspection and evaluation shall result in the
8 immediate and automatic termination of the temporary permit.

9 (c) The board may contract with public or private organizations
10 or individuals expert in dental outpatient moderate sedation to
11 perform onsite inspections and evaluations. The board may not,
12 however, delegate its authority to issue permits or to determine
13 the persons or facilities to be inspected.

14 SEC. 21. Section 1647.8.5 is added to the Business and
15 Professions Code, to read:

16 1647.8.5. A moderate sedation permit shall expire on the date
17 specified in Section 1715 that next occurs after its issuance, unless
18 it is renewed as provided in this article.

19 SEC. 22. Article 2.85 (commencing with Section 1647.10) of
20 Chapter 4 of Division 2 of the Business and Professions Code is
21 repealed.

22 SEC. 23. Article 2.86 (commencing with Section 1647.18) of
23 Chapter 4 of Division 2 of the Business and Professions Code is
24 repealed.

25 SEC. 24. Article 2.87 (commencing with Section 1647.30) is
26 added to Chapter 4 of Division 2 of the Business and Professions
27 Code, to read:

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Article 2.87. Use of Pediatric Minimal Sedation

31 1647.30. (a) As used in this article, “minimal sedation” means
32 a drug-induced state during which patients respond normally to
33 verbal commands. Cognitive function and physical coordination
34 may be impaired, but airway reflexes, ventilatory functions, and
35 cardiovascular functions are unaffected.

36 (b) The drugs and techniques used in minimal sedation shall
37 have a margin of safety wide enough to render unintended loss of
38 consciousness unlikely. Further, patients whose only response is
39 reflex withdrawal from painful stimuli shall not be considered to
40 be in a state of minimal sedation.

1 (c) For the very young or developmentally delayed individual,
2 incapable of the usually expected verbal response, a minimally
3 depressed level of consciousness should be maintained.

4 1647.31. (a) A dentist may administer or order the
5 administration of minimal sedation on an outpatient basis for
6 pediatric dental patients under 13 years of age, if one of the
7 following conditions is met:

8 (1) The dentist holds a valid pediatric minimal sedation permit.

9 (2) The dentist possesses a current permit under Section 1638
10 or 1640 and either holds a valid general anesthesia permit or
11 obtains a permit issued by the board authorizing the dentist to
12 administer moderate sedation, deep sedation, or general anesthesia.

13 (b) A dentist who orders the administration of minimal sedation
14 shall be physically present in the treatment facility while the patient
15 is sedated.

16 (c) This article does not apply to the administration of local
17 anesthesia, moderate sedation, deep sedation, or general anesthesia.

18 1647.32. (a) A dentist who desires to administer or order the
19 administration of pediatric minimal sedation shall apply to the
20 board on an application form prescribed by the board. The dentist
21 shall submit an application fee and produce evidence showing that
22 he or she has successfully completed training in pediatric minimal
23 sedation that meets the requirements of subdivision (c).

24 (b) The application for a permit shall include documentation
25 that equipment and drugs required by the board are on the premises.

26 (c) Training in the administration of pediatric minimal sedation
27 shall be acceptable if it meets both of the following as approved
28 by the board:

29 (1) Consists of at least 24 hours of pediatric minimal sedation
30 instruction in addition to one clinical case. The pediatric minimal
31 sedation instruction shall include training in airway management
32 and patient rescue from moderate sedation.

33 (2) Includes completion of an accredited residency in pediatric
34 dentistry.

35 (d) A dentist is limited to administering a single dose of a single
36 drug via the oral route, plus a mix of nitrous oxide and oxygen
37 that is unlikely to produce a state of unintended moderate sedation.

38 (e) A minimum of one staff member, in addition to the dentist,
39 trained in the monitoring and resuscitation of pediatric patients
40 shall be present.

1 1647.33. (a) The application fee for a pediatric minimal
2 sedation permit or renewal under this article shall not exceed the
3 amount prescribed in Section 1724.

4 (b) It is the intent of the Legislature that the board hire sufficient
5 staff to administer the program and that the fees established
6 pursuant to this section be equivalent to administration and
7 enforcement costs incurred by the board in carrying out this article.

8 1647.34. A violation of any provision of this article constitutes
9 unprofessional conduct and is grounds for the revocation or
10 suspension of the dentist’s permit or license, ~~or both, or the dentist~~
11 ~~may be reprimanded or placed on probation.~~ *both*. The proceedings
12 under this section shall be conducted in accordance with Chapter
13 5 (commencing with Section 11500) of Part 1 of Division 3 of
14 Title 2 of the Government Code, and the board shall have all the
15 powers granted therein.

16 SEC. 25. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

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PROPOSED AMENDMENTS

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PROPOSED AMENDMENTS TO SENATE BILL NO. 501

AMENDED IN SENATE MAY 1, 2017

AMENDED IN SENATE APRIL 20, 2017

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL

No. 501

Introduced by Senator Glazer

February 16, 2017



RN1817097

An act to amend Sections 1601.4, 1646, 1646.1, 1646.2, 1646.3, 1646.4, 1646.5, 1646.8, 1646.9, 1647, 1647.1, 1647.2, 1647.3, 1647.5, 1647.6, and 1647.7 of, to amend the heading of Article 2.7 (commencing with Section 1646) of Chapter 4 of Division 2 of, to add Sections 1601.7, 1616.1, 1646.6.5, and 1647.8.5 to, to add Article 2.87 (commencing with Section 1647.30) to Chapter 4 of Division 2 of, and to repeal Article 2.85 (commencing with Section 1647.10) and Article 2.86 (commencing with Section 1647.18) of Chapter 4 of Division 2 of, amend Sections 1601.4 and 2827 of, to amend, repeal, and add Sections 1682, 1724, and 1750.5 of, to add Sections 1646.10, 1647.9.5, and 1647.17.5 to, to add Article 2.75 (commencing with Section 1646), Article 2.84 (commencing with Section 1647), and Article 2.87 (commencing with Section 1647.30) to Chapter 4 of Division 2 of, to add and repeal Section 1601.7 of, to repeal Article 2.7 (commencing with Section 1646), Article 2.85 (commencing with Section 1647.10), and Article 2.8 (commencing with Section 1647) of Chapter 4 of Division 2 of the Business and Professions Code, relating to dentistry.

Amendment 1

LEGISLATIVE COUNSEL'S DIGEST

SB 501, as amended, Glazer. Dentistry: anesthesia and sedation: report.

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Existing law imposes various functions and duties on the State Department of Public Health with respect to the administration and oversight of various health programs and facilities relating to the prevention of disease and the promotion of health.

This bill, on or before January 1, 2020, would require the Office of Oral Health in the State Department of Public Health to provide to the Legislature a report analyzing the effects on access to care for pediatric dental patients, as specified.

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California within the Department of Consumer Affairs. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for a dentist to engage in certain conduct, including failing to obtain written consent prior to administering general anesthesia or conscious sedation. The act also makes a willful violation of its provisions, including practicing without a valid certificate or license, a crime, and defines various terms relating to anesthesia and sedation.

~~This bill would repeal those provisions relating to the use of oral conscious sedation for pediatric and adult patients. The bill would redefine general anesthesia for these purposes and additionally would define "deep sedation" to mean a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation, as specified.~~

~~The Dental Practice Act prohibits a dentist from administering or ordering the administration of general anesthesia on an outpatient basis for dental patients unless the dentist meets certain licensing criteria.~~

~~This bill would extend that licensing criteria to dentists administering deep sedation. The bill would require dentists, beginning January 1, 2019, to have a pediatric endorsement of their general anesthesia permit and have completed a Commission on Dental Accreditation accredited or equivalent residency training program providing competency in the administration of deep sedation or general anesthesia to be eligible to administer these drugs to patients under 7 years of age. The bill also would require dentists, beginning January 1, 2019, to have completed at least 20 cases to establish competency for patients under 7 years of age, and would require dentists to perform a physical evaluation and a medical history before administering deep sedation or general anesthesia. The bill would further require that, for any procedure involving deep~~

~~sedation or general anesthesia for patients between 7 and 13 years of age, the dentist and at least 2 support staff be present and would require the dentist and at least one support staff to have certain advanced life support and airway management training, as specified. The bill also would require at least 3 people to be present during procedures on children under 7 years of age and would require the other attendees to hold specified certifications and have certain advanced life support and airway management training, as specified.~~

This bill would require the board to review available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry and relevant professional guidelines, recommendations, or best practices for the provision of dental anesthesia and sedation care in dentistry. By January 1, 2022, the bill would require the board to provide a report to the Legislature regarding any findings relevant to inform standards of dental anesthesia and sedation. The bill would also require the board to retain available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry for not less than 15 years.

This bill, beginning January 1, 2021, would establish new provisions governing the use of deep sedation and general anesthesia for dental patients. Among other requirements, the bill would require a dentist to possess either a current license in good standing and a general anesthesia permit, or other specified credentials in order to administer or order the administration of deep sedation or general anesthesia on an outpatient basis. The bill would require dentists to possess a pediatric endorsement of their general anesthesia permit to administer or order the administration of deep sedation or general anesthesia to patients under 7 years of age and would require dentists to be present within the dental office during the ordering and administration of general anesthesia or deep sedation. The bill would also require the presence of the operating dentist and at least 2 additional personnel for patients under 13 years of age for procedures involving deep sedation or general anesthesia and would require that certain personnel to be present throughout the procedure and to maintain current certification in pediatric life support and airway management, as specified. The bill would require a dentist applying for a pediatric endorsement for the general anesthesia permit to provide proof of successful completion of an accredited or equivalent residency training program, and a certain number of cases of deep sedation or general anesthesia for patients

under 7 years of age, along with current certification in specific life support training. Additionally, the bill would permit the board to require onsite inspections and evaluations of licensees and to contract with organizations or individuals to perform onsite inspections and evaluations. The bill would make a violation of these provisions unprofessional conduct and grounds for revocation or suspension of a dentist's permit, license, or cause for reprimand or probation. The bill also would permit a licensed physician and surgeon to administer deep sedation or general anesthesia if that physician and surgeon meets certain requirements, including holding a valid general anesthesia permit.

The Dental Practice Act prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist meets certain licensing criteria.

~~This bill, effective January 1, 2021, would repeal existing provisions relating to the use of conscious sedation. The bill would replace the term "conscious sedation" with "moderate sedation," meaning a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands and meets other criteria. The bill would authorize a dentist to administer or order the administration of moderate sedation on an outpatient basis to a dental patient if the dentist meets specified licensing criteria and has applied to the board, submitted an application fee, and shown successful completion of training in moderate sedation. The bill would require a dentist who orders the administration of moderate sedation to be physically present in the treatment facility while the patient is sedated. The bill would require the presence of additional specified staff for sedation of patients 13 years of age or younger. The bill would specify that training in the administration of moderate sedation is acceptable if it consists of a certain number of instructional hours and completion of cases and complies with certain guidelines for teaching pain control and sedation. The bill would specify that a pediatric endorsement requires a dentist to obtain a pediatric endorsement on the moderate sedation permit prior to administering moderate sedation to a patient under 13 years of age, except as specified, and would require a dentist to obtain specified training to receive a pediatric endorsement. The bill also would require for a child patients under 13 years of age that there be at least 2 support staff persons in addition to the practicing operating dentist present at all times during the procedure, with that the operating dentist and one support staff person~~

maintain certification in pediatric life support and airway management, as specified, and that one staff member serving as a be dedicated patient monitor to monitoring the patient during the procedure.

The bill bill, beginning January 1, 2021, also would establish new requirements for dentists administering or ordering the administration of minimal sedation, defined as a drug-induced state during which patients respond normally to verbal commands, as specified, for commands. The bill would authorize a dentist to administer or order the administration of minimal sedation on pediatric patients under 13 years of age. These new requirements would include that the dentist possess specified licensing credentials, and age if the dentist possesses specified licensing credentials. The bill would require any dentist who desires to administer or order the administration of minimal sedation to apply to the board, as specified, and to submit an application fee. The bill would make a violation of these provisions governing minimal sedation unprofessional conduct, constituting grounds for the revocation or suspension of the dentist's permit, or both. Additionally, by expanding the scope of an existing crime for violations of the Dental Practice Act, the bill would impose a state-mandated local program. This bill also would authorize the board to conduct a review of pediatric morbidity and mortality data, as provided, for the purpose of obtaining high-quality pediatric sedation and anesthesia-related data.

This bill, on or before January 1, 2019, would require the board to provide to the Legislature a report and analysis, as specified, of the effects on access to care for pediatric dental patients specifically as it relates to requiring the addition of a 2nd general anesthesia permitholder to be present during the administration of general anesthesia on a patient 7 years of age or younger, if the provider is currently a general anesthesia permitholder.

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

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

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

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

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1 SECTION 1. Section 1601.4 of the Business and Professions
2 Code is amended to read:

3 1601.4. (a) (1) The board shall provide review both of the
+ following:

+ (A) Available data on all adverse events related to general
+ anesthesia and deep sedation, moderate sedation, and minimal
+ sedation in dentistry.

+ (B) Relevant professional guidelines, recommendations, or best
+ practices for the provision of dental anesthesia and sedation care.

+ (2) By January 1, 2022, the board shall report to the Legislature
+ any findings pursuant to this subdivision that are relevant to inform
+ dental anesthesia and sedation standards.

+ (3) A report to be submitted pursuant to this subdivision shall
+ be submitted in compliance with Section 9795 of the Government
+ Code.

4 (b) The board shall provide a report on pediatric deaths related
5 to general anesthesia and deep sedation in dentistry at the time of
6 its sunset review pursuant to subdivision (d) of Section 1601.1.

+ (c) The board shall retain available data on all adverse events
+ related to general anesthesia and deep sedation, moderate
+ sedation, and minimal sedation in dentistry for not less than 15
+ years.

7 SEC. 2. Section 1601.7 is added to the Business and Professions
8 Code, to read:

9 1601.7. (a) On or before January 1, 2019, 2020, the board
+ Office of Oral Health in the State Department of Public Health
10 shall provide to the Legislature a report and analysis of the effects
11 on access to care for pediatric dental patients specifically as it
12 relates to requiring the addition of a second general anesthesia
13 permit holder to be present during the administration of general
14 anesthesia on a patient seven years of age or younger, if the
15 provider is currently a general anesthesia permit holder. The
16 analysis should include costs of sedation and anesthesia, resource
17 constraints of the health care system, including Denti-Cal compared
18 to private insurance, and feasibility issues that include, but are not
19 limited to, time, skills, staff availability, and equipment availability
20 for the provider to carry out necessary dental procedures. The
21 board shall make the report publicly available on the board's

Amendments 2 & 3

Amendment 4

Amendments 5 & 6

Amendment 7

P 4 22 ~~Internet Web site~~ that addresses all of the following issues related
+ to access to dental anesthesia care:
+ (1) An analysis of the costs of anesthesia and a discussion of
+ payer sources for anesthesia services, including, but not limited
+ to, an analysis of any difference in patient charges, patient
+ payments, and public and private third-party reimbursement
+ between both of the following:
+ (A) Dental anesthesia provided by a single dentist or anesthesia
+ provider.
+ (B) Dental anesthesia provided by a dentist and a separate
+ anesthesia provider.
+ (2) An analysis of the overall capacity of the state's dental
+ anesthesia delivery systems, including, but not limited to, a
+ separate analysis of capacity for care provided by a single dental
+ surgeon or anesthesia provider and dental anesthesia provided
+ by a dental surgeon and a separate anesthesia provider.
+ (3) An analysis of barriers to access of needed dental anesthesia
+ care including, but not limited to, cost, delivery system capacity,
+ and any other barriers identified in the current system. The analysis
+ shall also include information regarding if provider requirements
+ were to change and, if appropriate, recommendations to address
+ such barriers to improve access.
+ (4) To the extent data is available, an analysis of disparities to
+ access of needed dental anesthesia care by racial or ethnic
+ background, insurance status, geographic area, or other relevant
+ categories.
+ (5) The role of pediatric dental anesthesia in meeting the state's
+ overall dental health goals as expressed in the California Oral
+ Health Plan created by the State Department of Public Health.
+ (b) The Office of Oral Health may use a contract, grant, or
+ other means to engage an agency appropriate for the type of
+ analysis needed to create the report in subdivision (a), and public
+ or private funds, upon appropriation, may be used. The report
+ shall be made public on the State Department of Public Health's
+ Internet Web site.
23 (b)
+ (c) (1) A report to be submitted pursuant to subdivision (a)
24 shall be submitted in compliance with Section 9795 of the
25 Government Code.

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Page 4 26 (2) Pursuant to Section 10231.5 of the Government Code, this
27 section is repealed on January 1, 2023.

28 ~~SEC. 3. Section 1616.1 is added to the Business and Professions~~
29 ~~Code, to read:~~

Page 5 1 ~~1616.1. On or before January 1, 2019, the board shall conduct~~
2 ~~a review of pediatric morbidity and mortality data beginning~~
3 ~~January 1, 2017, for the purpose of obtaining high-quality data~~
4 ~~about outcomes and complications related to pediatric dental~~
5 ~~sedation and anesthesia. It is the intent of this section that the~~
6 ~~collection of data shall lead to further quality improvement and~~
7 ~~safety.~~

8 ~~SEC. 4. The heading of Article 2.7 (commencing with Section~~
9 ~~1646) of Chapter 4 of Division 2 of the Business and Professions~~
10 ~~Code is amended to read:~~

11
12 ~~Article 2.7. Use of Deep Sedation and General Anesthesia~~
+
13

14 ~~SEC. 5. Section 1646 of the Business and Professions Code is~~
15 ~~amended to read:~~

16 ~~1646. As used in this article, the following definitions apply:~~

17 ~~(a) "Deep sedation" means a drug-induced depression of~~
18 ~~consciousness during which patients cannot be easily aroused but~~
19 ~~respond purposefully following repeated or painful stimulation.~~
20 ~~The ability to independently maintain ventilatory function may be~~
21 ~~impaired. Patients may require assistance in maintaining a patent~~
22 ~~airway, and spontaneous ventilation may be inadequate.~~
23 ~~Cardiovascular function is usually maintained.~~

24 ~~(b) "General anesthesia" means a drug-induced loss of~~
25 ~~consciousness during which patients are not arousable, even by~~
26 ~~painful stimulation. The ability to independently maintain~~
27 ~~ventilatory function is often impaired. Patients often require~~
28 ~~assistance in maintaining a patent airway, and positive~~
29 ~~pressure ventilation may be required because of depressed~~
30 ~~spontaneous ventilation or drug-induced depression of~~
31 ~~neuromuscular function. Cardiovascular function may be impaired.~~

32 ~~SEC. 6. Section 1646.1 of the Business and Professions Code~~
33 ~~is amended to read:~~

34 ~~1646.1. (a) A dentist must possess either a general anesthesia~~
35 ~~permit issued by the board or a permit under Section 1638 or 1640~~
36 ~~and a general anesthesia permit issued by the board in order to~~

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37 administer or order the administration of deep sedation or general
38 anesthesia on an outpatient basis for dental patients.

39 (b) A dentist must possess a pediatric endorsement for the
40 general anesthesia permit to administer or order the administration
1 of deep sedation or general anesthesia to patients under seven years
2 of age.

3 (c) A dentist must be physically within the dental office at the
4 time of ordering, and during the administration of, general
5 anesthesia or deep sedation.

6 (d) For patients seven to 13 years of age, inclusive, the dentist
7 and at least two support staff shall be present for the procedure
8 involving general anesthesia or deep sedation. The dentist shall
9 be currently certified in Pediatric Advanced Life Support (PALS)
10 and at least one support staff member shall be trained in pediatric
11 life support and airway management, equivalent to the American
12 Academy of Pediatrics and American Academy of Pediatric
13 Dentistry (AAP-AAPD) Guidelines or as determined by the board.
14 That staff member shall be dedicated to monitoring the patient
15 throughout the procedure.

16 (e) For children under seven years of age, there shall be at least
17 three people present during the procedure involving general
18 anesthesia or deep sedation, including the dentist. One person
19 present shall be solely dedicated to monitoring the patient and shall
20 be trained in pediatric life support and airway management,
21 equivalent to the AAP-AAPD Guidelines or as determined by the
22 board. The second person shall also be trained in pediatric life
23 support and airway management, equivalent to the AAP-AAPD
24 Guidelines or as determined by the board, and may assist in the
25 procedure as needed. If a dedicated anesthesia provider is utilized,
26 that person shall be a general anesthesia permit holder with a current
27 pediatric endorsement and shall be certified in ACLS and PALS.

28 (f) This article does not apply to the administration of local
29 anesthesia, minimal sedation, or moderate sedation.

30 SEC. 7. Section 1646.2 of the Business and Professions Code
31 is amended to read:

32 1646.2. (a) A dentist who desires to administer or order the
33 administration of deep sedation or general anesthesia shall apply
34 to the board on an application form prescribed by the board. The
35 dentist must submit an application fee and produce evidence
36 showing that he or she has successfully completed a minimum of

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Page 6 37 one year of advanced training in anesthesiology and related
38 academic subjects approved by the board, or equivalent training
39 or experience approved by the board, beyond the undergraduate
40 school level.

Page 7 1 (b) The application for a permit shall include documentation
2 that equipment and drugs required by the board are on the premises.

3 (c) Beginning January 1, 2019, a dentist may apply for a
4 pediatric endorsement for the general anesthesia permit by:

5 (1) Providing proof of successful completion of a Commission
6 on Dental Accreditation (CODA) accredited or equivalent residency
7 training program that provides competency in the administration
8 of deep sedation and general anesthesia on children under seven
9 years of age.

10 (2) Providing proof of successful completion of at least 20 cases
11 of pediatric sedation to patients under seven years of age to
12 establish competency, both at the time of initial application and at
13 renewal.

14 (3) Providing evidence of current and continuous certification
15 in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced
16 Life Support (PALS) for the duration of holding the permit.

17 (d) Initial applicants for a pediatric endorsement who otherwise
18 qualify for the pediatric endorsement but lack sufficient cases of
19 pediatric sedation to patients under age seven years of age shall
20 be allowed to provide deep sedation and general anesthesia on
21 patients under seven years of age under the direct supervision of
22 a general anesthesia permit holder with a pediatric endorsement.
23 The applicant may count these cases toward the 20 necessary in
24 order to qualify for the applicant's pediatric endorsement.

25 SEC. 8. Section 1646.3 of the Business and Professions Code
26 is amended to read:

27 1646.3. (a) A physical evaluation and medical history shall
28 be taken before the administration of deep sedation or general
29 anesthesia.

30 (b) Any dentist holding a permit shall maintain medical history,
31 physical evaluation, deep sedation, and general anesthesia records
32 as required by board regulations.

33 SEC. 9. Section 1646.4 of the Business and Professions Code
34 is amended to read:

35 1646.4. (a) Prior to the issuance or renewal of a permit for the
36 use of deep sedation or general anesthesia, the board may, at its

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37 discretion, require an onsite inspection and evaluation of the
38 licentiate and the facility, equipment, personnel, and procedures
39 utilized by the licentiate. The permit of any dentist who has failed
40 an onsite inspection and evaluation shall be automatically
1 suspended 30 days after the date on which the board notifies the
2 dentist of the failure, unless within that time period the dentist has
3 retaken and passed an onsite inspection and evaluation. Every
4 dentist issued a permit under this article shall have an onsite
5 inspection and evaluation at least once every five years. Refusal
6 to submit to an inspection shall result in automatic denial or
7 revocation of the permit.

8 (b) The board may contract with public or private organizations
9 or individuals expert in dental outpatient general anesthesia to
10 perform onsite inspections and evaluations. The board may not,
11 however, delegate its authority to issue permits or to determine
12 the persons or facilities to be inspected.

13 SEC. 10. Section 1646.5 of the Business and Professions Code
14 is amended to read:

15 1646.5. A permittee shall be required to complete 24 hours of
16 approved courses of study related to deep sedation or general
17 anesthesia as a condition of renewal of a permit. Those courses of
18 study shall be credited toward any continuing education required
19 by the board pursuant to Section 1645.

20 SEC. 11. Section 1646.6.5 is added to the Business and
21 Professions Code, to read:

22 1646.6.5. A general anesthesia permit shall expire on the date
23 provided in Section 1715 that next occurs after its issuance, unless
24 it is renewed as provided in this article.

25 SEC. 12. Section 1646.8 of the Business and Professions Code
26 is amended to read:

27 1646.8. Nothing in this chapter shall be construed to authorize
28 a dentist to administer or directly supervise the administration of
29 general anesthesia or deep sedation for reasons other than dental
30 treatment, as defined in Section 1625.

31 SEC. 13. Section 1646.9 of the Business and Professions Code
32 is amended to read:

33 1646.9. (a) Notwithstanding any other provision of law,
34 including, but not limited to, Section 1646.1, a physician and
35 surgeon licensed pursuant to Chapter 5 (commencing with Section
36 2000) may administer deep sedation or general anesthesia in the

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Page 8 37 office of a licensed dentist for dental patients, without regard to
38 whether the dentist possesses a permit issued pursuant to this
39 article, if both of the following conditions are met:

Page 9 1 (1) The physician and surgeon possesses a current license in
2 good standing to practice medicine in this state.
3 (2) The physician and surgeon holds a valid general anesthesia
4 permit issued by the Dental Board of California pursuant to
5 subdivision (b):
6 (b) (1) A physician and surgeon who desires to administer deep
7 sedation or general anesthesia as set forth in subdivision (a) shall
8 apply to the Dental Board of California on an application form
9 prescribed by the board and shall submit all of the following:
10 (A) The payment of an application fee prescribed by this article.
11 (B) Evidence satisfactory to the Medical Board of California
12 showing that the applicant has successfully completed a
13 postgraduate residency training program in anesthesiology that is
14 recognized by the American Council on Graduate Medical
15 Education, as set forth in Section 2079, and provides competency
16 in the administration of deep sedation and general anesthesia on
17 children under seven years of age. The applicant shall show proof
18 of successful completion of at least 20 cases of pediatric sedation
19 to patients under seven years of age to establish competency, both
20 at the time of initial application and at renewal.
21 (C) Documentation demonstrating that all equipment and drugs
22 required by the Dental Board of California are possessed by the
23 applicant and shall be available for use in any dental office in
24 which he or she administers deep sedation or general anesthesia.
25 (D) Information relative to the current membership of the
26 applicant on hospital medical staffs.
27 (E) Evidence of current and continuous certification in Advanced
28 Cardiac Life Support (ACLS) and Pediatric Advanced Life Support
29 (PALS) for the duration of holding the permit.
30 (2) Prior to issuance or renewal of a permit pursuant to this
31 section, the Dental Board of California may, at its discretion,
32 require an onsite inspection and evaluation of the facility,
33 equipment, personnel, including, but not limited to, the physician
34 and surgeon, and procedures utilized. At least one of the persons
35 evaluating the procedures utilized by the physician and surgeon
36 shall be a licensed physician and surgeon expert in outpatient deep

9
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37 sedation or general anesthesia who has been authorized or retained
38 under contract by the Dental Board of California for this purpose.

39 ~~(3) The permit of a physician and surgeon who has failed an~~
40 ~~onsite inspection and evaluation shall be automatically suspended~~
1 ~~30 days after the date on which the board notifies the physician~~
2 ~~and surgeon of the failure unless within that time period the~~
3 ~~physician and surgeon has retaken and passed an onsite inspection~~
4 ~~and evaluation. Every physician and surgeon issued a permit under~~
5 ~~this article shall have an onsite inspection and evaluation at least~~
6 ~~once every five years. Refusal to submit to an inspection shall~~
7 ~~result in automatic denial or revocation of the permit.~~

8 SEC. 14. Section 1647 of the Business and Professions Code
9 is amended to read:

10 1647. ~~(a) The Legislature finds and declares that a~~
11 ~~commendable patient safety record has been maintained in the past~~
12 ~~by dentists and those other qualified providers of anesthesia~~
13 ~~services who, pursuant to a dentist's authorization, administer~~
14 ~~patient sedation, and that the increasing number of pharmaceuticals~~
15 ~~and techniques used to administer them for patient sedation require~~
16 ~~additional regulation to maintain patient safety in the future.~~

17 ~~(b) The Legislature further finds and declares all of the~~
18 ~~following:~~

19 ~~(1) That previous laws enacted in 1980 contained separate and~~
20 ~~distinct definitions for general anesthesia and the state of~~
21 ~~consciousness.~~

22 ~~(2) That in dental practice, there is a continuum of sedation used~~
23 ~~which cannot be adequately defined in terms of consciousness and~~
24 ~~general anesthesia.~~

25 ~~(3) That the administration of sedation through this continuum~~
26 ~~results in different states of consciousness that may or may not be~~
27 ~~predictable in every instance.~~

28 ~~(4) That in most instances, the level of sedation will result in a~~
29 ~~predictable level of consciousness during the entire time of~~
30 ~~sedation.~~

31 ~~(c) The Legislature further finds and declares that the~~
32 ~~educational standards presently required for deep sedation and~~
33 ~~general anesthesia should be required when the degree of sedation~~
34 ~~in the continuum of sedation is such that there is a reasonable~~
35 ~~possibility that loss of consciousness may result, even if~~
36 ~~unintended. However, achieving the degree of moderate sedation;~~

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Page 10 37 where a margin of safety exists wide enough to render unintended
38 loss of consciousness unlikely, requires educational standards
39 appropriate to the administration of the resulting predictable level
40 of consciousness.

Page 11 1 SEC. 15. Section 1647.1 of the Business and Professions Code
2 is amended to read:

3 1647.1. (a) As used in this article, "moderate sedation" means
4 a drug-induced depression of consciousness during which a patient
5 responds purposefully to verbal commands, either alone or
6 accompanied by light tactile stimulation, no interventions are
7 required to maintain a patient's airway, spontaneous ventilation
8 is adequate, and cardiovascular function is usually maintained.

9 (b) The drugs and techniques used in moderate sedation shall
10 have a margin of safety wide enough to render unintended loss of
11 consciousness unlikely. Further, patients whose only response is
12 reflex withdrawal from painful stimuli shall not be considered to
13 be in a state of moderate sedation.

14 (c) For very young patients or patients with intellectual
15 disabilities, incapable of the usually expected verbal response, a
16 minimally depressed level of consciousness for that patient should
17 be maintained.

18 SEC. 16. Section 1647.2 of the Business and Professions Code
19 is amended to read:

20 1647.2. (a) A dentist may administer or order the
21 administration of moderate sedation on an outpatient basis for a
22 dental patient if one of the following conditions is met:

23 (1) The dentist either holds a valid general anesthesia permit or
24 obtains a moderate sedation permit.

25 (2) The dentist possesses a current permit under Section 1638
26 or 1640 and either holds a valid general anesthesia permit or
27 obtains a moderate sedation permit.

28 (b) A dentist must obtain a pediatric endorsement on the
29 moderate sedation permit prior to performing moderate sedation
30 on a patient under 13 years of age.

31 (c) A dentist who orders the administration of moderate sedation
32 shall be physically present in the treatment facility while the patient
33 is sedated.

34 (d) For patients seven to 13 years of age, inclusive, there shall
35 be at least one support staff in addition to the dentist present at all
36 times during the procedure involving moderate sedation. That staff

11 37 member shall be trained in pediatric life support and airway
38 management, equivalent to the AAP-AAPD Guidelines or as
39 determined by the board.

Page 12 1 (c) For a patient under seven years of age, there shall be at least
2 two support staff persons, in addition to the dentist, present at all
3 times during the procedure involving moderate sedation. One staff
4 member shall be solely dedicated to monitoring the patient, and
5 shall be trained in pediatric life support and airway management,
6 equivalent to the AAP-AAPD Guidelines or as determined by the
7 board.

8 (f) This article shall not apply to the administration of local
9 anesthesia, minimal sedation, deep sedation, or general anesthesia.

10 SEC. 17. Section 1647.3 of the Business and Professions Code
11 is amended to read:

12 1647.3. (a) A dentist who desires to administer or to order the
13 administration of moderate sedation shall apply to the board on
14 an application form prescribed by the board. The dentist shall
15 submit an application fee and produce evidence showing that he
16 or she has successfully completed training in moderate sedation
17 that meets the requirements of subdivision (c).

18 (b) The application for a permit shall include documentation
19 that equipment and drugs required by the board are on the premises.

20 (c) Training in the administration of moderate sedation shall be
21 acceptable if it meets all of the following as approved by the board:

22 (1) Consists of at least 60 hours of instruction.

23 (2) Requires satisfactory completion of at least 20 cases of
24 administration of moderate sedation for a variety of dental
25 procedures.

26 (3) Complies with the requirements of the Guidelines for
27 Teaching Pain Control and Sedation to Dentists and Dental
28 Students of the American Dental Association, including, but not
29 limited to, certification of competence in rescuing patients from a
30 deeper level of sedation than intended, and managing the airway,
31 intravascular or intraosseous access, and reversal medications.

32 (d) A pediatric endorsement requires the dentist to be trained
33 in Pediatric Advanced Life Support (PALS) and airway
34 management, equivalent to the American Academy of Pediatrics
35 and the American Academy of Pediatric Dentistry (AAP-AAPD)
36 Guidelines, or as determined by the board, and successful
37 completion of any of the following:

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SUBSTANTIVE

Page 12 38 (1) A moderate sedation course consisting of at least 60 hours
39 of didactic instruction and at least 20 clinical cases, as described
Page 13 1 in subdivision (e), but that is directed at treating pediatric patients
2 under 13 years of age.

3 (2) A moderate sedation course, as described in subdivision (e),
4 that is directed at treating patients 13 years of age or older, in
5 addition to at least 24 hours of didactic instruction in pediatric
6 moderate sedation and at least 10 clinical cases in pediatric
7 moderate sedation.

8 (3) A moderate sedation course that is directed at treating
9 patients 13 years of age or older, as described in subdivision (e);
10 in addition to completion of an accredited pediatric dental residency
11 program. The pediatric moderate sedation permit holder shall
12 provide proof of completion of at least 20 cases to establish
13 competency, both at the time of the initial application and at
14 renewal.

15 SEC. 18. Section 1647.5 of the Business and Professions Code
16 is amended to read:

17 1647.5. A permittee shall be required to complete 15 hours of
18 approved courses of study related to moderate sedation as a
19 condition of renewal of a permit. Those courses of study shall be
20 credited toward any continuing education required by the board
21 pursuant to Section 1645.

22 SEC. 19. Section 1647.6 of the Business and Professions Code
23 is amended to read:

24 1647.6. A physical evaluation and medical history shall be
25 taken before the administration of moderate sedation. Any dentist
26 holding a permit shall maintain records of the physical evaluation,
27 medical history, and moderate sedation procedures used as required
28 by board regulations.

29 SEC. 20. Section 1647.7 of the Business and Professions Code
30 is amended to read:

31 1647.7. (a) Prior to the issuance or renewal of a permit to
32 administer moderate sedation, the board may, at its discretion,
33 require an onsite inspection and evaluation of the licensee and
34 the facility, equipment, personnel, and procedures utilized by the
35 licensee. The permit of any dentist who has failed an onsite
36 inspection and evaluation shall be automatically suspended 30
37 days after the date on which the board notifies the dentist of the
38 failure unless, within that time period, the dentist has retaken and

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39 passed an onsite inspection and evaluation. Every dentist issued a
40 permit under this article shall have an onsite inspection and
1 evaluation at least once in every six years. Refusal to submit to an
2 inspection shall result in automatic denial or revocation of the
3 permit.

4 (b) An applicant who has successfully completed the course
5 required by Section 1647.3 may be granted a one-year temporary
6 permit by the board prior to the onsite inspection and evaluation.
7 Failure to pass the inspection and evaluation shall result in the
8 immediate and automatic termination of the temporary permit.

9 (c) The board may contract with public or private organizations
10 or individuals expert in dental outpatient moderate sedation to
11 perform onsite inspections and evaluations. The board may not,
12 however, delegate its authority to issue permits or to determine
13 the persons or facilities to be inspected.

14 SEC. 21. Section 1647.8.5 is added to the Business and
15 Professions Code, to read:

16 1647.8.5. A moderate sedation permit shall expire on the date
17 specified in Section 1715 that next occurs after its issuance, unless
18 it is renewed as provided in this article.

19 SEC. 22. Article 2.85 (commencing with Section 1647.10) of
20 Chapter 4 of Division 2 of the Business and Professions Code is
21 repealed.

22 SEC. 23. Article 2.86 (commencing with Section 1647.18) of
23 Chapter 4 of Division 2 of the Business and Professions Code is
24 repealed.

+ SEC. 3. Article 2.75 (commencing with Section 1646) is added
+ to Chapter 4 of Division 2 of the Business and Professions Code,
+ to read:

+ Article 2.75. Use of Deep Sedation and General Anesthesia

+ 1646. As used in this article, the following definitions apply:

+ (a) "Deep sedation" means a drug-induced depression of
+ consciousness during which patients cannot be easily aroused but
+ respond purposefully following repeated or painful stimulation.
+ The ability to independently maintain ventilatory function may be
+ impaired. Patients may require assistance in maintaining a patent
+ airway, and spontaneous ventilation may be inadequate.
+ Cardiovascular function is usually maintained.

+ (b) "General anesthesia" means a drug-induced loss of
+ consciousness during which patients are not arousable, even by
+ painful stimulation. The ability to independently maintain
+ ventilatory function is often impaired. Patients often require
+ assistance in maintaining a patent airway, and positive pressure
+ ventilation may be required because of depressed spontaneous
+ ventilation or drug-induced depression of neuromuscular function.
+ Cardiovascular function may be impaired.

+ 1646.1. (a) A dentist shall possess either a current license in
+ good standing and a general anesthesia permit issued by the board
+ or a permit under Section 1638 or 1640 and a general anesthesia
+ permit issued by the board in order to administer or order the
+ administration of deep sedation or general anesthesia on an
+ outpatient basis for dental patients.

+ (b) A dentist shall possess a pediatric endorsement of their
+ general anesthesia permit to administer or order the administration
+ of deep sedation or general anesthesia to patients under seven
+ years of age.

+ (c) A dentist shall be physically within the dental office at the
+ time of ordering, and during the administration of, general
+ anesthesia or deep sedation.

+ (d) For patients under 13 years of age, all of the following shall
+ apply:

+ (1) The operating dentist and at least two additional personnel
+ shall be present throughout the procedure involving deep sedation
+ or general anesthesia.

+ (2) If the operating dentist is the permitted anesthesia provider,
+ then both of the following shall apply:

+ (A) The operating dentist and at least one of the additional
+ personnel shall maintain current certification in Pediatric
+ Advanced Life Support (PALS) and airway management or other
+ board-approved training in pediatric life support, adopted pursuant
+ to Section 1646.12, and airway management. The additional person
+ shall be solely dedicated to monitoring the patient and shall be
+ trained to read and respond to monitoring equipment including,
+ but not limited to, pulse oximeter, cardiac monitor, blood pressure,
+ pulse, capnograph, and respiration monitoring devices.

+ (B) The operating dentist shall be responsible for initiating and
+ administering any necessary emergency response and the

- + additional person dedicated to monitoring the patient shall assist
- + the operating dentist in emergency response.
- + (3) If a dedicated permitted anesthesia provider is monitoring
- + the patient and administering deep sedation or general anesthesia,
- + both of the following shall apply:
- + (A) The anesthesia provider and the operating dentist, or
- + another trained staff member, shall be present throughout the
- + procedure and shall maintain current certification in Pediatric
- + Advanced Life Support (PALS) and airway management or other
- + board-approved training in pediatric life support, adopted pursuant
- + to Section 1646.12, and airway management.
- + (B) The anesthesia provider shall be responsible for initiating
- + and administering any necessary emergency response and the
- + operating dentist, or another trained and designated staff member,
- + shall assist the anesthesia provider in emergency response.
- + (e) This article does not apply to the administration of local
- + anesthesia, minimal sedation, or moderate sedation.
- + 1646.2. (a) A dentist who desires to administer or order the
- + administration of deep sedation or general anesthesia shall apply
- + to the board on an application form prescribed by the board. The
- + dentist must submit an application fee and produce evidence
- + showing that he or she has successfully completed a minimum of
- + one year of advanced training in anesthesiology and related
- + academic subjects approved by the board, or equivalent training
- + or experience approved by the board, beyond the undergraduate
- + school level.
- + (b) The application for a permit shall include documentation
- + that equipment and drugs required by the board are on the
- + premises.
- + (c) A dentist may apply for a pediatric endorsement for the
- + general anesthesia permit by providing proof of successful
- + completion of all of the following:
- + (1) A Commission on Dental Accreditation (CODA)-accredited
- + or equivalent residency training program that provides competency
- + in the administration of deep sedation and general anesthesia on
- + pediatric patients.
- + (2) At least 20 cases of deep sedation or general anesthesia to
- + patients under seven years of age in the 24-month time period
- + directly preceding application for a pediatric endorsement to
- + establish competency, both at the time of initial application and

+ at renewal. The applicant or permit holder shall maintain and be able to provide proof of these cases upon request by the board for up to three permit renewal periods.

+ (3) Current certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) or other board-approved training in pediatric life support, pursuant to Section 1646.12, and airway management for the duration of the permit.

+ (d) Applicants for a pediatric endorsement who otherwise qualify for the pediatric endorsement but lack sufficient cases of pediatric sedation to patients under seven years of age may administer deep sedation and general anesthesia to patients under seven years of age under the direct supervision of a general anesthesia permit holder with a pediatric endorsement. The applicant may count these cases toward the 20 cases required to qualify for the applicant's pediatric endorsement.

+ 1646.3. (a) A physical evaluation and medical history shall be taken before the administration of deep sedation or general anesthesia.

+ (b) Any dentist holding a permit shall maintain medical history, physical evaluation, deep sedation, and general anesthesia records as required by board regulations.

+ 1646.4. (a) Prior to the issuance or renewal of a permit for the use of deep sedation or general anesthesia, the board may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the dentist of the failure, unless within that time period the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once every five years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

+ (b) The board may contract with public or private organizations or individuals expert in dental outpatient general anesthesia to perform onsite inspections and evaluations. The board may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected.

- + (c) *It is the intent of the Legislature that the board hire sufficient*
- + *staff to administer the program and that the fees established*
- + *pursuant to this section be equivalent to administration and*
- + *enforcement costs incurred by the board in carrying out this article.*
- + 1646.5. *A permittee shall be required to complete 24 hours of*
- + *approved courses of study related to deep sedation or general*
- + *anesthesia as a condition of renewal of a permit. Those courses*
- + *of study shall be credited toward the total continuing education*
- + *hours required by the board pursuant to Section 1645.*
- + 1646.6. (a) *The application fee for a permit or renewal under*
- + *this article shall not exceed the amount prescribed in Section 1724.*
- + (b) *The fee for an onsite inspection shall not exceed the amount*
- + *prescribed in Section 1724.*
- + (c) *It is the intent of the Legislature that fees established*
- + *pursuant to this section be equivalent to administrative and*
- + *enforcement costs incurred by the board in carrying out this article.*
- + (d) *At the discretion of the board, the fee for onsite inspection*
- + *may be collected and retained by a contractor engaged pursuant*
- + *to subdivision (b) of Section 1646.4.*
- + 1646.7. (a) *A violation of this article constitutes unprofessional*
- + *conduct and is grounds for the revocation or suspension of the*
- + *dentist's permit, license, or both, or the dentist may be reprimanded*
- + *or placed on probation.*
- + (b) *A violation of any provision of this article or Section 1682*
- + *is grounds for suspension or revocation of the physician and*
- + *surgeon's permit issued pursuant to this article by the board. The*
- + *exclusive enforcement authority against a physician and surgeon*
- + *by the board shall be to suspend or revoke the permit issued*
- + *pursuant to this article. The board shall refer a violation of this*
- + *article by a physician and surgeon to the Medical Board of*
- + *California for its consideration as unprofessional conduct and*
- + *further action, if deemed necessary by the Medical Board of*
- + *California, pursuant to Chapter 5 (commencing with Section 2000).*
- + *A suspension or revocation of a physician and surgeon's permit*
- + *by the board pursuant to this article shall not constitute a*
- + *disciplinary proceeding or action for any purpose except to permit*
- + *the initiation of an investigation or disciplinary action by the*
- + *Medical Board of California, as authorized by Section 2220.5.*
- + (c) *The proceedings under this section shall be conducted in*
- + *accordance with Chapter 5 (commencing with Section 11500) of*

PROPOSED AMENDMENTS

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SUBSTANTIVE

- + Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.
- + 1646.8. Nothing in this chapter shall be construed to authorize a dentist to administer or directly supervise the administration of general anesthesia or deep sedation for reasons other than dental treatment, as defined in Section 1625.
- + 1646.9. (a) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) may administer deep sedation or general anesthesia in the office of a licensed dentist for dental patients, without regard to whether the dentist possesses a permit issued pursuant to this article, if all of the following conditions are met:
 - + (1) The physician and surgeon possesses a current license in good standing to practice medicine in this state.
 - + (2) The physician and surgeon holds a valid general anesthesia permit issued by the Dental Board of California pursuant to subdivision (b).
 - + (3) The physician and surgeon meets the requirements of subdivision (d) of Section 1646.1.
- + (b) A physician and surgeon who desires to administer deep sedation or general anesthesia as set forth in subdivision (a) shall apply to the board on an application form prescribed by the board and shall submit all of the following:
 - + (1) The payment of an application fee prescribed by this article.
 - + (2) Evidence satisfactory to the Medical Board of California showing that the applicant has successfully completed a postgraduate residency training program in anesthesiology that is recognized by the American Council on Graduate Medical Education, as set forth in Section 2079.
 - + (3) Documentation demonstrating that all equipment and drugs required by the board are on the premises for use in any dental office in which he or she administers deep sedation or general anesthesia.
 - + (4) Information relative to the current membership of the applicant on hospital medical staffs.
- + (c) Prior to issuance or renewal of a permit pursuant to this section, the board may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, including, but not limited to, the physician and surgeon, and procedures utilized. At least one of the persons evaluating the

+ procedures utilized by the physician and surgeon shall be a
+ licensed physician and surgeon expert in outpatient deep sedation
+ or general anesthesia who has been authorized or retained under
+ contract by the board for this purpose.

+ (d) The permit of a physician and surgeon who has failed an
+ onsite inspection and evaluation shall be automatically suspended
+ 30 days after the date on which the board notifies the physician
+ and surgeon of the failure unless within that time period the
+ physician and surgeon has retaken and passed an onsite inspection
+ and evaluation. Every physician and surgeon issued a permit under
+ this article shall have an onsite inspection and evaluation at least
+ once every five years. Refusal to submit to an inspection shall
+ result in automatic denial or revocation of the permit.

+ (e) A physician and surgeon who additionally meets the
+ requirements of paragraphs (1) and (2) of subdivision (c) of Section
+ 1646.2 may apply to the board for a pediatric endorsement to
+ provide deep sedation or general anesthesia to a child under seven
+ years of age. A physician and surgeon without sufficient cases to
+ obtain a pediatric endorsement may qualify for the endorsement
+ pursuant to the requirements of subdivision (d) of Section 1646.2.

+ 1646.10. A general anesthesia permit shall expire on the date
+ provided in Section 1715 that next occurs after its issuance, unless
+ it is renewed as provided in this article.

+ 1646.11. A general anesthesia permitholder who has a permit
+ that was issued before January 1, 2021, may follow the terms of
+ that existing permit until it expires. Any permit issued or renewed
+ pursuant to this article on or after January 1, 2021, shall require
+ the permitholder to follow the new requirements of this article.

+ 1646.12. For purposes of training standards for general
+ anesthesia or deep sedation as described in this article, the board
+ may approve a training standard in lieu of Pediatric Advanced
+ Life Support (PALS) certification if the training standard is an
+ equivalent or higher level of training for pediatric dental
+ anesthesia-related emergencies than PALS certification.

+ 1646.13. This article shall become operative on January 1,
+ 2021.

+ SEC. 4. Section 1646.10 is added to Article 2.7 of Chapter 4
+ of Division 2 of the Business and Professions Code, immediately
+ following Section 1646.9, to read:

+ 1646.10. This article shall remain in effect only until January
 + 1, 2021, and as of that date is repealed.
 + SEC. 5. Article 2.84 (commencing with Section 1647) is added
 + to Chapter 4 of Division 2 of the Business and Professions Code,
 + to read:

+ Article 2.84. Use of Moderate Sedation

+ 1647. (a) The Legislature finds and declares that a
 + commendable patient safety record has been maintained in the
 + past by dentists and those other qualified providers of anesthesia
 + services who, pursuant to a dentist's authorization, administer
 + patient sedation, and that the increasing number of
 + pharmaceuticals and techniques used to administer them for patient
 + sedation require additional regulation to maintain patient safety
 + in the future.

+ (b) The Legislature further finds and declares all of the
 + following:

+ (1) That previous laws enacted in 1980 contained separate and
 + distinct definitions for general anesthesia and the state of
 + consciousness.

+ (2) That in dental practice, there is a continuum of sedation
 + used which cannot be adequately defined in terms of consciousness
 + and general anesthesia.

+ (3) That the administration of sedation through this continuum
 + results in different states of consciousness that may or may not be
 + predictable in every instance.

+ (4) That in most instances, the level of sedation will result in a
 + predictable level of consciousness during the entire time of
 + sedation.

+ (c) The Legislature further finds and declares that the
 + educational standards presently required for deep sedation and
 + general anesthesia should be required when the degree of sedation
 + in the continuum of sedation is such that there is a reasonable
 + possibility that loss of consciousness may result, even if unintended.
 + However, achieving the degree of moderate sedation, where a
 + margin of safety exists wide enough to render unintended loss of
 + consciousness unlikely, requires educational standards appropriate
 + to the administration of the resulting predictable level of
 + consciousness.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1109

AUTHOR: P. Bates

SPONSOR: The Office of the
San Diego County
District Attorney

VERSION: Amended 06/19/2018

INTRODUCED: 02/13/2018

BILL STATUS: 06/26/2018 – From Assembly
Health Committee: Do pass to
Assembly Appropriations
Committee.

BILL LOCATION: Assembly
Appropriations
Committee

SUBJECT: Controlled Substances:
Schedule II Drugs: Opioids

**RELATED
BILLS:** AB 1998,
AB 2486, AB
2487, AB 2741,
AB 2760, AB
2471

SUMMARY

The numbers of those in the United States thought to have some kind of substance disorder are staggering. Data from the Center for Disease Control (CDC) and the National Institute on Drug Abuse (NIDA) indicate there is a greater addiction to prescription pain relievers containing some opioids than addiction to heroin. The numbers of persons who have died from overdoses of prescription painkillers is extraordinarily high in the United States and is high in California as well.

The CDC has determined that overdose deaths involving prescription opioids have quadrupled since 1999 and of those who died between 1999 and 2015, more than 183,000 people died from prescriptions containing methadone, oxycodone and hydrocodone. Schedule II drugs can be narcotic or non-narcotic. Those Schedule II drugs containing controlled substances may include morphine, methadone, Ritalin, Demerol, Dilaudid, Percocet, Percodan and Oxycontin. NIDA reports that the largest group of users of prescription pain relievers are those between the ages of 18 and 25. In that group, death from opioid overdoses from prescriptions were higher than those from heroin and cocaine combined. According to the Journal of the American Dental Association, dentists wrote 6.4% of all opioid prescriptions in the United States in 2012. Within the population of those privately insured for the dental needs in the U.S., , the number of opioid prescriptions per 1,000 dental patients increased from the year 2010

to 2015, especially for those between 11 and 18 years of age. While these numbers are not California specific, it does begin to show the importance of focusing on prescribing.

SB 1109 addresses the addiction, misuse and overdose of prescription opioids as a public health crisis by putting some educational tools in place for patients, parents, minors and prescribers to assist them in making decisions regarding prescriptions. It codifies the Medical Board of California's Guidelines for Prescribing Controlled Substances for Pain and sets guidelines for various practice acts in the Business and Professions Code (B&PC) for healing arts boards within the Department of Consumer Affairs and requires prescribers to take continuing education courses on the risks of addiction associated with Schedule II controlled substances and sets other requirements related to practice within these boards. Only those requirements within the Dental Practice Act will be discussed and will be subject of possible action.

ANALYSIS

The Dental Practice Act authorizes the board, as a condition of license renewal, to require licentiates to successfully complete a portion of required continuing education (CE) hours in specific areas, including patient care, health and safety, and law and ethics. Currently, dentists must complete at least 50 hours of approved CE and dental auxiliaries must complete at least 25 units of approved CE units as a requirement of license renewal every two years. This bill would amend B&PC, Section 1645 and the board may, as a condition of license renewal, require licentiates to successfully complete a portion of the required continuing education hours in the areas above and will add the risks of addiction associated with the use of Schedule II drugs. The mandatory coursework, adopted in regulations and prescribed by the board shall not exceed fifteen hours per renewal period for dentists, and seven and one-half hours per renewal period for dental auxiliaries. For retired dentists providing only uncompensated care, the board shall not require more than 60 percent of the hours of continuing education required of other licensed dentists.

The board is to report on the outcome in its next regular sunset review process. Health and Safety Code (H&SC), beginning in Section 11150 sets forth who may prescribe and prohibits any other person from writing a prescription for a controlled substance. Section 11158.1 is added to the H&SC and requires a prescriber to discuss all of the following with the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment before dispensing or issuing for a minor the first prescription in a single course of treatment for a controlled substance containing an opioid:

1. The risks of addiction and overdose associated with use of opioids.
2. The increased risk of addiction to an opioid to an individual who is suffering from both mental and substance abuse disorders.
3. The danger of taking an opioid with a benzodiazepine, alcohol, or another central nervous system depressant.
4. Any other information required by law.

The board would have to adopt regulations regarding the mandatory coursework for dentists, dental auxiliaries and retired dentists providing only uncompensated care. Additionally, because failure to have a discussion with the minor, minor's parent of guardian, or another adult authorized to consent to the minor's medical treatment before dispensing or issuing a first prescription in a single course of treatment would constitute professional conduct and disciplinary action, regulations would be necessary. The board does not anticipate any significant fiscal impact in order to meet these requirements for regulatory action.

REGISTERED SUPPORT/OPPOSITION

Support

Office of the San Diego County District Attorney (sponsor)

California District Attorneys Association

McKesson Corporation

Oppose

California Medical Association

California Pharmacists Association

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN ASSEMBLY JUNE 19, 2018

AMENDED IN ASSEMBLY JUNE 6, 2018

AMENDED IN SENATE MAY 8, 2018

AMENDED IN SENATE MAY 2, 2018

AMENDED IN SENATE APRIL 18, 2018

AMENDED IN SENATE APRIL 4, 2018

SENATE BILL

No. 1109

Introduced by Senator Bates

(Coauthors: Senators Nguyen and Stone)

(Coauthors: Assembly Members ~~Brough~~ *Arambula, Brough, Dahle,*
and Mathis)

February 13, 2018

An act to amend Sections 1645, 2190.5, 2191, 2196.2, 2454.5, 2746.51, 2836.1, 3059, and 3502.1 of, and to add Section 4076.7 to, the Business and Professions Code, to add Section 49476 to the Education Code, and to add Sections 11158.1 and 124236 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1109, as amended, Bates. Controlled substances: Schedule II drugs: opioids.

(1) The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under that act, the board is required to adopt and administer standards for the continuing education of physicians and surgeons. Existing law requires a physician and surgeon to complete a mandatory continuing education

course in the subjects of pain management and the treatment of terminally ill and dying patients. That act requires the board to give its highest priority to considering a course in pain management among its continuing education requirements for licensees, and requires the board to periodically develop and disseminate information and educational material on pain management techniques and procedures to licensees and general acute care hospitals.

This bill would require, for physicians and surgeons licensed on or after January 1, 2019, the mandatory continuing education course to also include the subject of the risks of addiction associated with the use of Schedule II drugs. The bill would require the board to give its highest priority to considering a course in the risks of addiction associated with the use of Schedule II drugs among its continuing education requirements for physicians and surgeons and would require the board to periodically develop and disseminate information and educational material on the risks of addiction associated with the use of Schedule II drugs to physicians and surgeons and general acute care hospitals.

(2) The Nursing Practice Act provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing and makes a violation of its provisions a crime. Existing law authorizes a certified nurse-midwife to furnish or order drugs or devices under specified circumstances, including board certification that the certified nurse-midwife has completed a course in pharmacology, as specified.

This bill would require the pharmacology course to include the risks of addiction and neonatal abstinence syndrome associated with the use of opioids.

Existing law also authorizes a nurse practitioner to furnish or order drugs or devices under specified circumstances, including board certification that the nurse practitioner has completed a course in pharmacology, as specified. Existing law requires nurse practitioners who are authorized to furnish Schedule II controlled substances to complete a mandatory continuing education course in Schedule II controlled substances.

This bill would require the mandatory continuing education course to include the risks of addiction associated with their use.

By expanding the scope of a crime under the Nursing Practice Act, the bill would impose a state-mandated local program.

(3) The Physician Assistant Practice Act provides for licensure and regulation of physician assistants by the Physician Assistant Board and authorizes a physician assistant to perform medical services as set forth

by regulations when those services are rendered under the supervision of a licensed physician and surgeon, as specified. The act prohibits a physician assistant from administering, providing, or issuing 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 meets specific standards.

This bill would require that course to include the risks of addiction associated with the use of Schedule II controlled substances.

(4) The Pharmacy Law provides for the licensure and regulation of pharmacists, pharmacy technicians, and pharmacies by the California State Board of Pharmacy. Existing law requires the board to promulgate regulations that require a standardized, patient-centered, prescription drug label on all prescription medicine dispensed to patients in California. The act makes a violation of its provisions a crime.

This bill would require a pharmacy or practitioner dispensing an opioid to a patient for outpatient use to prominently display on the label or container a notice that warns of the risk of overdose and addiction, as specified. Because a violation of that requirement would be a crime, the bill would impose a state-mandated local program.

(5) The Dental Practice Act provides for the licensure and regulation of persons engaged in the practice of dentistry by the Dental Board of California, which is within the Department of Consumer Affairs. The act authorizes the board, as a condition of license renewal, to require licentiates to successfully complete a portion of required continuing education hours in specific areas, including patient care, health and safety, and law and ethics.

This bill would include the risks of addiction associated with the use of Schedule II drugs in those specific areas of continuing education.

(6) Existing law, the Osteopathic Act, establishes the Osteopathic Medical Board of California, which issues certificates to, and regulates, osteopathic physicians and surgeons. Existing law requires the board to require each licensed osteopathic physician and surgeon to complete a minimum of 100 hours of American Osteopathic Association continuing education hours during each 2-year cycle, of which 40 hours must be completed in American Osteopathic Association Category 1 continuing education hours as a condition for renewal of an active license.

This bill would additionally require licensed osteopathic physician and surgeons to complete a course on the risks of addiction associated with the use of Schedule II drugs.

(7) The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. The act requires an optometrist certified to use therapeutic pharmaceutical agents to complete a total of 50 hours of continuing education every 2 years in order to renew his or her certificate. Existing law requires 35 of the 50 hours of continuing education to be on the diagnosis, treatment, and management of ocular disease in any combination of specified areas, including pain medication.

This bill would expand the areas of continuing education to include risks of addiction associated with the use of Schedule II drugs.

(8) The California Uniform Controlled Substances Act classifies opioids as Schedule II controlled substances and places restrictions on the prescription of those drugs, including prohibiting refills and specifying the requirements of a prescription for these drugs. The act makes a violation of its provisions a crime.

This bill would require a prescriber to discuss specified information with the minor, the minor's parent or guardian, or other adult authorized to consent to the minor's medical treatment before directly dispensing or issuing for a minor the first prescription in a single course of treatment for a controlled substance containing an opioid. This bill would provide that a violation of these requirements is not a criminal offense.

(9) Existing law requires a school district, charter school, or private school that elects to offer an athletic program to take specified actions if an athlete is suspected to have sustained a concussion and to obtain a signed concussion and head injury information sheet from the athlete and athlete's parent or guardian before the athlete initiates practice or competition.

This bill would require a youth sports organization, as defined, that elects to offer an athletic program to annually give a specified Opioid Factsheet for Patients to each athlete, and would require each athlete and his or her parent to sign a document acknowledging receipt of that factsheet, as specified.

(10) Existing law requires a youth sports organization, as defined, that elects to offer an athletic program to, among other things, annually give a concussion and head injury information sheet to each athlete and requires that the sheet be signed, as specified.

This bill would also require a youth sports organization that elects to offer an athletic program to annually give a specified Opioid Factsheet for Patients to each athlete, and would require ~~that~~ each athlete and his or her parent to sign a document verifying receipt of that factsheet, as specified.

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

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

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

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

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

3 (a) Addiction, misuse, and overdose of prescription opioids is
4 a public health crisis affecting both adults and children.

5 (b) Urgent measures are needed to better inform the public of
6 the risks associated with both the long-term and short-term use of
7 opioids in an effort to address this problem.

8 (c) Both short-term and long-term prescriptions of opioids to
9 minors fall within situations that require counseling of patients
10 and their parents or guardians by their prescribers.

11 (d) It is the intent of the Legislature to ensure that health care
12 providers and young athletes receive necessary education on this
13 topic.

14 SEC. 2. Section 1645 of the Business and Professions Code is
15 amended to read:

16 1645. (a) Effective with the 1974 license renewal period, if
17 the board determines that the public health and safety would be
18 served by requiring all holders of licenses under this chapter to
19 continue their education after receiving a license, it may require,
20 as a condition to the renewal thereof, that they submit assurances
21 satisfactory to the board that they will, during the succeeding
22 two-year period, inform themselves of the developments in the
23 practice of dentistry occurring since the original issuance of their
24 licenses by pursuing one or more courses of study satisfactory to
25 the board or by other means deemed equivalent by the board.

1 The board shall adopt regulations providing for the suspension
2 of the licenses at the end of the two-year period until compliance
3 with the assurances provided for in this section is accomplished.

4 (b) The board may also, as a condition of license renewal,
5 require licentiates to successfully complete a portion of the required
6 continuing education hours in specific areas adopted in regulations
7 by the board. The board may prescribe this mandatory coursework
8 within the general areas of patient care, health and safety, law and
9 ethics, and the risks of addiction associated with the use of
10 Schedule II drugs. The mandatory coursework prescribed by the
11 board shall not exceed ~~fifteen~~ 15 hours per renewal period for
12 dentists, and ~~seven and one-half~~ 7.5 hours per renewal period for
13 dental auxiliaries. Any mandatory coursework required by the
14 board shall be credited toward the continuing education
15 requirements established by the board pursuant to subdivision (a).

16 (c) For a retired dentist who provides only uncompensated care,
17 the board shall not require more than 60 percent of the hours of
18 continuing education that are required of other licensed dentists.
19 Notwithstanding subdivision (b), all of the hours of continuing
20 education as described in this subdivision shall be gained through
21 courses related to the actual delivery of dental services to the
22 patient or the community, as determined by the board. Nothing in
23 this subdivision shall be construed to reduce any requirements
24 imposed by the board pursuant to subdivision (b).

25 (d) The board shall report on the outcome of subdivision (c)
26 pursuant to, and at the time of, its regular sunset review process,
27 as provided in Section 1601.1.

28 SEC. 3. Section 2190.5 of the Business and Professions Code
29 is amended to read:

30 2190.5. (a) (1) All physicians and surgeons shall complete a
31 mandatory continuing education course in the subjects of pain
32 management and the treatment of terminally ill and dying patients.
33 For the purposes of this section, this course shall be a one-time
34 requirement of 12 credit hours within the required minimum
35 established by regulation, to be completed by December 31, 2006.
36 All physicians and surgeons licensed on and after January 1, 2002,
37 shall complete this requirement within four years of their initial
38 license or by their second renewal date, whichever occurs first.
39 The board may verify completion of this requirement on the
40 renewal application form.

1 (2) For physicians and surgeons licensed on or after January 1,
2 2019, the course described in paragraph (1) shall also include the
3 subject of the risks of addiction associated with the use of Schedule
4 II drugs.

5 (b) By regulatory action, the board may exempt physicians and
6 surgeons by practice status category from the requirement in
7 subdivision (a) if the physician and surgeon does not engage in
8 direct patient care, does not provide patient consultations, or does
9 not reside in the State of California.

10 (c) This section shall not apply to physicians and surgeons
11 practicing in pathology or radiology specialty areas.

12 SEC. 4. Section 2191 of the Business and Professions Code is
13 amended to read:

14 2191. (a) In determining its continuing education requirements,
15 the board shall consider including a course in human sexuality,
16 defined as the study of a human being as a sexual being and how
17 he or she functions with respect thereto, and nutrition to be taken
18 by those licensees whose practices may require knowledge in those
19 areas.

20 (b) The board shall consider including a course in child abuse
21 detection and treatment to be taken by those licensees whose
22 practices are of a nature that there is a likelihood of contact with
23 abused or neglected children.

24 (c) The board shall consider including a course in acupuncture
25 to be taken by those licensees whose practices may require
26 knowledge in the area of acupuncture and whose education has
27 not included instruction in acupuncture.

28 (d) The board shall encourage every physician and surgeon to
29 take nutrition as part of his or her continuing education, particularly
30 a physician and surgeon involved in primary care.

31 (e) The board shall consider including a course in elder abuse
32 detection and treatment to be taken by those licensees whose
33 practices are of a nature that there is a likelihood of contact with
34 abused or neglected persons 65 years of age and older.

35 (f) In determining its continuing education requirements, the
36 board shall consider including a course in the early detection and
37 treatment of substance abusing pregnant women to be taken by
38 those licensees whose practices are of a nature that there is a
39 likelihood of contact with these women.

1 (g) In determining its continuing education requirements, the
2 board shall consider including a course in the special care needs
3 of drug addicted infants to be taken by those licensees whose
4 practices are of a nature that there is a likelihood of contact with
5 these infants.

6 (h) In determining its continuing education requirements, the
7 board shall consider including a course providing training and
8 guidelines on how to routinely screen for signs exhibited by abused
9 women, particularly for physicians and surgeons in emergency,
10 surgical, primary care, pediatric, prenatal, and mental health
11 settings. In the event the board establishes a requirement for
12 continuing education coursework in spousal or partner abuse
13 detection or treatment, that requirement shall be met by each
14 licensee within no more than four years from the date the
15 requirement is imposed.

16 (i) In determining its continuing education requirements, the
17 board shall consider including a course in the special care needs
18 of individuals and their families facing end-of-life issues, including,
19 but not limited to, all of the following:

- 20 (1) Pain and symptom management.
- 21 (2) The psycho-social dynamics of death.
- 22 (3) Dying and bereavement.
- 23 (4) Hospice care.

24 (j) In determining its continuing education requirements, the
25 board shall give its highest priority to considering a course on pain
26 management and the risks of addiction associated with the use of
27 Schedule II drugs.

28 (k) In determining its continuing education requirements, the
29 board shall consider including a course in geriatric care for
30 emergency room physicians and surgeons.

31 SEC. 5. Section 2196.2 of the Business and Professions Code
32 is amended to read:

33 2196.2. The board shall periodically develop and disseminate
34 information and educational material regarding pain management
35 techniques and procedures, including the risks of addiction
36 associated with the use of Schedule II drugs, to each licensed
37 physician and surgeon and to each general acute care hospital in
38 this state. The board shall consult with the State Department of
39 Public Health in developing the materials to be distributed pursuant
40 to this section.

1 SEC. 6. Section 2454.5 of the Business and Professions Code
2 is amended to read:

3 2454.5. In order to ensure the continuing competence of
4 licensed osteopathic physicians and surgeons, the board shall adopt
5 and administer standards for the continuing education of those
6 licensees. The board shall require each licensed osteopathic
7 physician and surgeon to demonstrate satisfaction of the continuing
8 education requirements as a condition for the renewal of a license
9 at intervals of not less than one year nor more than two years.
10 Commencing January 1, 2018, the board shall require each licensed
11 osteopathic physician and surgeon to complete a minimum of 100
12 hours of American Osteopathic Association continuing education
13 hours during each two-year cycle, of which 40 hours shall be
14 completed in American Osteopathic Association Category 1
15 continuing education hours and the remaining 60 hours shall be
16 either American Osteopathic Association or American Medical
17 Association accredited as a condition for renewal of an active
18 license. Licensed osteopathic physicians and surgeons shall
19 complete a course on the risks of addiction associated with the use
20 of Schedule II drugs.

21 For purposes of this section, “American Osteopathic Association
22 Category 1” means continuing education activities and programs
23 approved for Category 1 credit by the Committee on Continuing
24 Medical Education of the American Osteopathic Association.

25 SEC. 7. Section 2746.51 of the Business and Professions Code
26 is amended to read:

27 2746.51. (a) Neither this chapter nor any other provision of
28 law shall be construed to prohibit a certified nurse-midwife from
29 furnishing or ordering drugs or devices, including controlled
30 substances classified in Schedule II, III, IV, or V under the
31 California Uniform Controlled Substances Act (Division 10
32 (commencing with Section 11000) of the Health and Safety Code),
33 when all of the following apply:

34 (1) The drugs or devices are furnished or ordered incidentally
35 to the provision of any of the following:

36 (A) Family planning services, as defined in Section 14503 of
37 the Welfare and Institutions Code.

38 (B) Routine health care or perinatal care, as defined in
39 subdivision (d) of Section 123485 of the Health and Safety Code.

1 (C) Care rendered, consistent with the certified nurse-midwife's
2 educational preparation or for which clinical competency has been
3 established and maintained, to persons within a facility specified
4 in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the
5 Health and Safety Code, a clinic as specified in Section 1204 of
6 the Health and Safety Code, a general acute care hospital as defined
7 in subdivision (a) of Section 1250 of the Health and Safety Code,
8 a licensed birth center as defined in Section 1204.3 of the Health
9 and Safety Code, or a special hospital specified as a maternity
10 hospital in subdivision (f) of Section 1250 of the Health and Safety
11 Code.

12 (2) The drugs or devices are furnished or ordered by a certified
13 nurse-midwife in accordance with standardized procedures or
14 protocols. For purposes of this section, standardized procedure
15 means a document, including protocols, developed and approved
16 by the supervising physician and surgeon, the certified
17 nurse-midwife, and the facility administrator or his or her designee.
18 The standardized procedure covering the furnishing or ordering
19 of drugs or devices shall specify all of the following:

20 (A) Which certified nurse-midwife may furnish or order drugs
21 or devices.

22 (B) Which drugs or devices may be furnished or ordered and
23 under what circumstances.

24 (C) The extent of physician and surgeon supervision.

25 (D) The method of periodic review of the certified
26 nurse-midwife's competence, including peer review, and review
27 of the provisions of the standardized procedure.

28 (3) If Schedule II or III controlled substances, as defined in
29 Sections 11055 and 11056 of the Health and Safety Code, are
30 furnished or ordered by a certified nurse-midwife, the controlled
31 substances shall be furnished or ordered in accordance with a
32 patient-specific protocol approved by the treating or supervising
33 physician and surgeon. For Schedule II controlled substance
34 protocols, the provision for furnishing the Schedule II controlled
35 substance shall address the diagnosis of the illness, injury, or
36 condition for which the Schedule II controlled substance is to be
37 furnished.

38 (4) The furnishing or ordering of drugs or devices by a certified
39 nurse-midwife occurs under physician and surgeon supervision.
40 For purposes of this section, no physician and surgeon shall

1 supervise more than four certified nurse-midwives at one time.
2 Physician and surgeon supervision shall not be construed to require
3 the physical presence of the physician, but does include all of the
4 following:

5 (A) Collaboration on the development of the standardized
6 procedure or protocol.

7 (B) Approval of the standardized procedure or protocol.

8 (C) Availability by telephonic contact at the time of patient
9 examination by the certified nurse-midwife.

10 (b) (1) The furnishing or ordering of drugs or devices by a
11 certified nurse-midwife is conditional on the issuance by the board
12 of a number to the applicant who has successfully completed the
13 requirements of paragraph (2). The number shall be included on
14 all transmittals of orders for drugs or devices by the certified
15 nurse-midwife. The board shall maintain a list of the certified
16 nurse-midwives that it has certified pursuant to this paragraph and
17 the number it has issued to each one. The board shall make the list
18 available to the California State Board of Pharmacy upon its
19 request. Every certified nurse-midwife who is authorized pursuant
20 to this section to furnish or issue a drug order for a controlled
21 substance shall register with the United States Drug Enforcement
22 Administration.

23 (2) The board has certified in accordance with paragraph (1)
24 that the certified nurse-midwife has satisfactorily completed a
25 course in pharmacology covering the drugs or devices to be
26 furnished or ordered under this section, including the risks of
27 addiction and neonatal abstinence syndrome associated with the
28 use of opioids. The board shall establish the requirements for
29 satisfactory completion of this paragraph.

30 (3) A physician and surgeon may determine the extent of
31 supervision necessary pursuant to this section in the furnishing or
32 ordering of drugs and devices.

33 (4) A copy of the standardized procedure or protocol relating
34 to the furnishing or ordering of controlled substances by a certified
35 nurse-midwife shall be provided upon request to any licensed
36 pharmacist who is uncertain of the authority of the certified
37 nurse-midwife to perform these functions.

38 (5) Certified nurse-midwives who are certified by the board and
39 hold an active furnishing number, who are currently authorized
40 through standardized procedures or protocols to furnish Schedule

1 II controlled substances, and who are registered with the United
2 States Drug Enforcement Administration shall provide
3 documentation of continuing education specific to the use of
4 Schedule II controlled substances in settings other than a hospital
5 based on standards developed by the board.

6 (c) Drugs or devices furnished or ordered by a certified
7 nurse-midwife may include Schedule II controlled substances
8 under the California Uniform Controlled Substances Act (Division
9 10 (commencing with Section 11000) of the Health and Safety
10 Code) under the following conditions:

11 (1) The drugs and devices are furnished or ordered in accordance
12 with requirements referenced in paragraphs (2) to (4), inclusive,
13 of subdivision (a) and in paragraphs (1) to (3), inclusive, of
14 subdivision (b).

15 (2) When Schedule II controlled substances, as defined in
16 Section 11055 of the Health and Safety Code, are furnished or
17 ordered by a certified nurse-midwife, the controlled substances
18 shall be furnished or ordered in accordance with a patient-specific
19 protocol approved by the treating or supervising physician and
20 surgeon.

21 (d) Furnishing of drugs or devices by a certified nurse-midwife
22 means the act of making a pharmaceutical agent or agents available
23 to the patient in strict accordance with a standardized procedure
24 or protocol. Use of the term “furnishing” in this section shall
25 include the following:

26 (1) The ordering of a drug or device in accordance with the
27 standardized procedure or protocol.

28 (2) Transmitting an order of a supervising physician and
29 surgeon.

30 (e) “Drug order” or “order” for purposes of this section means
31 an order for medication or for a drug or device that is dispensed
32 to or for an ultimate user, issued by a certified nurse-midwife as
33 an individual practitioner, within the meaning of Section 1306.03
34 of Title 21 of the Code of Federal Regulations. Notwithstanding
35 any other provision of law, (1) a drug order issued pursuant to this
36 section shall be treated in the same manner as a prescription of the
37 supervising physician; (2) all references to “prescription” in this
38 code and the Health and Safety Code shall include drug orders
39 issued by certified nurse-midwives; and (3) the signature of a
40 certified nurse-midwife on a drug order issued in accordance with

1 this section shall be deemed to be the signature of a prescriber for
2 purposes of this code and the Health and Safety Code.

3 SEC. 8. Section 2836.1 of the Business and Professions Code
4 is amended to read:

5 2836.1. Neither this chapter nor any other provision of law
6 shall be construed to prohibit a nurse practitioner from furnishing
7 or ordering drugs or devices when all of the following apply:

8 (a) The drugs or devices are furnished or ordered by a nurse
9 practitioner in accordance with standardized procedures or
10 protocols developed by the nurse practitioner and the supervising
11 physician and surgeon when the drugs or devices furnished or
12 ordered are consistent with the practitioner's educational
13 preparation or for which clinical competency has been established
14 and maintained.

15 (b) The nurse practitioner is functioning pursuant to standardized
16 procedure, as defined by Section 2725, or protocol. The
17 standardized procedure or protocol shall be developed and
18 approved by the supervising physician and surgeon, the nurse
19 practitioner, and the facility administrator or the designee.

20 (c) (1) The standardized procedure or protocol covering the
21 furnishing of drugs or devices shall specify which nurse
22 practitioners may furnish or order drugs or devices, which drugs
23 or devices may be furnished or ordered, under what circumstances,
24 the extent of physician and surgeon supervision, the method of
25 periodic review of the nurse practitioner's competence, including
26 peer review, and review of the provisions of the standardized
27 procedure.

28 (2) In addition to the requirements in paragraph (1), for Schedule
29 II controlled substance protocols, the provision for furnishing
30 Schedule II controlled substances shall address the diagnosis of
31 the illness, injury, or condition for which the Schedule II controlled
32 substance is to be furnished.

33 (d) The furnishing or ordering of drugs or devices by a nurse
34 practitioner occurs under physician and surgeon supervision.
35 Physician and surgeon supervision shall not be construed to require
36 the physical presence of the physician, but does include (1)
37 collaboration on the development of the standardized procedure,
38 (2) approval of the standardized procedure, and (3) availability by
39 telephonic contact at the time of patient examination by the nurse
40 practitioner.

1 (e) For purposes of this section, no physician and surgeon shall
2 supervise more than four nurse practitioners at one time.

3 (f) (1) Drugs or devices furnished or ordered by a nurse
4 practitioner may include Schedule II through Schedule V controlled
5 substances under the California Uniform Controlled Substances
6 Act (Division 10 (commencing with Section 11000) of the Health
7 and Safety Code) and shall be further limited to those drugs agreed
8 upon by the nurse practitioner and physician and surgeon and
9 specified in the standardized procedure.

10 (2) When Schedule II or III controlled substances, as defined
11 in Sections 11055 and 11056, respectively, of the Health and Safety
12 Code, are furnished or ordered by a nurse practitioner, the
13 controlled substances shall be furnished or ordered in accordance
14 with a patient-specific protocol approved by the treating or
15 supervising physician. A copy of the section of the nurse
16 practitioner's standardized procedure relating to controlled
17 substances shall be provided, upon request, to any licensed
18 pharmacist who dispenses drugs or devices, when there is
19 uncertainty about the nurse practitioner furnishing the order.

20 (g) (1) The board has certified in accordance with Section
21 2836.3 that the nurse practitioner has satisfactorily completed a
22 course in pharmacology covering the drugs or devices to be
23 furnished or ordered under this section.

24 (2) A physician and surgeon may determine the extent of
25 supervision necessary pursuant to this section in the furnishing or
26 ordering of drugs and devices.

27 (3) Nurse practitioners who are certified by the board and hold
28 an active furnishing number, who are authorized through
29 standardized procedures or protocols to furnish Schedule II
30 controlled substances, and who are registered with the United
31 States Drug Enforcement Administration, shall complete, as part
32 of their continuing education requirements, a course including
33 Schedule II controlled substances, and the risks of addiction
34 associated with their use, based on the standards developed by the
35 board. The board shall establish the requirements for satisfactory
36 completion of this subdivision.

37 (h) Use of the term "furnishing" in this section, in health
38 facilities defined in Section 1250 of the Health and Safety Code,
39 shall include (1) the ordering of a drug or device in accordance

1 with the standardized procedure and (2) transmitting an order of
2 a supervising physician and surgeon.

3 (i) “Drug order” or “order” for purposes of this section means
4 an order for medication which is dispensed to or for an ultimate
5 user, issued by a nurse practitioner as an individual practitioner,
6 within the meaning of Section 1306.02 of Title 21 of the Code of
7 Federal Regulations. Notwithstanding any other provision of law,
8 (1) a drug order issued pursuant to this section shall be treated in
9 the same manner as a prescription of the supervising physician;
10 (2) all references to “prescription” in this code and the Health and
11 Safety Code shall include drug orders issued by nurse practitioners;
12 and (3) the signature of a nurse practitioner on a drug order issued
13 in accordance with this section shall be deemed to be the signature
14 of a prescriber for purposes of this code and the Health and Safety
15 Code.

16 SEC. 9. Section 3059 of the Business and Professions Code is
17 amended to read:

18 3059. (a) It is the intent of the Legislature that the public health
19 and safety would be served by requiring all holders of licenses to
20 practice optometry granted under this chapter to continue their
21 education after receiving their licenses. The board shall adopt
22 regulations that require, as a condition to the renewal thereof, that
23 all holders of licenses submit proof satisfactory to the board that
24 they have informed themselves of the developments in the practice
25 of optometry occurring since the original issuance of their licenses
26 by pursuing one or more courses of study satisfactory to the board
27 or by other means deemed equivalent by the board.

28 (b) The board may, in accordance with the intent of this section,
29 make exceptions from continuing education requirements for
30 reasons of health, military service, or other good cause.

31 (c) If for good cause compliance cannot be met for the current
32 year, the board may grant exemption of compliance for that year,
33 provided that a plan of future compliance that includes current
34 requirements as well as makeup of previous requirements is
35 approved by the board.

36 (d) The board may require that proof of compliance with this
37 section be submitted on an annual or biennial basis as determined
38 by the board.

39 (e) An optometrist certified to use therapeutic pharmaceutical
40 agents pursuant to Section 3041.3 shall complete a total of 50 hours

1 of continuing education every two years in order to renew his or
2 her certificate. Thirty-five of the required 50 hours of continuing
3 education shall be on the diagnosis, treatment, and management
4 of ocular disease in any combination of the following areas:

5 (1) Glaucoma.

6 (2) Ocular infection.

7 (3) Ocular inflammation.

8 (4) Topical steroids.

9 (5) Systemic medication.

10 (6) Pain medication, including the risks of addiction associated
11 with the use of Schedule II drugs.

12 (f) The board shall encourage every optometrist to take a course
13 or courses in pharmacology and pharmaceuticals as part of his or
14 her continuing education.

15 (g) The board shall consider requiring courses in child abuse
16 detection to be taken by those licensees whose practices are such
17 that there is a likelihood of contact with abused or neglected
18 children.

19 (h) The board shall consider requiring courses in elder abuse
20 detection to be taken by those licensees whose practices are such
21 that there is a likelihood of contact with abused or neglected elder
22 persons.

23 SEC. 10. Section 3502.1 of the Business and Professions Code
24 is amended to read:

25 3502.1. (a) In addition to the services authorized in the
26 regulations adopted by the Medical Board of California, and except
27 as prohibited by Section 3502, while under the supervision of a
28 licensed physician and surgeon or physicians and surgeons
29 authorized by law to supervise a physician assistant, a physician
30 assistant may administer or provide medication to a patient, or
31 transmit orally, or in writing on a patient's record or in a drug
32 order, an order to a person who may lawfully furnish the
33 medication or medical device pursuant to subdivisions (c) and (d).

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

38 (2) Each supervising physician and surgeon who delegates the
39 authority to issue a drug order to a physician assistant shall first
40 prepare and adopt, or adopt, a written, practice specific, formulary

1 and protocols that specify all criteria for the use of a particular
2 drug or device, and any contraindications for the selection.
3 Protocols for Schedule II controlled substances shall address the
4 diagnosis of illness, injury, or condition for which the Schedule II
5 controlled substance is being administered, provided, or issued.
6 The drugs listed in the protocols shall constitute the formulary and
7 shall include only drugs that are appropriate for use in the type of
8 practice engaged in by the supervising physician and surgeon.
9 When issuing a drug order, the physician assistant is acting on
10 behalf of and as an agent for a supervising physician and surgeon.

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

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

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

39 (2) A physician assistant shall not administer, provide, or issue
40 a drug order to a patient for Schedule II through Schedule V

1 controlled substances without advance approval by a supervising
2 physician and surgeon for that particular patient unless the
3 physician assistant has completed an education course that covers
4 controlled substances and that meets standards, including
5 pharmacological content, approved by the board. The education
6 course shall be provided either by an accredited continuing
7 education provider or by an approved physician assistant training
8 program. If the physician assistant will administer, provide, or
9 issue a drug order for Schedule II controlled substances, the course
10 shall contain a minimum of three hours exclusively on Schedule
11 II controlled substances, including the risks of addiction associated
12 with their use. Completion of the requirements set forth in this
13 paragraph shall be verified and documented in the manner
14 established by the board prior to the physician assistant's use of a
15 registration number issued by the United States Drug Enforcement
16 Administration to the physician assistant to administer, provide,
17 or issue a drug order to a patient for a controlled substance without
18 advance approval by a supervising physician and surgeon for that
19 particular patient.

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

24 (d) A written drug order issued pursuant to subdivision (a),
25 except a written drug order in a patient's medical record in a health
26 facility or medical practice, shall contain the printed name, address,
27 and telephone number of the supervising physician and surgeon,
28 the printed or stamped name and license number of the physician
29 assistant, and the signature of the physician assistant. Further, a
30 written drug order for a controlled substance, except a written drug
31 order in a patient's medical record in a health facility or a medical
32 practice, shall include the federal controlled substances registration
33 number of the physician assistant and shall otherwise comply with
34 Section 11162.1 of the Health and Safety Code. Except as
35 otherwise required for written drug orders for controlled substances
36 under Section 11162.1 of the Health and Safety Code, the
37 requirements of this subdivision may be met through stamping or
38 otherwise imprinting on the supervising physician and surgeon's
39 prescription blank to show the name, license number, and if
40 applicable, the federal controlled substances registration number

1 of the physician assistant, and shall be signed by the physician
2 assistant. When using a drug order, the physician assistant is acting
3 on behalf of and as the agent of a supervising physician and
4 surgeon.

5 (e) The supervising physician and surgeon shall use either of
6 the following mechanisms to ensure adequate supervision of the
7 administration, provision, or issuance by a physician assistant of
8 a drug order to a patient for Schedule II controlled substances:

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

14 (2) If the physician assistant has documentation evidencing the
15 successful completion of an education course that covers controlled
16 substances, and that controlled substance education course (A)
17 meets the standards, including pharmacological content, established
18 in Sections 1399.610 and 1399.612 of Title 16 of the California
19 Code of Regulations, and (B) is provided either by an accredited
20 continuing education provider or by an approved physician assistant
21 training program, the supervising physician and surgeon shall
22 review, countersign, and date, within seven days, a sample
23 consisting of the medical records of at least 20 percent of the
24 patients cared for by the physician assistant for whom the physician
25 assistant's Schedule II drug order has been issued or carried out.
26 Completion of the requirements set forth in this paragraph shall
27 be verified and documented in the manner established in Section
28 1399.612 of Title 16 of the California Code of Regulations.
29 Physician assistants who have a certificate of completion of the
30 course described in paragraph (2) of subdivision (c) shall be
31 deemed to have met the education course requirement of this
32 subdivision.

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

37 (g) The board shall consult with the Medical Board of California
38 and report during its sunset review required by Article 7.5
39 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of
40 Division 2 of Title 2 of the Government Code the impacts of

1 exempting Schedule III and Schedule IV drug orders from the
2 requirement for a physician and surgeon to review and countersign
3 the affected medical record of a patient.

4 SEC. 11. Section 4076.7 is added to the Business and
5 Professions Code, to read:

6 4076.7. In addition to the requirements of Sections 4076 and
7 4076.5, whenever a prescription drug containing an opioid is
8 dispensed to a patient for outpatient use, the pharmacy or
9 practitioner dispensing the drug shall prominently display on the
10 label or container, by means of a flag or other notification
11 mechanism attached to the container, a notice that states “Caution:
12 Opioid. Risk of overdose and addiction.”

13 SEC. 12. Section 49476 is added to the Education Code, to
14 read:

15 49476. (a) If a school district, charter school, or private school
16 elects to offer an athletic program, the school district, charter
17 school, or private school shall annually give the Opioid Factsheet
18 for Patients published by the Centers for Disease Control and
19 Prevention to each athlete. The athlete and, if the athlete is 17 years
20 of age or younger, the athlete’s parent or guardian shall sign a
21 document acknowledging receipt of the Opioid Factsheet for
22 Patients and return that document to the school district, charter
23 school, or private school before the athlete initiates practice or
24 competition. The Opioid Factsheet for Patients may be sent and
25 returned through an electronic medium, including, but not limited
26 to, fax or email.

27 (b) This section does not apply to an athlete engaging in an
28 athletic activity during the regular schoolday or as part of a physical
29 education course required pursuant to subdivision (d) of Section
30 51220.

31 SEC. 13. Section 11158.1 is added to the Health and Safety
32 Code, to read:

33 11158.1. (a) Except when a patient is being treated as set forth
34 in Sections 11159, 11159.2, and 11167.5, and Article 2
35 (commencing with Section 11215) of Chapter 5, pertaining to the
36 treatment of addicts, or for a diagnosis of chronic intractable pain
37 as used in Section 124960 of this code and Section 2241.5 of the
38 Business and Professions Code, a prescriber shall discuss all of
39 the following with the minor, the minor’s parent or guardian, or
40 another adult authorized to consent to the minor’s medical

1 treatment before directly dispensing or issuing for a minor the first
2 prescription in a single course of treatment for a controlled
3 substance containing an opioid:

4 (1) The risks of addiction and overdose associated with the use
5 of opioids.

6 (2) The increased risk of addiction to an opioid to an individual
7 who is suffering from both mental and substance abuse disorders.

8 (3) The danger of taking an opioid with a benzodiazepine,
9 alcohol, or another central nervous system depressant.

10 (4) Any other information required by law.

11 (b) This section does not apply in any of the following
12 circumstances:

13 (1) If the minor's treatment includes emergency services and
14 care as defined in Section 1317.1.

15 (2) If the minor's treatment is associated with or incident to an
16 emergency surgery, regardless of whether the surgery is performed
17 on an inpatient or outpatient basis.

18 (3) If, in the prescriber's professional judgment, fulfilling the
19 requirements of subdivision (a) would be detrimental to the minor's
20 health or ~~safety~~. *safety, or in violation of the minor's legal rights*
21 *regarding confidentiality.*

22 (c) Notwithstanding any other law, including Section 11374,
23 failure to comply with this section shall not constitute a criminal
24 offense.

25 SEC. 14. Section 124236 is added to the Health and Safety
26 Code, to read:

27 124236. (a) A youth sports organization, as defined in
28 paragraph (3) of subdivision (b) of Section 124235, that elects to
29 offer an athletic program shall annually give the Opioid Factsheet
30 for Patients published by the Centers for Disease Control and
31 Prevention to each athlete. The athlete and, if the athlete is 17 years
32 of age or younger, the athlete's parent or guardian shall sign a
33 document acknowledging receipt of the Opioid Factsheet for
34 Patients and return that document to the youth sports organization
35 before the athlete initiates practice or competition. The Opioid
36 Factsheet for Patients may be sent and returned through an
37 electronic medium, including, but not limited to, fax or email.

38 (b) This section shall apply to all athletes participating in the
39 activities of a youth sports organization, irrespective of their ages.

40 This section shall not be construed to prohibit a youth sports

1 organization, or any other appropriate entity, from adopting and
2 enforcing rules intended to provide a higher standard of safety for
3 athletes than the standard established under this section.

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

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**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1137

AUTHOR: A. Vidak

SPONSOR: Author

VERSION: Amended 06/14/2018

INTRODUCED: 02/13/2018

BILL STATUS: 06/26/2018 – From Assembly Business and Professions Committee: Do pass to Assembly Appropriations Committee.

BILL LOCATION: Assembly Appropriations Committee

SUBJECT: Veterans: Professional Licensing Benefits.

RELATED BILLS: SB 1348, SB 1155, SB 1226, AB 186, SB 723, AB 1057, AB 1904

SUMMARY

Existing law establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans. Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. Existing law provides for a variety of state benefits to veterans.

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans and their spouses, as specified.

ANALYSIS

Currently, existing law provides for a variety of state benefits to veterans for licensure and renewal of licensure.

AB 2078 would add new language to the Military and Veterans Code to require the Department of Consumer Affairs and Department of Veterans Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans and their spouses.

Specifically, this bill would require the posting of information and resources on Internet Web sites and to include information about the benefits the Board offers for veterans and their spouses in any communication with veterans when appropriate.

Should AB 1137 pass in its current form, it is not anticipated to have significant impact on the Board.

REGISTERED SUPPORT/OPPOSITION

Support

American G.I. Forum – Department of California
American Legion – Department of California
AMVETS – Department of California
California State Commanders Veterans Council
Military Officers Association of America, California Council of Chapters
National Guard Association of California
U.S. Department of Defense
Vietnam Veterans of America – California State Council

Oppose

None received

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN ASSEMBLY JUNE 14, 2018

SENATE BILL

No. 1137

Introduced by Senator Vidak

February 13, 2018

An act to add Section 714 to the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1137, as amended, Vidak. Veterans: professional licensing benefits.

Existing law establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans. Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. Existing law provides for a variety of state benefits to veterans.

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to ~~veterans~~, *veterans and their spouses*, as specified.

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

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

- 1 SECTION 1. Section 714 is added to the Military and Veterans
- 2 Code, to read:
- 3 714. (a) The Department of Veterans Affairs and the
- 4 Department of Consumer Affairs shall both, in consultation with

1 each other, take appropriate steps to increase awareness regarding
2 professional licensing benefits available to ~~veterans~~. *veterans and*
3 *their spouses*.

4 (b) The awareness efforts in subdivision (a) shall include, but
5 not be limited to, ~~all~~ *both* of the following:

6 ~~(1) Proactive information dissemination to veteran groups in~~
7 ~~the state.~~

8 ~~(2)~~

9 (1) Posting information and resources on each department's
10 respective Internet Web site.

11 ~~(3)~~

12 (2) Including information about these benefits in any
13 communications that these agencies have with veterans when it is
14 appropriate.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1148

AUTHOR: R. Pan

SPONSOR: California Dental Association

VERSION: Amended 07/03/2018

INTRODUCED: 02/14/2018

BILL STATUS: 08/08/2018 – In Assembly Appropriations Committee. To Suspense File.

BILL LOCATION: Assembly Appropriations Committee

SUBJECT: Medi-Cal: restorative dental services.

RELATED BILLS: SB 1464

SUMMARY

Existing law provides for the Medi-Cal program, under which qualified low-income individuals receive health care services. Eligible recipients under the Medi-Cal program may receive emergency and essential diagnostic and restorative dental services, dental prophylaxis cleanings, and dental examinations may be provided to patients within their scope of benefits. Existing law authorizes specified Medi-Cal providers to recommend, after consultation with the beneficiary, and to receive reimbursement for, certain dental restorative materials other than the covered benefit of amalgam.

This bill additionally would authorize a provider of services for the treatment of dental caries to provide, and receive reimbursement for, silver diamine fluoride (SDF) when used as a caries arresting agent and billed as specified, if the provider first consults with the beneficiary and obtains written informed consent, and if the treatment is included as part of a comprehensive treatment plan.

SDF is a non-invasive antimicrobial liquid that is applied topically to help stop tooth decay and to treat tooth sensitivity. SDF can be applied every six to 12 months, but may be applied as necessary at a frequency determined by the dental provider. The procedure involves drying the affected area, placing a small amount of SDF on the affected area, allowing SDF to dry for one minute, and rinsing the area with water.

SDF applied to dental decay or other tissues of the mouth, lips and skin causes significant, irreversible black staining due to formation of silver oxide. Superficial black staining of the skin and oral mucosa tends to resolve within days as epithelial cells slough off. In contrast, unrestored caries lesions treated with SDF remain black permanently.

ANALYSIS

SB 1148 would expand the options available for treating dental decay by requiring SDF to be a covered benefit under Medi-Cal’s Denti-Cal program. Tooth decay remains the most common chronic disease of childhood. SDF would reduce the burden of disease by slowing or stopping disease progression with the application of a topical liquid. Due to the simplicity of the application, requiring no anesthesia or drilling, makes it particularly beneficial for young children, elderly, or others who may be unable to receive traditional dental treatment.

SB 1148’s sponsor, the California Dental Association (CDA), noted that SDF is currently being incorporated into many dental practices across the state and is growing in use and popularity among dentists and the public as an alternative to traditional treatment for dental decay. Additionally, CDA noted that while SDF not a remedy for all dental caries, it is a low-cost, safe, nonsurgical disease management approach that, while it may not fully eliminate the need for additional dental care or treatment, its use can be beneficial in the care of people with disabilities, frail elderly patients, young children and children with special care needs who are not able to receive traditional restorative treatment.

This bill would not have a fiscal impact upon the Dental Board of California (Board) because the Board does not currently bill for dental services nor does it administer the Medi-Cal’s Denti-Cal program.

REGISTERED SUPPORT/OPPOSITION

Support

California Dental Association (sponsor)
Gary and Mary West Senior Dental

Oppose

None on file.

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ OPPOSE:_____ NEUTRAL:_____ WATCH:_____

AMENDED IN ASSEMBLY JULY 3, 2018
AMENDED IN ASSEMBLY JUNE 21, 2018
AMENDED IN ASSEMBLY JUNE 13, 2018
AMENDED IN SENATE APRIL 10, 2018

SENATE BILL

No. 1148

Introduced by Senator Pan

February 14, 2018

An act to add Section 14132.225 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1148, as amended, Pan. Medi-Cal: restorative dental services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law includes emergency and essential diagnostic and restorative dental services, and dental prophylaxis cleanings and dental examinations within the scope of benefits that may be provided to eligible recipients under the Medi-Cal program. Existing law authorizes specified Medi-Cal providers to recommend, after consultation with the beneficiary, and to receive reimbursement for, certain dental restorative materials other than the covered benefit of amalgam.

This bill ~~would expand the scope of benefits to include~~ *would authorize a provider of services for the treatment of dental caries to provide, and receive reimbursement for,* the application of silver diamine fluoride when used as a caries arresting ~~agent~~ *agent, as specified,* if the

provider first consults with the beneficiary and obtains written informed consent, and if the treatment is included as part of a comprehensive treatment plan, to the extent that federal financial participation is available and any necessary federal approvals have been obtained. The bill would ~~include not prohibit~~ a registered dental hygienist in alternative practice ~~within the definition of a provider of services for the treatment of dental caries. The bill would authorize the department to establish appropriate utilization controls for patients eligible to receive services under the bill.~~ *who meets the requirements of the bill from providing the services described in the bill. The bill would limit availability of the described services to specified Medi-Cal beneficiary populations until January 1, 2023, and thereafter would be available for any Medi-Cal beneficiary. The bill would authorize the department to implement its provisions by means of all-county letters, provider bulletins, or similar instructions, without taking further regulatory action.*

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

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

- 1 SECTION 1. Section 14132.225 is added to the Welfare and
- 2 Institutions Code, immediately following Section 14132.22, to
- 3 read:
- 4 14132.225. (a) ~~(1) The application of silver diamine fluoride~~
- 5 ~~when used as a caries arresting agent is a covered benefit under~~
- 6 ~~this chapter.~~ *A provider of services for the treatment of dental*
- 7 *caries may provide, and receive reimbursement for, the application*
- 8 *of silver diamine fluoride, on a per-tooth basis, when used to arrest*
- 9 *an active, nonsymptomatic carious lesion, and without mechanical*
- 10 *removal of sound tooth structure, if all of the following conditions*
- 11 *are met:*
- 12 (A)
- 13 (1) There is a consultation with the beneficiary, or his or her
- 14 designee.
- 15 (B)
- 16 (2) The beneficiary, or his or her designee, signs a written
- 17 informed consent form that is approved by the department.
- 18 (C)
- 19 (3) The treatment is part of a comprehensive treatment plan.

1 ~~(2) For purposes of this subdivision, a “provider of services for~~
2 ~~the treatment of dental caries” includes a registered dental hygienist~~
3 ~~in alternative practice.~~

4 (b) This section does not preclude the use of silver diamine
5 fluoride for preventive services, when appropriate.

6 ~~(e) The department may establish appropriate utilization controls~~
7 ~~as set forth under Section 14133 for patients eligible to receive~~
8 ~~services under this section.~~

9 (c) *Nothing shall prohibit a registered dental hygienist in*
10 *alternative practice from billing for this benefit when all the*
11 *requirements of paragraphs (1) to (3), inclusive, of subdivision*
12 *(a) are met.*

13 (d) (1) *This benefit shall be limited to the following Medi-Cal*
14 *populations:*

15 (A) *Children six years of age and under.*

16 (B) *Persons with disabilities or other underlying conditions*
17 *such that nonrestorative caries treatment may be optimal.*

18 (C) *Adults who live in a licensed skilled nursing facility or*
19 *licensed intermediate care facility.*

20 (2) *The limitation described in this subdivision shall be*
21 *implemented only until January 1, 2023.*

22 ~~(d)~~

23 (e) This section shall only be implemented to the extent that
24 both of the following occur:

25 (1) The department obtains any federal approvals necessary to
26 implement this section.

27 (2) The department obtains federal matching funds to the extent
28 permitted by federal law.

29 ~~(e)~~

30 (f) Notwithstanding Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
32 the department may implement the provisions of this section by
33 means of all-county letters, provider bulletins, or similar
34 instructions, without taking further regulatory action.

35 ~~(f)~~

36 (g) This section shall become operative on January 1, 2019.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1238

AUTHOR: R. Roth

SPONSOR:

VERSION: Amended 06/28/2018

INTRODUCED: 02/15/2018

BILL STATUS: 08/08/2018 – In Assembly Appropriations Committee. To suspense file.

BILL LOCATION: Assembly Appropriations Committee

SUBJECT: Patient records: maintenance and storage.

RELATED BILLS:

SUMMARY

Existing law establishes procedures for providing access to various types of health care records, including patient records, as defined, by patients and persons having responsibility for decisions respecting the health care of others. Existing law gives health care providers, as defined, various responsibilities in connection with providing access to these records.

This bill would require a physician and surgeon, podiatrist, dentist, psychologist, optometrist, chiropractor, marriage and family therapist, clinical social worker, physical therapist, occupational therapist, and a professional clinical counselor to provide patients with a statement regarding their right to inspect and obtain copies of their medical records and the intended retention period for the records. This bill would also require these health care providers to notify a patient at least 60 days before their records will be destroyed. The bill would require a health care provider to provide a patient with his or her original medical records that the provider plans to destroy if the patient makes a request for the records to the provider before the date of the proposed destruction of the records. The bill would authorize a health care provider to charge a patient for the actual costs of copying, mailing, or shipping the patient's records under that provision. The bill would authorize the issuance of citations and the assessment of administrative penalties for violations.

ANALYSIS

The Dental Board of California (Board) staff does not anticipate a significant fiscal impact if Senate Bill (SB) 1238 were to pass in its current form. If necessary, to further clarify that failing to notify a patient 60 days before a patients records are to be destroyed as a result of SB 1238, the Board would likely need to update their regulations regarding unprofessional conduct (California Code of Regulations Section

1018.05) to refer to the added Health Safety Code Section 123106 as a result of this bill. Board staff has additionally confirmed with the Enforcement Unit that this would not result in a change in how they conduct investigations or result in a fiscal cost.

Supporters of this bill noted that this would allow patients to obtain copies of their medical records which may be helpful for future use. However, those in opposition noted that SB 1238 would create an excessive administrative burden that would increase the cost of providing health care for a minimal benefit to consumers, rural and smaller providers would not have the resources to comply with SB 1238, and would result in operational compliance issues (specifically, who would have control of patient records? Would it be a Facility, Physician, and/or an Electronic Health Record [EHR] Vendors?). Additionally, those in oppositions noted compliance issues for physicians who have switched to EHR or Cloud Based EHR, prior to the inception of this bill, because SB 1238 would require physicians to let their patient know during the visit how to obtain their records as well as notify their patients a subsequent time before destruction of their records. However, if these physicians have already destroyed the records because they have switched to an EHR platform they would not be in compliance with this bill. Additional amendments may be necessary to address this issue.

It is currently unknown the effect this bill would have on the Board's licensees. It is unclear how many dentists (if any) have switched to EHR. As noted above, there may be compliance issues if a dentist has switched to utilizing EHRs to store patient records. Amendments may be necessary to allow those licensees that utilize EHRs to store patient records to be exempted from the notification requirement prior to destruction of patient records because an EHR would not be destroyed. Additionally, amendments should be made to SB 1238 to allow for licensees to allow for an exception for those who have switched to an EHR system and did not notify their patients prior to the destruction of the hard copy record so long as the patients records are accessible through the EHR system. SB 1238 appears to be aimed at licensees that utilize hard copy recording systems and therefore should allow for notification exceptions (specifically, notification prior to destruction of records) for licensees that use EHR systems if the records are still accessible on the electronic platform.

REGISTERED SUPPORT/OPPOSITION

Support

California Advocates for Nursing Home Reform
California School Employees Association
Consumers Union
Congress of California Seniors
California Labor Federation

Oppose

California Medical Association
California Health Information Association

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT: _____ OPPOSE: _____ NEUTRAL: _____ WATCH: _____

AMENDED IN ASSEMBLY JUNE 28, 2018

AMENDED IN ASSEMBLY JUNE 20, 2018

AMENDED IN SENATE APRIL 9, 2018

AMENDED IN SENATE MARCH 19, 2018

SENATE BILL

No. 1238

Introduced by Senator Roth

February 15, 2018

An act to add Sections 123106 and 123107 to the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1238, as amended, Roth. Patient records: maintenance and storage.

Existing law establishes procedures for providing access to various types of health care records, including patient records, as defined, by patients and persons having responsibility for decisions respecting the health care of others. Existing law gives health care providers, as defined, various responsibilities in connection with providing access to these records.

This bill would require certain health care ~~providers at the time of creation of a patient record~~ *providers, no later than the date of the first service delivery, or as soon as reasonably practicable after an emergency treatment situation*, to provide a statement to the patient, or the patient's representative, that sets forth the patient's rights and the intended retention period for the records. The bill would require those health care providers that plan to destroy patient records to notify the patient at least 60 days before a patient's records are to be destroyed, as provided. The bill would require a health care provider to provide a patient with his or her original medical records that the provider plans

to destroy if the patient makes a request for the records to the provider before the date of the proposed destruction of the records. The bill would authorize a health care provider to charge a patient for the actual costs of copying, mailing, or shipping the patient’s records under that provision. The bill would authorize the issuance of citations and the assessment of administrative penalties for violations. Under the bill, if a group practice or clinic comprised of health care providers subject to the bill is the custodian of patient records for those health care providers, the group practice or clinic, rather than the individual health care provider, would be required to comply with the bill’s provisions.

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

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

1 SECTION 1. Section 123106 is added to the Health and Safety
 2 Code, to read:
 3 123106. (a) A health care provider described in paragraphs
 4 (4), (5), (6), (8), and (9) of subdivision (a) of Section 123105, who
 5 creates patient records, as defined in subdivision (d) of Section
 6 123105, shall, ~~at the time the initial patient record is created,~~ *no*
 7 *later than the date of the first service delivery, or as soon as*
 8 *reasonably practicable after an emergency treatment situation,*
 9 provide a statement to be signed by the patient, or the patient’s
 10 representative, that sets forth both of the following:
 11 (1) The patient’s rights under this chapter to inspect his or her
 12 medical records, obtain copies of his or her medical records, and
 13 to provide a written addendum, pursuant to Section 123111, with
 14 respect to any item or statement in the patient’s records that the
 15 patient believes to be incomplete or incorrect.
 16 (2) The intended retention period for the records, as specified
 17 in applicable law or by the health care provider’s retention policy.
 18 (b) A copy of the signed statement required pursuant to
 19 subdivision (a) shall be provided to the patient.
 20 (c) If a patient, or the patient’s representative, is provided a
 21 statement ~~at the time that the initial patient record is created,~~
 22 *pursuant to subdivision (a),* and the patient refuses to sign the
 23 statement, the patient’s record shall indicate that the patient refused
 24 to sign the statement.

1 (d) The statement required by subdivision (a) may be included
2 in another form or statement provided to the patient, or the patient's
3 representative, ~~at the time the initial patient record is created.~~ *if*
4 *the form or statement is provided no later than the date of the first*
5 *service delivery, or as soon as reasonably practicable after an*
6 *emergency treatment situation.*

7 (e) If a health care provider to whom subdivision (a) applies
8 plans to destroy patient records, the health care provider shall, no
9 fewer than 60 days before a patient's records are to be destroyed,
10 notify the patient, via first-class mail, electronic mail, or both, to
11 the patient's last known mailing or electronic mail address, or both.
12 The notification shall inform the patient that his or her records are
13 scheduled to be destroyed and the date of the proposed destruction
14 of records. The notification shall also inform the patient of his or
15 her rights under this chapter to inspect his or her medical records.
16 A health care provider to whom subdivision (a) applies shall
17 provide a patient with his or her original medical records that the
18 provider plans to destroy earlier than the period specified in the
19 signed statement if the patient makes a request for the records to
20 the health care provider before the date of the proposed destruction
21 of the records. The patient or the patient's authorized representative
22 may designate delivery of patient records either by personal pickup,
23 mail, overnight delivery, or other delivery means. This section
24 does not reduce the length of record retention as otherwise required
25 by law.

26 (f) A health care provider may charge a patient for the actual
27 costs incurred by the health care provider for copying, mailing, or
28 shipping the patient's records under this section in accordance
29 with subdivision (k) of Section 123110. This section does not
30 authorize a health care provider to charge a patient for maintenance
31 of any patient records that the health care provider is obligated by
32 law to maintain.

33 (g) A health care provider to whom subdivision (a) applies shall
34 not be subject to this section for medical records that are created
35 for a patient who is referred to the provider solely for a diagnostic
36 evaluation, if the provider does not provide treatment to the patient
37 and reports the results of the diagnostic evaluation to the patient's
38 referring provider.

1 (h) A health care provider to whom subdivision (a) applies shall
2 not be subject to this section if the health care provider utilizes
3 electronic health records and those records are stored in perpetuity.

4 (i) A health care provider who violates this section may be cited
5 and assessed an administrative penalty in accordance with Section
6 125.9 of the Business and Professions Code. A citation shall not
7 be issued and a penalty shall not be assessed upon the first violation
8 by a licensee of this section. Upon the second and each subsequent
9 violation by a health care provider of this section, a citation may
10 be issued and an administrative penalty may be assessed after
11 appropriate notice and opportunity for hearings. Notwithstanding
12 any other law, the remedy described in this subdivision constitutes
13 the exclusive remedy for a violation of this section. This section
14 does not affect other existing rights, duties, or remedies provided
15 by law.

16 (j) The patient records created by a psychiatrist, including
17 psychotherapy notes, as defined in Section 164.501 of Title 45 of
18 the Code of Federal Regulations, are not subject to this section.
19 For the purposes of this subdivision, “psychiatrist” means a
20 physician and surgeon licensed pursuant to Chapter 5 (commencing
21 with Section 2000) of Division 2 of the Business and Professions
22 Code or pursuant to the Osteopathic Initiative Act, who devotes,
23 or is reasonably believed by the patient to devote, a substantial
24 portion of his or her time to the practice of psychiatry.

25 SEC. 2. Section 123107 is added to the Health and Safety Code,
26 to read:

27 123107. (a) Notwithstanding Section 123106, if a group
28 practice or clinic comprised of health care providers described in
29 paragraph (4), (5), (6), (8), or (9) of subdivision (a) of Section
30 123105 is the custodian of patient records for those health care
31 providers, the group practice or clinic, rather than the individual
32 health care provider, shall be required to comply with the
33 requirements of Section 123106.

34 (b) This section does not apply to a clinic described in paragraph
35 (2) of subdivision (a) of Section 123105.

O

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1298

AUTHOR: N. Skinner

SPONSOR: Californians for
Safety and Justice

VERSION: Amended 04/04/2018

INTRODUCED: 02/16/2018

BILL STATUS: 05/25/2018 –Held in Senate
Appropriations Committee.

BILL LOCATION: Senate
Appropriations
Committee

SUBJECT: Increasing Access to
Employment Act.

**RELATED
BILLS:** AB 2138,
AB 2409

SUMMARY

Senate Bill (SB) 1298 would prohibit the Department of Justice (DOJ) from releasing the record of convictions that were dismissed pursuant to specified provisions. This bill would require that only convictions from the prior seven years or for which the person was incarcerated or on probation or parole within seven years of the request be provided. SB 1298 would require the DOJ to furnish a copy of the Criminal Offender Record Information (CORI) to the subject of the request and require the DOJ to allow the subject a reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI prior to furnishing a report to a third party. Furthermore, this bill would require the DOJ to make specified corrections prior to furnishing the information to the requester.

ANALYSIS

SB 1298 would prohibit the DOJ from providing information concerning a conviction that was dismissed or expunged if: the person has withdrawn their plea of guilty or no contest after satisfying the terms of a misdemeanor, plea has been withdrawn after serving a jail felony, the conviction has been expunged, the crime occurred when the person was a minor and the juvenile records have been sealed, the crime was a result of human trafficking and the person has been granted relief, or if the person alleges they committed the offense as a result of sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems stemming from service in the United States military

A CORI printout provides “Criminal History” information regarding a specific person. SB 1298 would reduce the criminal history reported by CORI from 10 years to 7 years. SB 1298 has the potential to significantly impact the Dental Board of California (Board) because this bill would change how the Board can assess the fitness of an applicant as

it relates to convictions and could provide a fragmented view of an applicant. The Board currently allows applicants the ability to disclose on their application if he or she has ever been convicted of a crime. Specifically, the Board requests an applicant provide certified copies of the arresting agency report, certified copies of court documents, and a descriptive explanation of the circumstances surrounding the conviction (i.e., dates and location of the incident(s) and all circumstances surrounding the incident(s)). However, an applicant's failure to disclose a conviction is not an automatic bar to licensure. A comprehensive background is necessary to promoting public protection and ensuring licensees have the qualification needed to work with the public.

If SB 1298 passes in its current form, Board staff will need to update their applications and as a result regulations, which incorporated some of these applications by reference, to reflect the changes as required by law.

REGISTERED SUPPORT/OPPOSITION

Support

Californians for Safety and Justice (Sponsor)
Service Employees Internal Union (SEIU)
Youth Justice Coalition
Project Rebound at California State University of Los Angeles
Independence Youth Court
After Innocence
Ella Baker Center for Human Rights

Oppose

None on file.

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN SENATE APRIL 4, 2018

SENATE BILL

No. 1298

Introduced by Senator Skinner

February 16, 2018

An act to amend Sections 11105, 11121, 11126, and 13300 of, to add Section 11128 to, and to repeal and add Section 11122 of, *Section 11105* of the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1298, as amended, Skinner. The Increasing Access to Employment Act.

~~(1) Existing~~

Existing law requires the Department of Justice to maintain state summary criminal history information, as defined, and requires the Attorney General to furnish state summary criminal history information to specified entities and ~~individuals if needed in the course of their duties~~: *individuals, including an authorized entity for employment, licensing, or certification relative to community care facilities, residential care facilities, and other specified health facilities. Existing law requires the department to provide the requester with every conviction of an offense rendered against the applicant, except for a conviction for which relief was granted to a victim of human trafficking, as specified.*

This bill would ~~limit the information the department provides to specified requesters to more recent misdemeanors and felonies, generally within 5 years, and other information, as specified, including offenses for which registration as a sex offender is required. The bill would, for specified requesters, prohibit the disclosure of a conviction that has been dismissed, an arrest that was subsequently deemed a detention, or~~

~~an arrest that resulted in the successful completion of a diversion program, exoneration, or an arrest that has been sealed. The bill would specify what information is to be provided to a consumer reporting agency, as defined. *prohibit the department from releasing, for these purposes, the record of convictions that were dismissed pursuant to specified provisions.*~~

Existing law requires the department to provide an agency, organization, or individual, including, but not limited to, a cable corporation, in-home supportive services recipient, or property security organization, requesting the information for specified employment purposes with every conviction for which registration as a sex offender is required and, except as specified, every conviction that occurred within 10 years of the date of the request or for which the person was incarcerated within 10 years of the request for information.

This bill would require that only convictions from the prior 7 years or for which the person was incarcerated or on probation or parole within 7 years of the request be provided.

Existing law requires, when state summary criminal history information is furnished as a result of specified requests, and the information is to be used for employment, licensing, or certification purposes, that the requester furnish the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision.

~~This bill would *instead* require the department to furnish a copy of the Criminal Offender Record Information (CORI) to the subject when a state or federal summary criminal history information is requested and the information is to be used for employment, licensing, or certification purposes of the request and would require the department to allow the subject a reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI prior to furnishing a report to a third party. *The bill would require the department to make specified corrections prior to furnishing the information to the requester.*~~

~~Existing law requires a person who wants a copy of the his or her state summary criminal history information to obtain an application form furnished by the department and provide his or her fingerprints, in addition to other information specified by the department.~~

~~This bill would remove the requirement that a person submit fingerprints to obtain his or her state summary criminal history~~

~~information and would require only that information the department deems necessary.~~

~~(2) Existing law authorizes a person who desires to question the accuracy or completeness of any material matter contained in the record to submit a written request to the department and, if the accuracy of the source document is questioned, requires the department to forward it to the person or agency that furnished the questioned information. Existing law gives person or agency 30 days from the receipt of the written request for clarification, to review its information and forward to the department the results of the review. Under existing law, if the person or agency that created the source document concurs in the allegations of inaccuracy or incompleteness in the record, and finds that the error is material, it is required to correct its record and inform the department. Existing law provides the department 30 within which to inform the applicant of its correction of the record.~~

~~This bill would authorize an applicant to question the accuracy or completeness of any matter and, if the source document is questioned, would require the department, within 5 days, to verify the accuracy of the source document with the person or agency that furnished the questioned information. The bill would require the department to correct its record, destroy and purge the incorrect information if the department is unable to verify the accuracy or completeness of the source document and would require to destroy and purge the incorrect information. The bill would require the department to inform the applicant of the correction and destruction of the record within 10 days. The bill would also require a person or agency to which the incorrect record has been disseminated to, upon notification, correct the record accordingly and destroy and purge the incorrect information within 30 days. By increasing the requirements on local agencies that supply the source documents, this bill would impose a state-mandated local program.~~

~~(3) This bill would establish the Increasing Access to Employment Fund and would make funds available, upon appropriation, to the California Workforce Investment Board to administer a grant program aimed at improving rehabilitation, reentry, and employment and licensing outcomes for people with criminal convictions, as specified.~~

~~(4) Existing law requires the disclosure of local summary criminal history information by a local criminal justice agency to certain authorized entities and authorizes the disclosure of that information to other entities in specified circumstances.~~

~~The bill would require a local agency to disclose local summary criminal history information to the subject of the request or to an individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation. By increasing the duties of local criminal justice agencies, this bill would impose a state-mandated local program. The bill would also reduce the entities to which local summary criminal history is required to be disclosed and to which that information is authorized to be disclosed, as specified.~~

~~Existing law prohibits a local criminal justice agency from releasing information under specified circumstances, including information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.~~

~~This bill would prohibit a local criminal justice agency from releasing information relating to convictions that were dismissed, arrests subsequently deemed a detention, arrests that resulted in the successful completion of a diversion program, exoneration, or arrests that were sealed. The bill would also limit the information that a local criminal justice agency can disclose to convictions for which registration as a sex offender is required, information concerning misdemeanor convictions that occurred before 2 years of the date of the request for information, and felony convictions that occurred before 5 years of the date of the request for information.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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

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

- 1 SECTION 1. (a) This act shall be known, and may be cited,
- 2 as the Increasing Access to Employment Act.
- 3 (b) It is the intent of the Legislature that criminal conviction
- 4 records not operate as an automatic bar to employment, licensure,
- 5 and certification. It is the intent of the Legislature not to change

1 or impact in any way the role or authority of a licensing board or
2 state agency to assess the fitness of applicants seeking licensure,
3 certification, and employment pursuant to provisions of the
4 Business and Professions Code, Health and Safety Code, Insurance
5 Code, and Welfare and Institutions Code, as applicable. This act
6 supercedes any statute, regulation, rule, or decision directing a
7 licensing board, state agency, employer, or any other applicable
8 person or entity, to obtain criminal history records in a manner
9 that conflicts with the intent of this act.

10 ~~(c) It is the intent of the Legislature to create the Increasing~~
11 ~~Access to Employment Fund for rehabilitation and reentry services~~
12 ~~to improve prospects for licensing, certification, and professional~~
13 ~~employment for people with criminal conviction records.~~
14 Recidivism is reduced when people with criminal convictions are
15 given the opportunity to secure employment and engage in a trade,
16 occupation, or profession. It is in the interest of public safety to
17 assist in the rehabilitation of criminal offenders by removing
18 impediments and restrictions on an offenders' ability to obtain
19 employment or engage in a trade, occupation, or profession when
20 those impediments and restrictions are based solely upon the
21 existence of a criminal record. Increasing opportunities for people
22 with criminal records improves the economic well-being of families
23 and communities and is a path to full employment in California.

24 *SEC. 2. Section 11105 of the Penal Code is amended to read:*

25 11105. (a) (1) The Department of Justice shall maintain state
26 summary criminal history information.

27 (2) As used in this section:

28 (A) "State summary criminal history information" means the
29 master record of information compiled by the Attorney General
30 pertaining to the identification and criminal history of a person,
31 ~~such as~~ *including* name, date of birth, physical description,
32 fingerprints, photographs, dates of arrests, arresting agencies and
33 booking numbers, charges, dispositions, sentencing information,
34 and similar data about the person.

35 (B) "State summary criminal history information" does not refer
36 to records and data compiled by criminal justice agencies other
37 than the Attorney General, nor does it refer to records of complaints
38 ~~to or to~~, investigations conducted by, or records of intelligence
39 information or security procedures of, the office of the Attorney
40 General and the Department of Justice.

- 1 (b) The Attorney General shall furnish state summary criminal
2 history information to the following, if needed in the course of
3 their duties, provided that when information is furnished to assist
4 an agency, officer, or official of state or local government, a public
5 utility, or any other entity, in fulfilling employment, certification,
6 or licensing duties, Chapter 1321 of the Statutes of 1974 and
7 Section 432.7 of the Labor Code shall apply:
- 8 (1) The courts of the state.
- 9 (2) Peace officers of the state, as defined in Section 830.1,
10 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
11 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and
12 (b) of Section 830.5.
- 13 (3) District attorneys of the state.
- 14 (4) Prosecuting city attorneys or city prosecutors of a city within
15 the state.
- 16 (5) City attorneys pursuing civil gang injunctions pursuant to
17 Section 186.22a, or drug abatement actions pursuant to Section
18 3479 or 3480 of the Civil Code, or Section 11571 of the Health
19 and Safety Code.
- 20 (6) Probation officers of the state.
- 21 (7) Parole officers of the state.
- 22 (8) A public defender or attorney of record when representing
23 a person in proceedings upon a petition for a certificate of
24 rehabilitation and pardon pursuant to Section ~~4852.08~~. 4852.01.
- 25 (9) A public defender or attorney of record when representing
26 a person in a criminal case, or a parole, mandatory supervision
27 pursuant to paragraph (5) of subdivision (h) of Section 1170, or
28 postrelease community supervision revocation or revocation
29 extension proceeding, and if authorized access by statutory or
30 decisional law.
- 31 (10) An agency, officer, or official of the state if the state
32 summary criminal history information is required to implement a
33 statute or regulation that expressly refers to specific criminal
34 conduct applicable to the subject person of the state summary
35 criminal history information, and contains requirements or
36 exclusions, or both, expressly based upon that specified criminal
37 conduct. The agency, officer, or official ~~of the state~~ authorized by
38 this paragraph to receive state summary criminal history
39 information may also transmit fingerprint images and related

1 information to the Department of Justice to be transmitted to the
2 Federal Bureau of Investigation.

3 (11) ~~A city or city~~, county, city and county, district, or an officer
4 or official ~~thereof~~ *thereof*, if access is needed in order to assist that
5 agency, officer, or official in fulfilling employment, certification,
6 or licensing duties, and if the access is specifically authorized by
7 the city council, board of supervisors, or governing board of the
8 city, county, or district if the state summary criminal history
9 information is required to implement a statute, ordinance, or
10 regulation that expressly refers to specific criminal conduct
11 applicable to the subject person of the state summary criminal
12 history information, and contains requirements or exclusions, or
13 both, expressly based upon that specified criminal conduct. The
14 ~~city or city~~, county, city and county, district, or the officer or
15 official thereof authorized by this paragraph may also transmit
16 fingerprint images and related information to the Department of
17 Justice to be transmitted to the Federal Bureau of Investigation.

18 (12) The subject of the state summary criminal history
19 information under procedures established under Article 5
20 (commencing with Section 11120).

21 (13) A person or entity when access is expressly authorized by
22 statute if the criminal history information is required to implement
23 a statute or regulation that expressly refers to specific criminal
24 conduct applicable to the subject person of the state summary
25 criminal history information, and contains requirements or
26 exclusions, or both, expressly based upon that specified criminal
27 conduct.

28 (14) Health officers of a city, county, city and county, or district
29 when in the performance of their official duties enforcing Section
30 120175 of the Health and Safety Code.

31 (15) A managing or supervising correctional officer of a county
32 jail or other county correctional facility.

33 (16) A humane society, or society for the prevention of cruelty
34 to animals, for the specific purpose of complying with Section
35 14502 of the Corporations Code for the appointment of humane
36 officers.

37 (17) Local child support agencies established by Section 17304
38 of the Family Code. When a local child support agency closes a
39 support enforcement case containing state summary criminal
40 history information, the agency shall delete or purge from the file

1 and destroy any documents or information concerning or arising
2 from offenses for or of which the parent has been arrested, charged,
3 or convicted, other than for offenses related to the parent's having
4 failed to provide support for minor children, consistent with the
5 requirements of Section 17531 of the Family Code.

6 (18) County child welfare agency personnel who have been
7 delegated the authority of county probation officers to access state
8 summary criminal history information pursuant to Section 272 of
9 the Welfare and Institutions Code for the purposes specified in
10 Section 16504.5 of the Welfare and Institutions Code. Information
11 from criminal history records provided pursuant to this subdivision
12 shall not be used for a purpose other than those specified in this
13 section and Section 16504.5 of the Welfare and Institutions Code.
14 When an agency obtains records both on the basis of name checks
15 and fingerprint checks, final placement decisions shall be based
16 only on the records obtained pursuant to the fingerprint check.

17 (19) The court of a tribe, or court of a consortium of tribes, that
18 has entered into an agreement with the state pursuant to Section
19 10553.1 of the Welfare and Institutions Code. This information
20 may be used only for the purposes specified in Section 16504.5
21 of the Welfare and Institutions Code and for tribal approval or
22 tribal licensing of foster care or adoptive homes. Article 6
23 (commencing with Section 11140) shall apply to officers, members,
24 and employees of a tribal court receiving state summary criminal
25 history information pursuant to this section.

26 (20) Child welfare agency personnel of a tribe or consortium
27 of tribes that has entered into an agreement with the state pursuant
28 to Section 10553.1 of the Welfare and Institutions Code and to
29 whom the state has delegated duties under paragraph (2) of
30 subdivision (a) of Section 272 of the Welfare and Institutions Code.
31 The purposes for use of the information shall be for the purposes
32 specified in Section 16504.5 of the Welfare and Institutions Code
33 and for tribal approval or tribal licensing of foster care or adoptive
34 homes. When an agency obtains records on the basis of name
35 checks and fingerprint checks, final placement decisions shall be
36 based only on the records obtained pursuant to the fingerprint
37 check. Article 6 (commencing with Section 11140) shall apply to
38 child welfare agency personnel receiving criminal record offender
39 information pursuant to this section.

1 (21) An officer providing conservatorship investigations
2 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
3 Institutions Code.

4 (22) A court investigator providing investigations or reviews
5 in conservatorships pursuant to Section 1826, 1850, 1851, or
6 2250.6 of the Probate Code.

7 (23) A person authorized to conduct a guardianship investigation
8 pursuant to Section 1513 of the Probate Code.

9 (24) A humane officer pursuant to Section 14502 of the
10 Corporations Code for the purposes of performing his or her duties.

11 (25) A public agency described in subdivision (b) of Section
12 15975 of the Government Code, for the purpose of oversight and
13 enforcement policies with respect to its contracted providers.

14 (26) (A) A state entity, or its designee, that receives federal tax
15 information. A state entity or its designee that is authorized by this
16 paragraph to receive state summary criminal history information
17 also may transmit fingerprint images and related information to
18 the Department of Justice to be transmitted to the Federal Bureau
19 of Investigation for the purpose of the state entity or its designee
20 obtaining federal level criminal offender record information from
21 the Department of Justice. This information shall be used only for
22 the purposes set forth in Section 1044 of the Government Code.

23 (B) For purposes of this paragraph, “federal tax information,”
24 “state entity” and “designee” are as defined in paragraphs (1), (2),
25 and (3), respectively, of subdivision (f) of Section 1044 of the
26 Government Code.

27 (c) The Attorney General may furnish state summary criminal
28 history information and, when specifically authorized by this
29 subdivision, federal level criminal history information upon a
30 showing of a compelling need to any of the following, provided
31 that when information is furnished to assist an agency, officer, or
32 official of state or local government, a public utility, or any other
33 entity in fulfilling employment, certification, or licensing duties,
34 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
35 Labor Code shall apply:

36 (1) A public utility, as defined in Section 216 of the Public
37 Utilities Code, that operates a nuclear energy facility when access
38 is needed in order to assist in employing persons to work at the
39 facility, provided that, if the Attorney General supplies the data,

1 he or she shall furnish a copy of the data to the person to whom
2 the data relates.

3 (2) To a peace officer of the state other than those included in
4 subdivision (b).

5 (3) To an illegal dumping enforcement officer as defined in
6 subdivision (j) of Section 830.7.

7 (4) To a peace officer of another country.

8 (5) To ~~a public officers, officer, other than a peace officers,~~
9 ~~officer, of the United States, other states, or possessions or~~
10 ~~territories another state, or a possession or territory of the United~~
11 ~~States, provided that access to records similar to state summary~~
12 ~~criminal history information is expressly authorized by a statute~~
13 ~~of the United States, other states, or possessions or territories the~~
14 ~~other state, or the possession or territory of the United States if~~
15 ~~the information is needed for the performance of their official~~
16 ~~duties.~~

17 (6) To a person ~~when~~ *if* disclosure is requested by a probation,
18 parole, or peace officer with the consent of the subject of the state
19 summary criminal history information and for purposes of
20 furthering the rehabilitation of the subject.

21 (7) The courts of the United States, other states, or territories
22 or possessions of the United States.

23 (8) Peace officers of the United States, other states, or territories
24 or possessions of the United States.

25 (9) To an individual who is the subject of the record requested
26 if needed in conjunction with an application to enter the United
27 States or a foreign nation.

28 (10) (A) (i) A public utility, as defined in Section 216 of the
29 Public Utilities Code, or a cable corporation as defined in
30 subparagraph (B), if receipt of *state summary* criminal history
31 information is needed in order to assist in employing current or
32 prospective employees, contract employees, or subcontract
33 employees who, in the course of their employment, may be seeking
34 entrance to private residences or adjacent grounds. The information
35 provided shall be limited to the record of convictions and arrests
36 for which the person is released on bail or on his or her own
37 recognizance pending trial.

38 (ii) If the Attorney General supplies the data pursuant to this
39 paragraph, the Attorney General shall furnish a copy of the data
40 to the current or prospective employee to whom the data relates.

1 (iii) State summary criminal history information is confidential
2 and the receiving public utility or cable corporation shall not
3 disclose its contents, other than for the purpose for which it was
4 acquired. The state summary criminal history information in the
5 possession of the public utility or cable corporation and all copies
6 made from it shall be destroyed not more than 30 days after
7 employment or promotion or transfer is denied or granted, except
8 for those cases where a current or prospective employee is out on
9 bail or on his or her own recognizance pending trial, in which case
10 the state summary criminal history information and all copies shall
11 be destroyed not more than 30 days after the case is resolved.

12 (iv) A violation of this paragraph is a misdemeanor, and shall
13 give the current or prospective employee who is injured by the
14 violation a cause of action against the public utility or cable
15 corporation to recover damages proximately caused by the
16 violations. A public utility's or cable corporation's request for
17 state summary criminal history information for purposes of
18 employing current or prospective employees who may be seeking
19 entrance to private residences or adjacent grounds in the course
20 of their employment shall be deemed a "compelling need" as
21 required to be shown in this subdivision.

22 (v) This section shall not be construed as imposing a duty upon
23 public utilities or cable corporations to request state summary
24 criminal history information on current or prospective employees.

25 (B) For purposes of this paragraph, "cable corporation" means
26 a corporation or firm that transmits or provides television,
27 computer, or telephone services by cable, digital, fiber optic,
28 satellite, or comparable technology to subscribers for a fee.

29 (C) Requests for federal level criminal history information
30 received by the Department of Justice from entities authorized
31 pursuant to subparagraph (A) shall be forwarded to the Federal
32 Bureau of Investigation by the Department of Justice. Federal level
33 criminal history information received or compiled by the
34 Department of Justice may then be disseminated to the entities
35 referenced in subparagraph (A), as authorized by law.

36 (11) To a campus of the California State University or the
37 University of California, or a four-year college or university
38 accredited by a regional accreditation organization approved by
39 the United States Department of Education, if needed in
40 conjunction with an application for admission by a convicted felon

1 to a special education program for convicted felons, including, but
2 not limited to, university alternatives and halfway houses. Only
3 conviction information shall be furnished. The college or university
4 may require the convicted felon to be fingerprinted, and any inquiry
5 to the department under this section shall include the convicted
6 felon's fingerprints and any other information specified by the
7 department.

8 (12) To a foreign government, if requested by the individual
9 who is the subject of the record requested, if needed in conjunction
10 with the individual's application to adopt a minor child who is a
11 citizen of that foreign nation. Requests for information pursuant
12 to this paragraph shall be in accordance with the process described
13 in Sections 11122 to 11124, inclusive. The response shall be
14 provided to the foreign government or its designee and to the
15 individual who requested the information.

16 (d) ~~Whenever~~ *When* an authorized request for state summary
17 criminal history information pertains to a person whose fingerprints
18 are on file with the Department of Justice and the department has
19 no criminal history of that person, and the information is to be
20 used for employment, licensing, or certification purposes, the
21 fingerprint card accompanying the request for information, if any,
22 may be stamped "no criminal record" and returned to the person
23 or entity making the request.

24 (e) ~~Whenever~~ *When* state summary criminal history information
25 is furnished as the result of an application and is to be used for
26 employment, licensing, or certification purposes, the Department
27 of Justice may charge the person or entity making the request a
28 fee that it determines to be sufficient to reimburse the department
29 for the cost of furnishing the information. In addition, the
30 Department of Justice may add a surcharge to the fee to fund
31 maintenance and improvements to the systems from which the
32 information is obtained. Notwithstanding any other law, a person
33 or entity required to pay a fee to the department for information
34 received under this section may charge the applicant a fee sufficient
35 to reimburse the person or entity for this expense. All moneys
36 received by the department pursuant to this section, Sections
37 11105.3 and 26190, and former Section 13588 of the Education
38 Code shall be deposited in a special account in the General Fund
39 to be available for expenditure by the department to offset costs
40 incurred pursuant to those sections and for maintenance and

1 improvements to the systems from which the information is
2 obtained upon appropriation by the Legislature.

3 (f) Whenever there is a conflict, the processing of criminal
4 fingerprints and fingerprints of applicants for security guard or
5 alarm agent registrations or firearms qualification permits
6 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
7 of the Business and Professions Code shall take priority over the
8 processing of other applicant fingerprints.

9 (g) It is not a violation of this section to disseminate statistical
10 or research information obtained from a record, provided that the
11 identity of the subject of the record is not disclosed.

12 (h) It is not a violation of this section to include information
13 obtained from a record in (1) a transcript or record of a judicial or
14 administrative proceeding or (2) any other public record if the
15 inclusion of the information in the public record is authorized by
16 a court, statute, or decisional law.

17 (i) Notwithstanding any other law, the Department of Justice
18 or a state or local law enforcement agency may require the
19 submission of fingerprints for the purpose of conducting state
20 summary criminal history information checks that are authorized
21 by law.

22 (j) The state summary criminal history information shall include
23 any finding of mental incompetence pursuant to Chapter 6
24 (commencing with Section 1367) of Title 10 of Part 2 arising out
25 of a complaint charging a felony offense specified in Section 290.

26 (k) (1) This subdivision shall apply whenever state or federal
27 summary criminal history information is furnished by the
28 Department of Justice as the result of an application by an
29 authorized agency or organization and the information is to be
30 used for peace officer employment or certification purposes. As
31 used in this subdivision, a peace officer is defined in Chapter 4.5
32 (commencing with Section 830) of Title 3 of Part 2.

33 (2) Notwithstanding any other law, whenever state summary
34 criminal history information is initially furnished pursuant to
35 paragraph (1), the Department of Justice shall disseminate the
36 following information:

37 (A) Every conviction rendered against the applicant.

38 (B) Every arrest for an offense for which the applicant is
39 presently awaiting trial, whether the applicant is incarcerated or

1 has been released on bail or on his or her own recognizance
2 pending trial.

3 (C) Every arrest or detention, except for an arrest or detention
4 resulting in an exoneration, provided, however, that where the
5 records of the Department of Justice do not contain a disposition
6 for the arrest, the Department of Justice first makes a genuine effort
7 to determine the disposition of the arrest.

8 (D) Every successful diversion.

9 (E) Every date and agency name associated with all retained
10 peace officer or nonsworn law enforcement agency employee
11 preemployment criminal offender record information search
12 requests.

13 (F) Sex offender registration status of the applicant.

14 (G) Sentencing information, if present in the department's
15 records at the time of the response.

16 (I) (1) This subdivision shall apply whenever state or federal
17 summary criminal history information is furnished by the
18 Department of Justice as the result of an application by a criminal
19 justice agency or organization as defined in Section 13101, and
20 the information is to be used for criminal justice employment,
21 licensing, or certification purposes.

22 (2) Notwithstanding any other law, whenever state summary
23 criminal history information is initially furnished pursuant to
24 paragraph (1), the Department of Justice shall disseminate the
25 following information:

26 (A) Every conviction rendered against the applicant.

27 (B) Every arrest for an offense for which the applicant is
28 presently awaiting trial, whether the applicant is incarcerated or
29 has been released on bail or on his or her own recognizance
30 pending trial.

31 (C) Every arrest for an offense for which the records of the
32 Department of Justice do not contain a disposition or ~~which~~ *that*
33 did not result in a conviction, provided that the Department of
34 Justice first makes a genuine effort to determine the disposition
35 of the arrest. However, information concerning an arrest shall not
36 be disclosed if the records of the Department of Justice ~~indicate~~
37 *indicate*, or if the genuine effort ~~reveals~~ *reveals*, that the subject
38 was exonerated, successfully completed a diversion or deferred
39 entry of judgment program, or the arrest was deemed a detention,
40 or the subject was granted relief pursuant to Section 851.91.

1 (D) Every date and agency name associated with all retained
2 peace officer or nonsworn law enforcement agency employee
3 preemployment criminal offender record information search
4 requests.

5 (E) Sex offender registration status of the applicant.

6 (F) Sentencing information, if present in the department's
7 records at the time of the response.

8 (m) (1) This subdivision shall apply whenever state or federal
9 summary criminal history information is furnished by the
10 Department of Justice as the result of an application by an
11 authorized agency or organization pursuant to Section 1522,
12 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
13 a statute that incorporates the criteria of any of those sections or
14 this subdivision by reference, and the information is to be used for
15 employment, licensing, or certification purposes.

16 (2) Notwithstanding any other law, whenever state summary
17 criminal history information is initially furnished pursuant to
18 paragraph (1), the Department of Justice shall disseminate the
19 following information:

20 (A) Every conviction of an offense rendered against the
21 applicant, except a conviction for which relief has been granted
22 pursuant to Section ~~1203.49~~: *1203.4, 1203.4a, 1203.41, 1203.42,*
23 *1203.45, 1203.49, or 1170.9.*

24 (B) Every arrest for an offense for which the applicant is
25 presently awaiting trial, whether the applicant is incarcerated or
26 has been released on bail or on his or her own recognizance
27 pending trial.

28 (C) Every arrest for an offense for which the Department of
29 Social Services is required by paragraph (1) of subdivision (a) of
30 Section 1522 of the Health and Safety Code to determine if an
31 applicant has been arrested. However, if the records of the
32 Department of Justice do not contain a disposition for an arrest,
33 the Department of Justice shall first make a genuine effort to
34 determine the disposition of the arrest.

35 (D) Sex offender registration status of the applicant.

36 (E) Sentencing information, if present in the department's
37 records at the time of the response.

38 (3) Notwithstanding the requirements of the sections referenced
39 in paragraph ~~(1)~~ of this subdivision, *(1)*, the Department of Justice
40 shall not disseminate information about an arrest subsequently

1 deemed a detention or an arrest that resulted in the successful
2 completion of a diversion program, exoneration, or a grant of relief
3 pursuant to Section 851.91.

4 (n) (1) This subdivision shall apply whenever state or federal
5 summary criminal history information, to be used for employment,
6 licensing, or certification purposes, is furnished by the Department
7 of Justice as the result of an application by an authorized agency,
8 organization, or individual pursuant to any of the following:

9 (A) Paragraph (10) of subdivision (c), when the information is
10 to be used by a cable corporation.

11 (B) Section 11105.3 or 11105.4.

12 (C) Section 15660 of the Welfare and Institutions Code.

13 (D) A statute that incorporates the criteria of any of the statutory
14 provisions listed in subparagraph (A), (B), or (C), or of this
15 subdivision, by reference.

16 (2) With the exception of applications submitted by
17 transportation companies authorized pursuant to Section 11105.3,
18 and notwithstanding any other law, whenever state summary
19 criminal history information is initially furnished pursuant to
20 paragraph (1), the Department of Justice shall disseminate the
21 following information:

22 (A) Every conviction, except a conviction for which relief has
23 been granted pursuant to Section ~~1203.49~~, 1203.4, 1203.4a,
24 1203.41, 1203.42, 1203.45, 1203.49, or 1170.9, rendered against
25 the applicant for a violation or attempted violation of an offense
26 specified in subdivision (a) of Section 15660 of the Welfare and
27 Institutions Code. However, with the exception of those offenses
28 for which registration is required pursuant to Section 290, the
29 Department of Justice shall not disseminate information pursuant
30 to this subdivision unless the conviction occurred within ~~10~~ seven
31 years of the date of the agency's request for information or the
32 conviction is over ~~10~~ seven years old but the subject of the request
33 was incarcerated *or on probation or parole* within ~~10~~ seven years
34 of the agency's request for information.

35 (B) Every arrest for a violation or attempted violation of an
36 offense specified in subdivision (a) of Section 15660 of the Welfare
37 and Institutions Code for which the applicant is presently awaiting
38 trial, whether the applicant is incarcerated or has been released on
39 bail or on his or her own recognizance pending trial.

40 (C) Sex offender registration status of the applicant.

1 (D) Sentencing information, if present in the department's
2 records at the time of the response.

3 (o) (1) This subdivision shall apply whenever state or federal
4 summary criminal history information is furnished by the
5 Department of Justice as the result of an application by an
6 authorized agency or organization pursuant to Section 379 or 550
7 of the Financial Code, or a statute that incorporates the criteria of
8 either of those sections or this subdivision by reference, and the
9 information is to be used for employment, licensing, or certification
10 purposes.

11 (2) Notwithstanding any other law, whenever state summary
12 criminal history information is initially furnished pursuant to
13 paragraph (1), the Department of Justice shall disseminate the
14 following information:

15 (A) Every conviction rendered against the applicant for a
16 violation or attempted violation of an offense specified in Section
17 550 of the Financial Code, except a conviction for which relief
18 has been granted pursuant to Section ~~1203.49~~, *1203.4*, *1203.4a*,
19 *1203.41*, *1203.42*, *1203.45*, *1203.49*, or *1170.9*.

20 (B) Every arrest for a violation or attempted violation of an
21 offense specified in Section 550 of the Financial Code for which
22 the applicant is presently awaiting trial, whether the applicant is
23 incarcerated or has been released on bail or on his or her own
24 recognizance pending trial.

25 (C) Sentencing information, if present in the department's
26 records at the time of the response.

27 (p) (1) This subdivision shall apply whenever state or federal
28 criminal history information is furnished by the Department of
29 Justice as the result of an application by an agency, organization,
30 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
31 by a transportation company authorized pursuant to Section
32 11105.3, or a statute that incorporates the criteria of that section
33 or this subdivision by reference, and the information is to be used
34 for employment, licensing, or certification purposes.

35 (2) Notwithstanding any other law, whenever state summary
36 criminal history information is initially furnished pursuant to
37 paragraph (1), the Department of Justice shall disseminate the
38 following information:

39 (A) Every conviction rendered against the applicant, except a
40 conviction for which relief has been granted pursuant to Section

1 ~~1203.49. 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.49,~~
2 ~~or 1170.9.~~

3 (B) Every arrest for an offense for which the applicant is
4 presently awaiting trial, whether the applicant is incarcerated or
5 has been released on bail or on his or her own recognizance
6 pending trial.

7 (C) Sex offender registration status of the applicant.

8 (D) Sentencing information, if present in the department's
9 records at the time of the response.

10 (q) All agencies, organizations, or individuals defined in
11 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
12 Department of Justice for subsequent notification pursuant to
13 Section 11105.2. This subdivision shall not supersede sections that
14 mandate an agency, organization, or individual to contract with
15 the Department of Justice for subsequent notification pursuant to
16 Section 11105.2.

17 (r) This section does not require the Department of Justice to
18 cease compliance with any other statutory notification
19 requirements.

20 (s) The provisions of Section 50.12 of Title 28 of the Code of
21 Federal Regulations are to be followed in processing federal
22 criminal history information.

23 (t) Whenever state or federal summary criminal history
24 information is furnished by the Department of Justice as the result
25 of an application by an authorized agency, organization, or
26 individual defined in subdivisions (k) to (p), inclusive, and the
27 information is to be used for employment, licensing, or certification
28 purposes, ~~the authorized agency, organization, or individual shall~~
29 ~~expeditiously furnish a copy of the information to the person to~~
30 ~~whom the information relates if the information is a basis for an~~
31 ~~adverse employment, licensing, or certification decision. When~~
32 ~~furnished other than in person, the copy shall be delivered to the~~
33 ~~last contact information provided by the applicant.~~ *purposes, the*
34 *department shall first furnish a copy of the Criminal Offender*
35 *Record Information (CORI) to the subject of the request. After*
36 *furnishing a copy to the subject, but prior to furnishing a report*
37 *to a third party, the department shall allow the subject a reasonable*
38 *opportunity of not less than five days to challenge the accuracy*
39 *or completeness of any matter contained in the CORI. The*
40 *department shall make the necessary corrections pursuant to*

1 *Section 11126 prior to furnishing the information to the requesting*
2 *agency, organization, or individual.*

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 16, 2018. (JR11)**

O

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1480

AUTHOR: J. Hill

SPONSOR: Senator Hill

VERSION: Amended 08/06/2018

INTRODUCED: 02/16/2018

BILL STATUS: 08/06/2018 – In Assembly:
read second time and
amended. Re-referred to
Assembly Appropriations
Committee.

BILL LOCATION: Assembly
Appropriations
Committee

SUBJECT: Professions and Vocations

**RELATED
BILLS:** SB 546,
AB 1705 (Chapter
669, Statutes of
2017), AB 180
(Chapter 395,
Statutes of 2015)

SUMMARY

This bill requires the various boards under the Department of Consumer Affairs to meet a certain number of times a year. It requires each board to present and vote on any documents planned for submission for a change in spending authority. This bill makes various changes to other healing arts board's practice acts.

ANALYSIS

This bill would affect the Dental Board of California regarding the following sections: Business and Professions Code Sections. 101, 101.7, 109.5, and 328.

Proposed section 101 would amend the departments that are in the Business and Professions code. This amendment would not have an impact on the Dental Board of California.

Proposed section 101.7 would require the boards to meet two times each year: once in Northern California and once in Southern California. This amendment would not impact the Dental Board of California because the Board has a set meeting schedule that exceeds the expectations of the bill.

Proposed section 109.5 is added and would require each board comprising the department to present and vote on, in a public meeting, any concept papers, budget

change proposals, or any other documents planned for submission to the department for a change in spending authority. This section would impact the Dental Board of California because it would not allow enough time to make changes.

Section 328 would require the Division of Investigation to implement Complaint Prioritization Guidelines for boards that will include a category of “allegations of serious harm to a minor” under the “urgent” or “highest priority” level. This bill would not have impact the DBC because the bill does not alter Board-specific legislation and the Board does not utilize the Department of Investigation (DOI).

The remaining amendments and additions affect organizations other than the Dental Board of California.

REGISTERED SUPPORT/OPPOSITION

Support

The Board of Chiropractic Examiners
The Board of Vocational Nursing and Psychiatric Technicians
The California Veterinary Medical Association
The Naturopathic Medicine Committee

Oppose

None received.

STAFF RECOMMENDATION

Send a letter addressing concerns related to the approval of any concept papers, budget change proposals, or any other documents planned for submission to the department for a change in spending authority and the impact it would have on the Board’s operations.

BOARD POSITION:

SUPPORT:_____ OPPOSE:_____ NEUTRAL:_____ WATCH:_____

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JUNE 21, 2018

AMENDED IN ASSEMBLY JUNE 12, 2018

AMENDED IN SENATE MAY 10, 2018

AMENDED IN SENATE APRIL 17, 2018

SENATE BILL

No. 1480

Introduced by Senator Hill

February 16, 2018

An act to amend Sections 101, 101.7, 328, 2064.5, 2065, 2135, 2499.5, 2529.6, 2708, 2715, 2816, 2892.6, 2895, 3047, 3147, 3680, 4008, 4518, 4548, 4604, 4809.7, 4830, 4836.2, ~~4990.06~~, and 11506 of, and to add Sections 109.5, 1007, 2892.7, 4518.1, 4826.4, 4829.5, and 4841.2 to, the Business and Professions Code, to amend Sections 7000, 7103, 8731, 8778.5, 8785, 103775, and 103780 of the Health and Safety Code, and to amend an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners, and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith” approved by voters on November 7, 1922, (the Chiropractic Act) by amending Sections 5 and 12 of the act, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

SB 1480, as amended, Hill. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs, specifies the various boards that comprise the department, and requires the boards to meet at least 3 times a year.

This bill would instead require the boards to meet at least 2 times a year. The bill would require each of the boards comprising the department to present and vote on any documents planned for submission to the department for a change in spending authority.

(2) Existing law requires the Director of Consumer Affairs to implement complaint prioritization guidelines for boards to use in prioritizing their respective complaint and investigative workloads.

This bill would require the director to amend those guidelines to include the category of “allegations of serious harm to a ~~minor~~, *minor*,” as ~~specified.~~ *specified*.

(3) *Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensure and regulation of physicians and surgeons. Existing law prohibits a postgraduate trainee, intern, resident, postdoctoral fellow, or instructor from engaging in the practice of medicine unless he or she holds a valid, unrevoked, and unsuspended physician’s and surgeon’s certificate issued by the board. Existing law provides an exemption to this provision and authorizes a graduate of an approved medical school to engage in the practice of medicine as a part of a postgraduate training program, as specified. Existing law, on and after January 1, 2020, limits to 12 months the practice of medicine, and receipt of compensation for that practice, by a medical school graduate as a part of an approved first-year postgraduate training program. Existing law, on and after January 1, 2020, limits to 27 months the practice of medicine, and receipt of compensation for that practice, by a medical school graduate as a part of an approved residency or fellowship. Existing law, on and after January 1, 2020, requires all privileges and exemptions under these provisions to cease automatically if the resident or fellow fails to receive a license to practice medicine within 27 months from the commencement of the residency or fellowship or if the board denies his or application for licensure. Existing law, on and after January 1, 2020, requires all approved postgraduate training that the medical school graduate has successfully completed in the United States or Canada to count toward the aggregate 39-month license exemption. Existing law, on and after January 1, 2020, requires a medical school graduate to successfully complete a minimum of 36 months of approved postgraduate training*

with at least 24 consecutive months in the same program to be eligible for a California physician's and surgeon's certificate.

This bill would, on and after January 1, 2020, delete the 12-month and 27-month limitations on the license exemptions for medical school graduates in first-year postgraduate training programs and residencies and fellowships, respectively. The bill would, on and after January 1, 2020, authorize the board, upon review of supporting documentation, to grant an extension beyond the 39-month license exemption to a postgraduate training licensee to successfully complete the 36 months of required approved postgraduate training. The bill would, on and after January 1, 2020, require an applicant who has successfully completed 36 months of approved postgraduate training in another state or in Canada and who is accepted into an approved postgraduate training program in California to obtain his or her license within 90 days after beginning the program. The bill would, on and after January 1, 2020, replace the requirement that the 24 months in the postgraduate training program be consecutive with a requirement that there be successful progression through the 24 months.

The bill would, on and after January 1, 2020, require the program director for a postgraduate training program in California to report to the board, on a form approved by the board, and provide any supporting documents as required by the board, specified events regarding a postgraduate trainee's status in the postgraduate program within 30 days of the event.

Existing law requires the board to issue a physician's and surgeon's certificate to an applicant who holds a specified license from another state or a Canadian province or Canadian provinces and who, in addition to meeting other requirements, has satisfactorily completed at least 2 years of approved postgraduate training or has satisfactorily completed at least one year of approved postgraduate training and takes and passes the clinical competency written examination. Existing law, on and after January 1, 2020, revises this provision to, among other things, exclude the applicant from licensure.

This bill instead would continue to include such an applicant who meets the other requirements as revised on and after January 1, 2020.

Existing law establishes various fees in connection with the issuance of licenses under the Medical Practice Act, and requires those fees to be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California, available to the board for specified purposes upon appropriation by the Legislature. Existing law requires

that an applicant for a physician's and surgeon's postgraduate training license be required to pay only 50% of the initial license fee. Existing law requires the applicant to, among other things, pay the reduced licensing fee to be considered for a postgraduate training license.

This bill would instead require the applicant to pay a nonrefundable application and processing fee.

(3)

(4) Existing law regulates the practice of podiatric medicine by the California Board of Podiatric Medicine and prescribes various fees relating to, among others, an application, licensure, and renewal. All revenue received by the board is required to be deposited into the Board of Podiatric Medicine Fund, which is available to the board upon appropriation by the Legislature.

This bill would revise those fee provisions by, among other things, deleting the oral examination fee and increasing, until January 1, 2021, the amount of the biennial renewal fee.

(4)

(5) Existing law, the Nursing Practice Act, regulates the practice of nursing by the Board of Registered Nursing, and authorizes the board to appoint an executive officer and employ personnel, including legal counsel.

This bill would authorize the executive officer to adopt a decision entered by default and a stipulation for surrender of a license. The bill would require the board to directly employ legal counsel to work exclusively for and report directly to the board if the board makes a specified finding.

Existing law establishes various fees in connection with the issuance of licenses under the act, and requires those fees to be deposited in the Board of Registered Nursing Fund, available to the board upon appropriation by the Legislature. Existing law establishes that the fee paid by a registered nurse for an evaluation of his or her qualifications to use the title "public health nurse" shall be not less than \$500 or more than \$1,500.

This bill would instead establish a fee for that purpose of not less than \$300 or more than \$1,000, would establish a penalty for failure to renew a certificate to practice as a public health nurse within the prescribed time, and would require the Board of Registered Nursing to reimburse any registered nurse who paid more than \$300 for an evaluation between April 5, 2018, and December 31, 2018.

(5)

(6) Existing law, the Vocational Nursing Practice Act, provides for the regulation of vocational nurses by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, establishes the Vocational Nursing and Psychiatric Technician Fund, and makes those funds available to the board upon appropriation by the Legislature. Existing law prescribes various fees in connection with the issuance of licenses under the act and requires the board to collect a biennial fee not to exceed \$200 from a continuing education course provider.

This bill would instead require the board to collect an initial approval and a biennial renewal fee of \$150 unless a higher fee, not to exceed \$250, is established by the board. The bill would also require the board to collect an initial approval and a biennial renewal fee of \$150, unless a higher fee, not to exceed \$250, is established by the board, from any provider of a course in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal. The bill would revise the fees and fee amounts to be assessed under the act, including, but not limited to, application, examination, and renewal fees.

~~(6)~~

(7) Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. Existing law authorizes a person to renew an expired optometrist license by paying specified fees and filing a form prescribed by the board. Existing law, commencing July 1, 2018, requires the board to charge an applicant for licensure a fee of \$2, and an applicant for renewal a fee of \$4, for purposes of developing an interface with the National Practitioner Data Bank.

This bill would also authorize the renewal of expired statements of licensure, branch office licenses, and fictitious name permits by filing an application for renewal and paying renewal and delinquency fees prescribed by the board, and would make the ~~Nurse~~ *National Practitioner Data Bank* fee \$4 for both licensure and renewal applicants.

~~(7)~~

(8) Existing law, the Naturopathic Doctors Act, provides for the regulation of the practice of naturopathic medicine by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law establishes various fees in connection with the issuance of a license to practice naturopathic medicine, which are deposited in the Naturopathic Doctor's Fund and are available to the committee upon appropriation by the Legislature.

This bill would revise those provisions by, among other things, increasing the application, initial licensing, and renewal fees, and establishing a fee for a certified license verification.

(8)

(9) Existing law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and authorizes the board to employ legal counsel. ~~Existing law establishes the Board of Behavioral Sciences to license and regulate certain healing arts practitioners and authorizes the board to employ personnel as it deems necessary.~~

This bill would require the California State Board of Pharmacy ~~and the Board of Behavioral Sciences~~ to directly employ legal counsel who works exclusively for, and directly reports to, ~~those boards,~~ *the board*, as specified.

(10) *Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status. Existing law requires the board to revoke the exemption from licensure of any person who has been required to register as a sex offender, as specified. Existing law makes this provision inoperative on and after January 1, 2019.*

This bill would instead make that provision inoperative on and after January 1, 2022.

(9)

(11) Existing law provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, and authorizes the board, if it adopts a continuing education program, to collect a fee from continuing education course providers. Existing law also prescribes various fees in connection with the issuance of a psychiatric technician license.

This bill would instead require the board, if it adopts a continuing education or blood withdrawal program, to collect an initial approval and a biennial renewal fee from a provider of a course in continuing education or blood withdrawal, as specified. The bill would also revise the fees and fee amounts required for licensure as a psychiatric technician.

(10)

(12) Existing law, the Massage Therapy Act, provides for the certification and regulation of massage therapists by the California Massage Therapy Council and requires an applicant for certification as a massage therapist to pass a massage and bodywork competency assessment examination.

This bill would make that examination requirement inoperative from January 1, 2019, until January 1, 2021.

(11)

(13) The Veterinary Medicine Practice Act regulates the practice of veterinary medicine by the Veterinary Medical Board and makes a violation of its provisions a crime. Existing law separately provides immunity from liability to a veterinarian or registered veterinary technician who renders services during certain states of emergency.

This bill would authorize a California-licensed veterinarian at a registered premises located within a 25-mile radius of any declared condition of emergency to, in good faith, provide veterinary services without establishing a veterinarian-client-patient relationship and dispense or prescribe a dangerous drug or device where failure to provide services or medications may result in loss of life or intense suffering. The bill would provide immunity from liability for a veterinarian providing those services.

Existing law excludes specified persons from the provisions regulating the practice of veterinary medicine, including veterinary medicine students in 2 specified schools of veterinary medicine who participate in diagnosis and treatment, as specified.

This bill would instead exclude students from any veterinary medical program accredited by the American Veterinary Medical Association Council on Education who participate in diagnosis or treatment with direct supervision, or surgery with immediate supervision, subject to specified conditions.

Existing law provides for a veterinary assistant controlled substance permit issued by the Veterinary Medical Board to qualified applicants and authorizes the board to deny, revoke, or suspend a veterinary assistant controlled substance permit for specified reasons.

This bill would add to ~~those~~ *the* list of reasons the conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, veterinary surgery, or veterinary dentistry. The bill would also authorize the board, in addition to denial, revocation, or suspension, to issue a probationary veterinary assistant controlled substance permit.

The bill would prohibit a graduate of a veterinary college from performing animal health care tasks otherwise performed by a registered veterinary technician, except as specified, and would require a veterinarian to offer a consultation to the client each time he or she initially prescribes, dispenses, or furnishes a dangerous drug, as defined, to an animal patient in an outpatient setting. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

Existing law requires the Veterinary Medical Board to establish a regular inspection program, and provides that the board is required to make every effort to inspect at least 20% of veterinary premises annually.

This bill would instead require the board to inspect at least 20% of veterinary premises annually.

~~(12)~~

(14) Existing law requires a person to meet specified requirements in order to use the title “certified common interest development manager,” and requires a certified common interest development manager to make specified disclosures to the board of directors of a common interest development before providing services to the common interest development. Existing law repeals those provisions governing certified common interest development managers on January 1, 2019.

This bill would delete the repeal provision, thereby extending those provisions indefinitely.

~~(13)~~

(15) Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners, which is composed of 7 members appointed by the Governor, and establishes an application fee of not more than \$100 and, on and after January 1, 2019, a renewal fee of \$250. Existing law authorizes the Legislature to fix the amounts of the fees payable by applicants and licensees, and directs the deposit of these fees into the State Board of Chiropractic Examiners’ Fund, a continuously appropriated fund.

This bill would delete the provisions providing for the application and renewal fees and would instead establish a schedule of regulatory fees necessary to carry out the responsibilities required by the Chiropractic Initiative Act, including, among others, application and renewal fees for licensure, fees to apply for approval for a continuing education course, and satellite office certificate fees. By increasing

specified fees and establishing new fees for deposit into a continuously appropriated fund, the bill would make an appropriation.

~~(14)~~

(16) The bill would make technical changes to various provisions of the Business and Professions Code. The bill would also make technical changes to various provisions of the Health and Safety Code by eliminating cross-references to obsolete provisions governing cemeteries.

~~(15) The~~

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

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

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 101 of the Business and Professions
2 Code, as added by Section 4 of Chapter 828 of the Statutes of
3 2017, is amended to read:

- 4 101. The department is comprised of the following:
- 5 (a) The Dental Board of California.
- 6 (b) The Medical Board of California.
- 7 (c) The State Board of Optometry.
- 8 (d) The California State Board of Pharmacy.
- 9 (e) The Veterinary Medical Board.
- 10 (f) The California Board of Accountancy.
- 11 (g) The California Architects Board.
- 12 (h) The State Board of Barbering and Cosmetology.
- 13 (i) The Board for Professional Engineers, Land Surveyors, and
14 Geologists.
- 15 (j) The Contractors' State License Board.
- 16 (k) The Bureau for Private Postsecondary Education.
- 17 (l) The Bureau of Electronic and Appliance Repair, Home
18 Furnishings, and Thermal Insulation.
- 19 (m) The Board of Registered Nursing.
- 20 (n) The Board of Behavioral Sciences.
- 21 (o) The State Athletic Commission.

- 1 (p) The Cemetery and Funeral Bureau.
2 (q) The Bureau of Security and Investigative Services.
3 (r) The Court Reporters Board of California.
4 (s) The Board of Vocational Nursing and Psychiatric
5 Technicians.
6 (t) The Landscape Architects Technical Committee.
7 (u) The Division of Investigation.
8 (v) The Bureau of Automotive Repair.
9 (w) The Respiratory Care Board of California.
10 (x) The Acupuncture Board.
11 (y) The Board of Psychology.
12 (z) The California Board of Podiatric Medicine.
13 (aa) The Physical Therapy Board of California.
14 (ab) The Arbitration Review Program.
15 (ac) The Physician Assistant Committee.
16 (ad) The Speech-Language Pathology and Audiology and
17 Hearing Aid Dispensers Board.
18 (ae) The California Board of Occupational Therapy.
19 (af) The Osteopathic Medical Board of California.
20 (ag) The Naturopathic Medicine Committee.
21 (ah) The Dental Hygiene Committee of California.
22 (ai) The Professional Fiduciaries Bureau.
23 (aj) The State Board of Chiropractic Examiners.
24 (ak) The Bureau of Real Estate Appraisers.
25 (al) The Structural Pest Control Board.
26 (am) The Bureau of Cannabis Control.
27 (an) Any other boards, offices, or officers subject to its
28 jurisdiction by law.
29 (ao) This section shall become operative on July 1, 2018.
30 SEC. 2. Section 101.7 of the Business and Professions Code
31 is amended to read:
32 101.7. (a) Notwithstanding any other provision of law, boards
33 shall meet at least two times each calendar year. Boards shall meet
34 at least once each calendar year in northern California and once
35 each calendar year in southern California in order to facilitate
36 participation by the public and its licensees.
37 (b) The director at his or her discretion may exempt any board
38 from the requirement in subdivision (a) upon a showing of good
39 cause that the board is not able to meet at least two times in a
40 calendar year.

1 (c) The director may call for a special meeting of the board
2 when a board is not fulfilling its duties.

3 (d) An agency within the department that is required to provide
4 a written notice pursuant to subdivision (a) of Section 11125 of
5 the Government Code, may provide that notice by regular mail,
6 email, or by both regular mail and email. An agency shall give a
7 person who requests a notice the option of receiving the notice by
8 regular mail, email, or by both regular mail and email. The agency
9 shall comply with the requester’s chosen form or forms of notice.

10 (e) An agency that plans to Web cast a meeting shall include in
11 the meeting notice required pursuant to subdivision (a) of Section
12 11125 of the Government Code a statement of the board’s intent
13 to Web cast the meeting. An agency may Web cast a meeting even
14 if the agency fails to include that statement of intent in the notice.

15 SEC. 3. Section 109.5 is added to the Business and Professions
16 Code, to read:

17 109.5. Each board comprising the department shall present and
18 vote on, in a public meeting, any concept papers, budget change
19 proposals, or any other documents planned for submission to the
20 department for a change in spending authority.

21 SEC. 4. Section 328 of the Business and Professions Code is
22 amended to read:

23 328. (a) In order to implement the Consumer Protection
24 Enforcement Initiative of 2010, the director, through the Division
25 of Investigation, shall implement “Complaint Prioritization
26 Guidelines” for boards to utilize in prioritizing their respective
27 complaint and investigative workloads. The guidelines shall be
28 used to determine the referral of complaints to the division and
29 those that are retained by the health care boards for investigation.

30 (b) Neither the Medical Board of California nor the California
31 Board of Podiatric Medicine shall be required to utilize the
32 guidelines implemented pursuant to subdivision (a).

33 (c) On or before July 1, 2019, the director shall amend the
34 guidelines implemented pursuant to subdivision (a) to include the
35 category of “allegations of serious harm to a minor” under the
36 “urgent” or “highest priority” level.

37 SEC. 5. Section 1007 is added to the Business and Professions
38 Code, to read:

39 1007. Notwithstanding any other law, the amount of regulatory
40 fees necessary to carry out the responsibilities required by the

- 1 Chiropractic Initiative Act and this chapter are fixed in the
2 following schedule:
- 3 (a) Fee to apply for a license to practice chiropractic: three
4 hundred seventy-one dollars (\$371).
- 5 (b) Fee for initial license to practice chiropractic: one hundred
6 eighty-six dollars (\$186).
- 7 (c) Fee to renew an active or inactive license to practice
8 chiropractic: three hundred thirteen dollars (\$313).
- 9 (d) Fee to apply for approval as a continuing education provider:
10 eighty-four dollars (\$84).
- 11 (e) Biennial continuing education provider renewal fee: fifty-six
12 dollars (\$56).
- 13 (f) Fee to apply for approval of a continuing education course:
14 fifty-six dollars (\$56) per course.
- 15 (g) Fee to apply for a satellite office certificate: sixty-two dollars
16 (\$62).
- 17 (h) Fee to renew a satellite office certificate: thirty-one dollars
18 (\$31).
- 19 (i) Fee to apply for a license to practice chiropractic pursuant
20 to Section 9 of the Chiropractic Initiative Act: three hundred
21 seventy-one dollars (\$371).
- 22 (j) Fee to apply for a certificate of registration of a chiropractic
23 corporation: one hundred eighty-six dollars (\$186).
- 24 (k) Fee to renew a certificate of registration of a chiropractic
25 corporation: thirty-one dollars (\$31).
- 26 (l) Fee to file a chiropractic corporation special report: thirty-one
27 dollars (\$31).
- 28 (m) Fee to apply for approval as a referral service: five hundred
29 fifty-seven dollars (\$557).
- 30 (n) Fee for an endorsed verification of licensure: one hundred
31 twenty-four dollars (\$124).
- 32 (o) Fee for replacement of a lost or destroyed license: fifty
33 dollars (\$50).
- 34 (p) Fee for replacement of a satellite office certificate: fifty
35 dollars (\$50).
- 36 (q) Fee for replacement of a certificate of registration of a
37 chiropractic corporation: fifty dollars (\$50).
- 38 (r) Fee to restore a forfeited or canceled license to practice
39 chiropractic: double the annual renewal fee specified in subdivision
40 (c).

1 (s) Fee to apply for approval to serve as a preceptor: thirty-one
2 dollars (\$31).

3 (t) Fee to petition for reinstatement of a revoked license: three
4 hundred seventy-one dollars (\$371).

5 (u) Fee to petition for early termination of probation: three
6 hundred seventy-one dollars (\$371).

7 (v) Fee to petition for reduction of penalty: three hundred
8 seventy-one dollars (\$371).

9 *SEC. 6. Section 2064.5 of the Business and Professions Code*
10 *is amended to read:*

11 2064.5. (a) Within 180 days after enrollment in a
12 board-approved postgraduate training program pursuant to Section
13 2065, medical school graduates shall obtain a physician's and
14 surgeon's postgraduate training license. To be considered for a
15 postgraduate training license, the applicant shall submit the
16 application forms and primary source documents required by the
17 board, shall successfully pass all required licensing examinations,
18 ~~shall pay the reduced licensing fee,~~ *shall pay a nonrefundable*
19 *application and processing fee,* and shall not have committed any
20 act that would be grounds for denial.

21 (1) Each application submitted pursuant to this section shall be
22 made upon a form provided by the board, and each application
23 form shall contain a legal verification to be signed by the applicant
24 verifying under penalty of perjury that the information provided
25 by the applicant is true and correct and that any information in
26 supporting documents provided by the applicant is true and correct.

27 (2) Each application shall include the following:

28 (A) A diploma issued by a board-approved medical school. The
29 requirements of the school shall not have been less than those
30 required under this chapter at the time the diploma was granted or
31 by any preceding medical practice act at the time that the diploma
32 was granted. In lieu of a diploma, the applicant may submit
33 evidence satisfactory to the board of having possessed the same.

34 (B) An official transcript or other official evidence satisfactory
35 to the board showing each approved medical school in which a
36 resident course of professional instruction was pursued covering
37 the minimum requirements for certification as a physician and
38 surgeon, and that a diploma and degree were granted by the school.

1 (C) Other information concerning the professional instruction
2 and preliminary education of the applicant as the board may
3 require.

4 (D) An affidavit showing to the satisfaction of the board that
5 the applicant is the person named in each diploma and transcript
6 that he or she submits, that he or she is the lawful holder thereof,
7 and that the diploma or transcript was procured in the regular
8 course of professional instruction and examination without fraud
9 or misrepresentation.

10 (E) Either fingerprint cards or a copy of a completed Live Scan
11 form from the applicant in order to establish the identity of the
12 applicant and in order to determine whether the applicant has a
13 record of any criminal convictions in this state or in any other
14 jurisdiction, including foreign countries. The information obtained
15 as a result of the fingerprinting of the applicant shall be used in
16 accordance with Section 11105 of the Penal Code, and to determine
17 whether the applicant is subject to denial of licensure under the
18 provisions of Division 1.5 (commencing with Section 475) and
19 Section 2221 of this code.

20 (F) If the medical school graduate graduated from a foreign
21 medical school approved by the board pursuant to Section 2084,
22 an official Educational Commission for Foreign Medical Graduates
23 (ECFMG) Certification Status Report confirming the graduate is
24 ECFMG certified.

25 (b) The physician's and surgeon's postgraduate training license
26 shall be valid until 90 days after the holder has successfully
27 completed 36 months of board-approved postgraduate training.
28 The physician's and surgeon's postgraduate training licensee may
29 engage in the practice of medicine only in connection with his or
30 her duties as an intern or resident physician in a board-approved
31 program, including its affiliated sites, or under those conditions
32 as are approved in writing and maintained in the postgraduate
33 training licensee's file by the director of his or her program.

34 (c) The postgraduate training licensee may engage in the practice
35 of medicine in locations authorized by subdivision (b), and as
36 permitted by the Medical Practice Act and other applicable statutes
37 and regulations, including, but not limited to, the following:

38 (1) Diagnose and treat patients.

39 (2) Prescribe medications without a cosigner, including
40 prescriptions for controlled substances, if the training licensee has

1 the appropriate Drug Enforcement Agency registration/permit and
2 is registered with the Department of Justice CURES program.

3 (3) Sign birth certificates without a cosigner.

4 (4) Sign death certificates without a cosigner.

5 (d) The postgraduate training licensee may be disciplined by
6 the board at any time for any of the grounds that would subject
7 the holder of a physician's and surgeon's certificate to discipline.

8 (e) If the medical school graduate fails to obtain a postgraduate
9 training license within 180 days after enrollment in a
10 board-approved postgraduate training program or if the board
11 denies his or her application for a postgraduate training license,
12 all privileges and exemptions under this section shall automatically
13 cease.

14 (f) Each medical school graduate enrolled in a board-approved
15 postgraduate training program on January 1, 2020, shall apply for
16 and obtain a postgraduate training license by June 30, 2020, in
17 order to continue in postgraduate training pursuant to Section 2065.

18 (g) Each medical school graduate who was issued a postgraduate
19 training authorization letter by the board prior to January 1, 2020,
20 and is enrolled in a board-approved postgraduate training program
21 by April 30, 2025, will be issued a postgraduate training license
22 automatically by June 30, 2020, or by June 30 of the year following
23 initial enrollment into a board-approved postgraduate training
24 program, whichever is earlier, upon proof of enrollment in the
25 postgraduate training program.

26 (h) The board shall confidentially destroy the file of each
27 medical school graduate who was issued a postgraduate training
28 authorization letter by the board prior to January 1, 2020, who did
29 not enroll in a postgraduate training program by April 30, 2025.

30 (i) This section shall become operative on January 1, 2020.

31 *SEC. 7. Section 2065 of the Business and Professions Code,*
32 *as added by Section 29 of Chapter 775 of the Statutes of 2017, is*
33 *amended to read:*

34 2065. (a) Unless otherwise provided by law, no postgraduate
35 trainee, intern, resident, postdoctoral fellow, or instructor may
36 engage in the practice of medicine, or receive compensation
37 therefor, or offer to engage in the practice of medicine unless he
38 or she holds a valid, unrevoked, and unsuspended physician's and
39 surgeon's certificate issued by the board. However, a graduate of
40 an approved medical school may engage in the practice of medicine

1 whenever and wherever required as a part of a postgraduate training
2 program under the following conditions:

3 (1) The medical school graduate has taken and passed the
4 board-approved medical licensing examinations required to qualify
5 the applicant to participate in an approved postgraduate training
6 program.

7 (2) If the medical school graduate graduated from a foreign
8 medical school approved by the board pursuant to Section 2084,
9 the Educational Commission for Foreign Medical Graduates
10 (ECFMG) has submitted an official ECFMG Certification Status
11 Report directly to the board confirming the graduate is ECFMG
12 certified.

13 (3) The medical school graduate is enrolled in a postgraduate
14 training program approved by the board.

15 (4) The board-approved postgraduate training program has
16 submitted the required board-approved form to the board
17 documenting the medical school graduate is enrolled in an
18 approved postgraduate training program.

19 (5) The medical school graduate obtains a physician's and
20 surgeon's postgraduate training license in accordance with Section
21 2064.5.

22 (b) A medical school graduate enrolled in an approved first-year
23 postgraduate training program in accordance with this section may
24 engage in the practice of medicine whenever and wherever required
25 as a part of the training program, and may receive compensation
26 for that ~~practice not to exceed 12 months.~~ *practice.*

27 (c) A graduate who has completed the first year of postgraduate
28 training may, in an approved residency or fellowship, engage in
29 the practice of medicine whenever and wherever required as part
30 of that residency or fellowship, and may receive compensation for
31 that ~~practice not to exceed 27 months.~~ *practice.* The resident or
32 fellow shall qualify for, take, and pass the next succeeding written
33 examination for licensure. If the resident or fellow fails to receive
34 a license to practice medicine under this chapter within 27 months
35 from the commencement of the residency or ~~fellowship~~ *fellowship*,
36 *except as otherwise allowed under subdivisions (g) or (h)*, or if
37 the board denies his or her application for licensure, all privileges
38 and exemptions under this section shall automatically cease.

39 (d) All approved postgraduate training the medical school
40 graduate has successfully completed in the United States or Canada

1 shall count toward the 39-month license ~~exemption~~. *exemption,*
2 *except as otherwise allowed under subdivision (h).*

3 (e) A medical school graduate from a medical school approved
4 by the board shall have successfully completed a minimum of 36
5 months of approved postgraduate ~~training with at least 24~~
6 ~~consecutive~~ *training, which includes successful progression*
7 *through 24 months in the same program, to be eligible for a*
8 *California physician's and surgeon's certificate.*

9 (f) *The program director for an approved postgraduate training*
10 *program in California shall report to the board, on a form*
11 *approved by the board, and provide any supporting documents as*
12 *required by the board, the following actions within 30 days of the*
13 *action:*

14 (1) *A postgraduate trainee is notified that he or she has received*
15 *partial or no credit for a period of postgraduate training, and his*
16 *or her postgraduate training period is extended.*

17 (2) *A postgraduate trainee takes a leave of absence or any break*
18 *from his or her postgraduate training, and he or she is notified*
19 *that his or her postgraduate training period is extended.*

20 (3) *A postgraduate trainee is terminated from the postgraduate*
21 *training program.*

22 (4) *A postgraduate trainee resigns, dies, or otherwise leaves*
23 *the postgraduate training program.*

24 (5) *A postgraduate trainee has completed a one-year contract*
25 *approved by the postgraduate training program.*

26 (g) *Upon review of supporting documentation, the board, in its*
27 *discretion, may grant an extension beyond 39 months to a*
28 *postgraduate training licensee to successfully complete the 36*
29 *months of required approved postgraduate training.*

30 (h) *An applicant for a physician's and surgeon's license who*
31 *has successfully completed 36 months of approved postgraduate*
32 *training in another state or in Canada and who is accepted into*
33 *an approved postgraduate training in another state or in Canada*
34 *and who is accepted into an approved postgraduate training*
35 *program in California shall obtain his or her physician's and*
36 *surgeon's license within 90 days after beginning that postgraduate*
37 *training program or all privileges and exemptions under this*
38 *section shall automatically cease.*

39 (f)

40 (i) This section shall become operative on January 1, 2020.

1 *SEC. 8. Section 2135 of the Business and Professions Code,*
2 *as added by Section 64 of Chapter 775 of the Statutes of 2017, is*
3 *amended to read:*

4 2135. The board shall issue a physician and surgeon's
5 certificate to an applicant who meets all of the following
6 requirements:

7 (a) The applicant holds an unlimited license as a physician and
8 surgeon in another state or states, or in a Canadian province or
9 Canadian provinces, which was issued upon:

10 (1) Successful completion of a resident course of professional
11 instruction leading to a degree of medical doctor from a
12 board-approved medical school pursuant to Section 2084.

13 (2) Taking and passing a written examination that is recognized
14 by the board to be equivalent in content to that administered in
15 California.

16 (b) The applicant has held an unrestricted license to practice
17 medicine, in a state or states, in a Canadian province or Canadian
18 provinces, or as a member of the active military, United States
19 Public Health Services, or other federal program, for a period of
20 at least four years. Any time spent by the applicant in an approved
21 postgraduate training program or clinical fellowship acceptable to
22 the board shall not be included in the calculation of this four-year
23 period.

24 (c) The board determines that no disciplinary action has been
25 taken against the applicant by any medical licensing authority and
26 that the applicant has not been the subject of adverse judgments
27 or settlements resulting from the practice of medicine that the
28 board determines constitutes evidence of a pattern of negligence
29 or incompetence.

30 (d) The applicant *(1)* has satisfactorily completed at least one
31 year of approved postgraduate training and is certified by a
32 specialty board approved by the American Board of Medical
33 Specialties or approved by the board pursuant to subdivision (h)
34 of ~~Section 654~~ 651, *(2) has satisfactorily completed at least two*
35 *years of approved postgraduate training, or (3) has satisfactorily*
36 *completed at least one year of approved postgraduate training*
37 *and takes and passes the clinical competency written examination.*

38 (e) The applicant has not committed any acts or crimes
39 constituting grounds for denial of a certificate under Division 1.5

1 (commencing with Section 475) or Article 12 (commencing with
2 Section 2220).

3 (f) Any application received from an applicant who has held an
4 unrestricted license to practice medicine, in a state or states, or
5 Canadian province or Canadian provinces, or as a member of the
6 active military, United States Public Health Services, or other
7 federal program for four or more years shall be reviewed and
8 processed pursuant to this section. Any time spent by the applicant
9 in an approved postgraduate training program or clinical fellowship
10 acceptable to the board shall not be included in the calculation of
11 this four-year period. This subdivision does not apply to
12 applications that may be reviewed and processed pursuant to
13 Section 2151.

14 (g) This section shall become operative on January 1, 2020.

15 ~~SEC. 6.~~

16 *SEC. 9.* Section 2499.5 of the Business and Professions Code
17 is amended to read:

18 2499.5. The following fees apply to certificates to practice
19 podiatric medicine. The amount of fees prescribed for doctors of
20 podiatric medicine shall be determined by the board and shall be
21 as described below. Fees collected pursuant to this section shall
22 be fixed by the board in amounts not to exceed the actual costs of
23 providing the service for which the fee is collected.

24 (a) Each applicant for a certificate to practice podiatric medicine
25 shall pay an application fee of one hundred dollars (\$100) at the
26 time the application is filed. If the applicant qualifies for a
27 certificate, he or she shall pay a fee of one hundred dollars (\$100).

28 (b) Each applicant who qualifies for a certificate, as a condition
29 precedent to its issuance, in addition to other fees required by this
30 section, shall pay an initial license fee. The initial license fee shall
31 be eight hundred dollars (\$800). The initial license shall expire
32 the second year after its issuance on the last day of the month of
33 birth of the licensee. The board may reduce the initial license fee
34 by up to 50 percent of the amount of the fee for any applicant who
35 is enrolled in a postgraduate training program approved by the
36 board or who has completed a postgraduate training program
37 approved by the board within six months prior to the payment of
38 the initial license fee.

39 (c) Before January 1, 2021, the biennial renewal fee shall be
40 one thousand one hundred dollars (\$1,100). Any licensee enrolled

1 in an approved residency program shall be required to pay only
2 50 percent of the biennial renewal fee at the time of his or her first
3 renewal.

4 (d) On and after January 1, 2021, the biennial renewal fee shall
5 be nine hundred dollars (\$900). Any licensee enrolled in an
6 approved residency program shall be required to pay only 50
7 percent of the biennial renewal fee at the time of his or her first
8 renewal.

9 (e) The delinquency fee shall be one hundred fifty dollars
10 (\$150).

11 (f) The duplicate wall certificate fee shall be one hundred dollars
12 (\$100).

13 (g) The duplicate renewal receipt fee shall be fifty dollars (\$50).

14 (h) The endorsement fee shall be thirty dollars (\$30).

15 (i) The letter of good standing fee or for loan deferment shall
16 be one hundred dollars (\$100).

17 (j) There shall be a fee of one hundred dollars (\$100) for the
18 issuance of a resident's license under Section 2475.

19 (k) The fee for approval of a continuing education course or
20 program shall be two hundred fifty dollars (\$250).

21 *SEC. 10. Section 2529.6 of the Business and Professions Code*
22 *is amended to read:*

23 2529.6. (a) Except as provided in subdivisions (b) and (c), the
24 board shall revoke the registration of any person who has been
25 required to register as a sex offender pursuant to Section 290 of
26 the Penal Code for conduct that occurred on or after January 1,
27 2017.

28 (b) This section shall not apply to a person who is required to
29 register as a sex offender pursuant to Section 290 of the Penal
30 Code solely because of a misdemeanor conviction under Section
31 314 of the Penal Code.

32 (c) This section shall not apply to a person who has been relieved
33 under Section 290.5 of the Penal Code of his or her duty to register
34 as a sex offender, or whose duty to register has otherwise been
35 formally terminated under California law.

36 (d) A proceeding to revoke a registration pursuant to this section
37 shall be conducted in accordance with Chapter 5 (commencing
38 with Section 11500) of Part 1 of Division 3 of Title 2 of the
39 Government Code.

1 (e) This section shall become inoperative on January 1, ~~2019,~~
2 2022, and shall be repealed as of that date.

3 ~~SEC. 7.~~

4 *SEC. 11.* Section 2708 of the Business and Professions Code
5 is amended to read:

6 2708. (a) The board shall appoint an executive officer who
7 shall perform the duties delegated by the board and who shall be
8 responsible to it for the accomplishment of those duties.

9 (b) The executive officer shall be a nurse currently licensed
10 under this chapter and shall possess other qualifications as
11 determined by the board.

12 (c) The executive officer shall not be a member of the board.

13 (d) The executive ~~director~~ *officer* is authorized to adopt a
14 decision entered by default and a stipulation for surrender of a
15 license.

16 (e) This section shall remain in effect only until January 1, 2022,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before January 1, 2022, deletes or extends that date.

19 ~~SEC. 8.~~

20 *SEC. 12.* Section 2715 of the Business and Professions Code
21 is amended to read:

22 2715. (a) The board shall prosecute all persons guilty of
23 violating this chapter.

24 (b) Except as provided by Section 159.5, the board, in
25 accordance with the Civil Service Law, may employ personnel as
26 it deems necessary to carry into effect this chapter. The board shall
27 directly employ legal counsel, who shall work exclusively for, and
28 report directly to, the board upon a finding by the board that
29 directly employing legal counsel will further the board's mission.

30 (c) The board shall have and use a seal bearing the name "Board
31 of Registered Nursing." The board may adopt, amend, or repeal,
32 in accordance with the Administrative Procedure Act (Chapter 3.5
33 (commencing with Section 11340) of Part 1 of Division 3 of Title
34 2 of the Government Code), the rules and regulations that may be
35 reasonably necessary to enable it to carry into effect this chapter.

36 ~~SEC. 9.~~

37 *SEC. 13.* Section 2816 of the Business and Professions Code
38 is amended to read:

39 2816. The nonrefundable fee to be paid by a registered nurse
40 for an evaluation of his or her qualifications to use the title "public

1 health nurse” shall not be less than three hundred dollars (\$300)
2 or more than one thousand dollars (\$1,000). The fee to be paid
3 upon the application for renewal of the certificate to practice as a
4 public health nurse shall not be less than one hundred twenty-five
5 dollars (\$125) and not more than five hundred dollars (\$500). The
6 penalty fee for failure to renew a certificate to practice as a public
7 health nurse within the prescribed time shall be 50 percent of the
8 renewal fee in effect on the date of renewal of the certificate, but
9 not less than sixty-two dollars and fifty cents (\$62.50), and not
10 more than two hundred fifty dollars (\$250). All fees payable under
11 this section shall be collected by and paid to the Board of
12 Registered Nursing Fund. It is the intention of the Legislature that
13 the costs of carrying out the purposes of this article shall be covered
14 by the revenue collected pursuant to this section. The board shall
15 refund any registered nurse who paid more than three hundred
16 dollars (\$300) for an evaluation of his or her qualifications to use
17 the title “public health nurse” between April 5, 2018, and December
18 31, 2018.

19 ~~SEC. 10.~~

20 *SEC. 14.* Section 2892.6 of the Business and Professions Code
21 is amended to read:

22 2892.6. The board shall collect an initial approval fee and a
23 biennial renewal fee of one hundred fifty dollars (\$150) unless a
24 higher fee, not to exceed two hundred fifty dollars (\$250), is
25 established by the board, from any provider of a course in
26 continuing education who requests approval by the board of such
27 course for purposes of continuing education requirements under
28 this chapter. That fee, however, shall in no event exceed that cost
29 required for the board to administer the approval of continuing
30 education courses by continuing education providers.

31 ~~SEC. 11.~~

32 *SEC. 15.* Section 2892.7 is added to the Business and
33 Professions Code, to read:

34 2892.7. The board shall collect an initial approval and a biennial
35 renewal fee in the amount of one hundred fifty dollars (\$150)
36 unless a higher fee, not to exceed two hundred fifty dollars (\$250),
37 is established by the board, from any provider of a course in
38 intravenous therapy, blood withdrawal, or intravenous therapy
39 with blood withdrawal, who requests approval by the board of
40 such a course for purposes of intravenous therapy, blood

1 withdrawal, or intravenous therapy with blood withdrawal
2 requirements under this chapter. That fee, however, shall not
3 exceed the regulatory cost required for the board to administer the
4 approval of intravenous therapy, blood withdrawal, or intravenous
5 therapy with blood withdrawal courses by intravenous therapy,
6 blood withdrawal, or intravenous therapy with blood withdrawal
7 providers.

8 ~~SEC. 12.~~

9 *SEC. 16.* Section 2895 of the Business and Professions Code
10 is amended to read:

11 2895. The amount of the fees prescribed by this chapter in
12 connection with the issuance of licenses under its provisions shall
13 be according to the following schedule:

14 (a) The fee to be paid upon the filing of an application for
15 licensure by examination by applicants who have successfully
16 completed a prescribed course of study in a California-approved
17 vocational nursing program shall be two hundred twenty dollars
18 (\$220) unless a higher fee, not to exceed three hundred dollars
19 (\$300), is established by the board.

20 (b) The fee to be paid upon the filing of an application for
21 licensure by examination by applicants who are qualified to take
22 the examination by methods other than as specified in subdivision
23 (a) shall be two hundred fifty dollars (\$250) unless a higher fee,
24 not to exceed three hundred thirty dollars (\$330), is established
25 by the board.

26 (c) The fee to be paid upon the filing of an application for
27 licensure by endorsement shall be two hundred twenty dollars
28 (\$220) unless a higher fee, not to exceed three hundred dollars
29 (\$300), is established by the board.

30 (d) The fee to be paid for taking each examination for licensure
31 shall be the actual cost to purchase the examination from a vendor
32 approved by the board.

33 (e) The fee to be paid for any examination for licensure after
34 the first shall be two hundred twenty dollars (\$220) unless a higher
35 fee, not to exceed three hundred dollars (\$300), is established by
36 the board.

37 (f) The biennial renewal fee to be paid upon the filing of an
38 application for renewal shall be two hundred twenty dollars (\$220)
39 unless a higher fee, not to exceed three hundred dollars (\$300), is
40 established by the board. In addition, an assessment of five dollars

1 (\$5) shall be collected and credited to the Vocational Nurse
2 Education Fund, pursuant to Section 2895.5.

3 (g) Notwithstanding Section 163.5, the delinquency fee for
4 failure to pay the biennial renewal fee within the prescribed time
5 shall be one hundred ten dollars (\$110) unless a higher fee, not to
6 exceed 50 percent of the regular renewal fee and in no case no
7 more than one hundred fifty dollars (\$150), is established by the
8 board.

9 (h) The initial license fee is an amount equal to the biennial
10 renewal fee in effect on the date the application for the license is
11 filed.

12 (i) The fee to be paid for an interim permit shall be twenty
13 dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50),
14 is established by the board.

15 (j) *The fee to be paid for a duplicate license or wall certificate*
16 *shall be in an amount not less than twenty-five dollars (\$25) and*
17 *may be fixed by the board at an amount no more than fifty dollars*
18 *(\$50).*

19 (j)

20 (k) The fee to be paid for verification of licensure papers to
21 other states shall be one hundred dollars (\$100) unless a higher
22 fee, not to exceed one hundred fifty dollars (\$150), is established
23 by the board.

24 (k)

25 (l) The fee to be paid for postlicensure certification in
26 intravenous therapy, blood withdrawal, or intravenous therapy
27 with blood withdrawal shall be twenty dollars (\$20) unless a higher
28 fee, not to exceed fifty dollars (\$50), is established by the board.

29 No further fee shall be required for a license or a renewal thereof
30 other than as prescribed by this chapter.

31 ~~SEC. 13.~~

32 *SEC. 17.* Section 3047 of the Business and Professions Code
33 is amended to read:

34 3047. (a) The board shall develop an interface with the
35 National Practitioner Data Bank for the purpose of conducting
36 inquiries on applicants for licensure, applicants for renewal of
37 licensure, and current licensees.

38 (b) The board shall limit its inquiries to both of the following:

39 (1) Whether an applicant or current licensee has been subject
40 to discipline.

1 (2) Whether an applicant or current licensee has been the subject
2 of an action required to be reported to the National Practitioner
3 Data Bank by federal law.

4 (c) On and after July 1, 2018, the board shall charge, in addition
5 to the fees in Section 3152, an applicant for licensure and an
6 applicant for renewal of licensure four dollars (\$4) for the purposes
7 of this section.

8 ~~SEC. 14.~~

9 *SEC. 18.* Section 3147 of the Business and Professions Code
10 is amended to read:

11 3147. (a) Except as otherwise provided by Section 114, an
12 expired optometrist license may be renewed at any time within
13 three years after its expiration, and a retired license issued for less
14 than three years may be reactivated to active status, by filing an
15 application for renewal or reactivation on a form prescribed by the
16 board, paying all accrued and unpaid renewal fees or reactivation
17 fees determined by the board, paying any delinquency fees
18 prescribed by the board, and submitting proof of completion of
19 the required number of hours of continuing education for the last
20 two years, as prescribed by the board pursuant to Section 3059.
21 Renewal or reactivation to active status under this section shall be
22 effective on the date on which all of those requirements are
23 satisfied. If so renewed or reactivated to active status, the license
24 shall continue as provided in Sections 3146 and 3147.5.

25 (b) Expired statements of licensure, branch office licenses, and
26 fictitious name permits issued pursuant to Sections 3070, 3077,
27 and 3078, respectively, may be renewed at any time by filing an
28 application for renewal, paying all accrued and unpaid renewal
29 fees, and paying any delinquency fees prescribed by the board.

30 ~~SEC. 15.~~

31 *SEC. 19.* Section 3680 of the Business and Professions Code
32 is amended to read:

33 3680. (a) The application fee for a doctor of naturopathic
34 medicine shall be no more than five hundred dollars (\$500) and
35 may be increased to not more than six hundred dollars (\$600).

36 (b) The initial license fee shall be one thousand dollars (\$1,000)
37 and may be increased to not more than one thousand two hundred
38 dollars (\$1,200).

1 (c) The renewal fee for a license shall be one thousand dollars
2 (\$1,000) and may be increased to not more than one thousand two
3 hundred dollars (\$1,200).

4 (d) The late renewal fee for a license shall be two hundred
5 twenty-five dollars (\$225).

6 (e) The fee for processing fingerprint cards shall be the current
7 fee charged by the Department of Justice.

8 (f) The fee for a duplicate or replacement license shall be
9 thirty-eight dollars (\$38).

10 (g) The fee for a certified license verification shall be thirty
11 dollars (\$30).

12 ~~SEC. 16.~~

13 *SEC. 20.* Section 4008 of the Business and Professions Code
14 is amended to read:

15 4008. (a) (1) Except as provided by Section 159.5, the board
16 may employ inspectors of pharmacy. The inspectors, whether the
17 inspectors are employed by the board or the department's Division
18 of Investigation, may inspect during business hours all pharmacies,
19 wholesalers, dispensaries, stores, or places where drugs or devices
20 are compounded, prepared, furnished, dispensed, or stored.

21 (2) The board shall directly employ legal counsel, who shall
22 work exclusively for, and report directly to, the board, upon a
23 finding by the board that directly employing legal counsel will
24 further the board's mission.

25 (b) Notwithstanding subdivision (a), a pharmacy inspector may
26 inspect or examine a physician's office or clinic that does not have
27 a permit under Section 4180 or 4190 only to the extent necessary
28 to determine compliance with and to enforce either Section 4080
29 or 4081.

30 (c) (1) (A) A pharmacy inspector employed by the board or in
31 the department's Division of Investigation shall have the authority,
32 as a public officer, to arrest, without warrant, any person whenever
33 the officer has reasonable cause to believe that the person to be
34 arrested has, in his or her presence, violated a provision of this
35 chapter or of Division 10 (commencing with Section 11000) of
36 the Health and Safety Code.

37 (B) If the violation is a felony, or if the arresting officer has
38 reasonable cause to believe that the person to be arrested has
39 violated any provision that is declared to be a felony, although no
40 felony has in fact been committed, he or she may make an arrest

1 although the violation or suspected violation did not occur in his
2 or her presence.

3 (2) In any case in which an arrest authorized by this subdivision
4 is made for an offense declared to be a misdemeanor, and the
5 person arrested does not demand to be taken before a magistrate,
6 the arresting inspector may, instead of taking the person before a
7 magistrate, follow the procedure prescribed by Chapter 5C
8 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal
9 Code. That chapter shall thereafter apply with reference to any
10 proceeding based upon the issuance of a citation pursuant to this
11 authority.

12 (d) There shall be no civil liability on the part of, and no cause
13 of action shall arise against, a person, acting pursuant to subdivision
14 (a) within the scope of his or her authority, for false arrest or false
15 imprisonment arising out of an arrest that is lawful, or that the
16 arresting officer, at the time of the arrest, had reasonable cause to
17 believe was lawful. An inspector shall not be deemed an aggressor
18 or lose his or her right to self-defense by the use of reasonable
19 force to effect the arrest, to prevent escape, or to overcome
20 resistance.

21 (e) Any inspector may serve all processes and notices throughout
22 the state.

23 (f) A pharmacy inspector employed by the board may enter a
24 facility licensed pursuant to subdivision (c) or (d) of Section 1250
25 of the Health and Safety Code to inspect an automated drug
26 delivery system operated pursuant to Section 4119 or 4119.1.

27 ~~SEC. 17.~~

28 *SEC. 21.* Section 4518 of the Business and Professions Code
29 is amended to read:

30 4518. In the event the board adopts a continuing education or
31 blood withdrawal program, the board shall collect an initial
32 approval and a biennial renewal fee as prescribed under Sections
33 4548 and 4518.1 from any provider of a course in continuing
34 education or blood withdrawal who requests approval by the board
35 of the course for purposes of continuing education or blood
36 withdrawal requirements adopted by the board. The fee, however,
37 shall in no event exceed the cost required for the board to
38 administer the approval of continuing education or blood
39 withdrawal courses by continuing education or blood withdrawal
40 providers.

1 ~~SEC. 18.~~

2 *SEC. 22.* Section 4518.1 is added to the Business and
3 Professions Code, to read:

4 4518.1. The board shall collect an initial approval and a biennial
5 renewal fee in the amount of one hundred fifty dollars (\$150)
6 unless a higher fee, not to exceed two hundred fifty dollars (\$250),
7 is established by the board, from any provider of continuing
8 education or a course to meet the certification requirements for
9 blood withdrawal who requests approval by the board of the course
10 for purposes of continuing education or blood withdrawal
11 requirements under this chapter. That fee, however, shall not
12 exceed the regulatory cost required for the board to administer the
13 approval of continuing education or blood withdrawal by
14 continuing education or blood withdrawal providers.

15 ~~SEC. 19.~~

16 *SEC. 23.* Section 4548 of the Business and Professions Code
17 is amended to read:

18 4548. The amount of the fees prescribed by this chapter in
19 connection with the issuance of licenses under its provisions shall
20 be according to the following schedule:

21 (a) The fee to be paid upon the filing of an application for
22 licensure by examination by applicants who have successfully
23 completed a prescribed course of study in a California-approved
24 school for preparation of psychiatric technicians shall be two
25 hundred sixty-five dollars (\$265) unless a higher fee, not to exceed
26 three hundred forty-five dollars (\$345), is established by the board.

27 (b) The fee to be paid upon the filing of an application for
28 licensure by examination by applicants who are qualified to take
29 the examination by methods other than as described in subdivision
30 (a) shall be two hundred ninety-five dollars (\$295) unless a higher
31 fee, not to exceed three hundred seventy-five dollars (\$375), is
32 established by the board.

33 (c) The fee to be paid upon the filing of an application for
34 licensure by endorsement shall be two hundred twenty dollars
35 (\$220) unless a higher fee, not to exceed three hundred dollars
36 (\$300), is established by the board.

37 (d) The fee to be paid for taking each examination for licensure
38 shall be the actual cost to purchase an examination from a vendor
39 approved by the board.

1 (e) The fee to be paid for any examination for licensure after
2 the first shall be two hundred sixty-five dollars (\$265) unless a
3 higher fee, not to exceed three hundred forty-five dollars (\$345),
4 is established by the board.

5 (f) The biennial renewal fee to be paid upon the filing of an
6 application for renewal shall be two hundred twenty dollars (\$220)
7 unless a higher fee, not to exceed three hundred dollars (\$300), is
8 established by the board.

9 (g) Notwithstanding Section 163.5, the delinquency fee for
10 failure to pay the biennial renewal fee within the prescribed time
11 shall be one hundred ten dollars (\$110) unless a higher fee, not to
12 exceed 50 percent of the regular renewal fee and in no case more
13 than one hundred fifty dollars (\$150), is established by the board.

14 (h) The initial license fee is an amount equal to the biennial
15 renewal fee in effect on the date the application for the license is
16 filed.

17 (i) The fee to be paid for an interim permit shall be twenty
18 dollars (\$20) unless a higher fee, not to exceed fifty dollars (\$50),
19 is established by the board.

20 (j) *The fee to be paid for a duplicate license or wall certificate*
21 *shall be in an amount not less than twenty-five dollars (\$25) and*
22 *may be fixed by the board at an amount no more than fifty dollars*
23 *(\$50).*

24 (j)

25 (k) The fee to be paid for processing verification of licensure
26 papers to other states shall be twenty dollars (\$20) unless a higher
27 fee, not to exceed fifty dollars (\$50), is established by the board.

28 (k)

29 (l) The fee to be paid for postlicensure certification in blood
30 withdrawal shall be twenty dollars (\$20) unless a higher fee, not
31 to exceed fifty dollars (\$50), is established by the board.

32 ~~SEC. 20.~~

33 *SEC. 24.* Section 4604 of the Business and Professions Code
34 is amended to read:

35 4604. (a) In order to obtain certification as a massage therapist,
36 an applicant shall submit a written application and provide the
37 council with satisfactory evidence that he or she meets all of the
38 following requirements:

39 (1) The applicant is 18 years of age or older.

1 (2) The applicant has successfully completed the curricula in
2 massage and related subjects totaling a minimum of 500 hours, or
3 the credit unit equivalent, that incorporates appropriate school
4 assessment of student knowledge and skills.

5 (A) Of the 500 hours, a minimum of 100 hours of instruction
6 shall address anatomy and physiology, contraindications, health
7 and hygiene, and business and ethics.

8 (B) All of the 500 hours shall be from approved schools. The
9 council shall accept the 500 hours if, at the time all of the hours
10 were completed, the school or schools were approved. The 500
11 hours may be completed at more than one approved school.
12 Notwithstanding any other law, pursuant to its policies and
13 procedures for approval of schools, the council shall accept hours
14 earned by an applicant for certification as a massage therapist if
15 those hours were completed before July 1, 2016, and were earned
16 from a school providing education in this state that was unapproved
17 by the council after July 1, 2016, based solely on the fact that the
18 National Certification Board for Therapeutic Massage and
19 Bodywork took denial or disciplinary action against the school.
20 For purposes of this section, “unapproved” means that the council
21 determined that it will not accept hours from a school toward
22 certification.

23 (3) The applicant has passed a massage and bodywork
24 competency assessment examination that meets generally
25 recognized psychometric principles and standards and that is
26 approved by the council. The successful completion of this
27 examination may have been accomplished before the date the
28 council is authorized by this chapter to begin issuing certificates.
29 This paragraph shall be inoperative commencing on January 1,
30 2019, and shall become operative on January 1, 2021.

31 (4) The applicant has successfully passed a background
32 investigation pursuant to Section 4606, and has not violated any
33 of the provisions of this chapter.

34 (5) All fees required by the council have been paid.

35 (6) The council may issue a certificate to an applicant who meets
36 the qualifications of this chapter if he or she holds a current and
37 valid registration, certification, or license from any other state
38 whose licensure requirements meet or exceed those defined within
39 this chapter. If an applicant has received education at a school that
40 is not approved by the council, the council shall have the discretion

1 to give credit for comparable academic work completed by an
2 applicant in a program outside of California.

3 (b) A certificate issued pursuant to this chapter and any
4 identification card issued by the council shall be surrendered to
5 the council by any certificate holder whose certificate is suspended
6 or revoked.

7 ~~SEC. 21.~~

8 *SEC. 25.* Section 4809.7 of the Business and Professions Code
9 is amended to read:

10 4809.7. The board shall establish a regular inspection program
11 that will provide for random, unannounced inspections and the
12 board shall inspect at least 20 percent of veterinary premises on
13 an annual basis.

14 ~~SEC. 22.~~

15 *SEC. 26.* Section 4826.4 is added to the Business and
16 Professions Code, to read:

17 4826.4. (a) A California-licensed veterinarian at premises
18 registered in accordance with Section 4853 that is located within
19 a 25-mile radius of any condition of emergency specified in Section
20 8558 of the Government Code may, in good faith, do both of the
21 following in addition to any other acts authorized by law:

22 (1) Render necessary and prompt care and treatment to an animal
23 patient without establishing a veterinarian-client-patient
24 relationship if conditions are such that one cannot be established
25 in a timely manner.

26 (2) Dispense or prescribe a dangerous drug or device, as defined
27 in Section 4022, in reasonable quantities where failure to provide
28 services or medications, including controlled substances, may
29 result in loss of life or intense suffering of the animal patient. Prior
30 to refilling a prescription pursuant to this paragraph, the
31 veterinarian shall make a reasonable effort to contact the originally
32 prescribing veterinarian.

33 (b) A veterinarian acting under this section shall make an
34 appropriate record that includes the basis for proceeding under
35 this section.

36 (c) A veterinarian who performs services pursuant to this section
37 shall have immunity from liability pursuant to subdivision (b) of
38 Section 8659 of the Government Code.

1 ~~SEC. 23.~~

2 *SEC. 27.* Section 4829.5 is added to the Business and
3 Professions Code, to read:

4 4829.5. (a) Each time a veterinarian initially prescribes,
5 dispenses, or furnishes a dangerous drug, as defined in Section
6 4022, to an animal patient in an outpatient setting, the veterinarian
7 shall offer to provide, in person or through electronic means, to
8 the client responsible for the animal, or his or her agent, a
9 consultation that includes the following information:

- 10 (1) The name and description of the dangerous drug.
- 11 (2) Route of administration, dosage form, dosage, duration of
- 12 drug therapy, the duration of the effect of the drug, and the common
- 13 severe adverse effects associated with the use of a short-acting or
- 14 long-acting drug.
- 15 (3) Any special directions for proper use and storage.
- 16 (4) Actions to be taken in the event of a missed dose.
- 17 (5) If available, precautions and relevant warnings provided by
- 18 the drug’s manufacturer, including common severe adverse effects
- 19 of the drug.
- 20 (b) If requested, a veterinarian shall provide drug documentation,
- 21 if available.
- 22 (c) A veterinarian may delegate to a registered veterinary
- 23 technician or veterinary assistant the task of providing the
- 24 consultation and drug documentation required by this section.
- 25 (d) It shall be noted in the medical record of the animal patient
- 26 if the consultation described in this section is provided or declined
- 27 by the client or his or her agent.

28 ~~SEC. 24.~~

29 *SEC. 28.* Section 4830 of the Business and Professions Code
30 is amended to read:

- 31 4830. (a) This chapter does not apply to:
- 32 (1) Veterinarians while serving in any armed branch of the
- 33 military service of the United States or the United States
- 34 Department of Agriculture while actually engaged and employed
- 35 in their official capacity.
- 36 (2) Veterinarians holding a current, valid license in good
- 37 standing in another state or country who provide assistance to a
- 38 California-licensed veterinarian and attend on a specific case. The
- 39 California-licensed veterinarian shall maintain a valid
- 40 veterinarian-client-patient relationship. The veterinarian providing

1 the assistance shall not establish a veterinarian-client-patient
2 relationship with the client by attending the case or at a future time
3 and shall not practice veterinary medicine, open an office, appoint
4 a place to meet patients, communicate with clients who reside
5 within the limits of this state, give orders, or have ultimate authority
6 over the care or primary diagnosis of a patient that is located within
7 this state.

8 (3) Veterinarians called into the state by a law enforcement
9 agency or animal control agency pursuant to subdivision (b).

10 (4) A student of a veterinary medical program accredited by the
11 American Veterinary Medical Association Council on Education
12 who participates as part of his or her formal curriculum in the
13 diagnosis and treatment with direct supervision, or in surgery with
14 immediate supervision, provided all of the following requirements
15 are met:

16 (A) The clinical training site has been approved by the university
17 where the student is enrolled.

18 (B) The student has prior training in diagnosis, treatment, and
19 surgery as part of the formal curriculum.

20 (C) The student is being supervised by a California-licensed
21 veterinarian in good standing, as that term is defined in paragraph
22 (1) of subdivision (b) of Section 4848.

23 (5) A veterinarian who is employed by the Meat and Poultry
24 Inspection Branch of the California Department of Food and
25 Agriculture while actually engaged and employed in his or her
26 official capacity. A person exempt under this paragraph shall not
27 otherwise engage in the practice of veterinary medicine unless he
28 or she is issued a license by the board.

29 (6) Unlicensed personnel employed by the Department of Food
30 and Agriculture or the United States Department of Agriculture
31 when in the course of their duties they are directed by a veterinarian
32 supervisor to conduct an examination, obtain biological specimens,
33 apply biological tests, or administer medications or biological
34 products as part of government disease or condition monitoring,
35 investigation, control, or eradication activities.

36 (b) (1) For purposes of paragraph (3) of subdivision (a), a
37 regularly licensed veterinarian in good standing who is called from
38 another state by a law enforcement agency or animal control
39 agency, as defined in Section 31606 of the Food and Agricultural
40 Code, to attend to cases that are a part of an investigation of an

1 alleged violation of federal or state animal fighting or animal
2 cruelty laws within a single geographic location shall be exempt
3 from the licensing requirements of this chapter if the law
4 enforcement agency or animal control agency determines that it
5 is necessary to call the veterinarian in order for the agency or
6 officer to conduct the investigation in a timely, efficient, and
7 effective manner. In determining whether it is necessary to call a
8 veterinarian from another state, consideration shall be given to the
9 availability of veterinarians in this state to attend to these cases.
10 An agency, department, or officer that calls a veterinarian pursuant
11 to this subdivision shall notify the board of the investigation.

12 (2) Notwithstanding any other provision of this chapter, a
13 regularly licensed veterinarian in good standing who is called from
14 another state to attend to cases that are a part of an investigation
15 described in paragraph (1) may provide veterinary medical care
16 for animals that are affected by the investigation with a temporary
17 shelter facility, and the temporary shelter facility shall be exempt
18 from the registration requirement of Section 4853 if all of the
19 following conditions are met:

20 (A) The temporary shelter facility is established only for the
21 purpose of the investigation.

22 (B) The temporary shelter facility provides veterinary medical
23 care, shelter, food, and water only to animals that are affected by
24 the investigation.

25 (C) The temporary shelter facility complies with Section 4854.

26 (D) The temporary shelter facility exists for not more than 60
27 days, unless the law enforcement agency or animal control agency
28 determines that a longer period of time is necessary to complete
29 the investigation.

30 (E) Within 30 calendar days upon completion of the provision
31 of veterinary health care services at a temporary shelter facility
32 established pursuant to this section, the veterinarian called from
33 another state by a law enforcement agency or animal control agency
34 to attend to a case shall file a report with the board. The report
35 shall contain the date, place, type, and general description of the
36 care provided, along with a listing of the veterinary health care
37 practitioners who participated in providing that care.

38 (c) For purposes of paragraph (3) of subdivision (a), the board
39 may inspect temporary facilities established pursuant to this
40 section.

1 ~~SEC. 25.~~

2 *SEC. 29.* Section 4836.2 of the Business and Professions Code
3 is amended to read:

4 4836.2. (a) Applications for a veterinary assistant controlled
5 substance permit shall be upon a form furnished by the board.

6 (b) The fee for filing an application for a veterinary assistant
7 controlled substance permit shall be set by the board in an amount
8 the board determines is reasonably necessary to provide sufficient
9 funds to carry out the purposes of this section, not to exceed one
10 hundred dollars (\$100).

11 (c) The board may suspend or revoke the controlled substance
12 permit of a veterinary assistant after notice and hearing for any
13 cause provided in this subdivision. The proceedings under this
14 section shall be conducted in accordance with the provisions for
15 administrative adjudication in Chapter 5 (commencing with Section
16 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
17 and the board shall have all the powers granted therein. The board
18 may deny, revoke, or suspend a veterinary assistant controlled
19 substance permit, or, subject to terms and conditions deemed
20 appropriate by the board, issue a probationary veterinary assistant
21 controlled substance permit, for any of the following reasons:

22 (1) The employment of fraud, misrepresentation, or deception
23 in obtaining a veterinary assistant controlled substance permit.

24 (2) Chronic inebriety or habitual use of controlled substances.

25 (3) The applicant or permitholder has been convicted of a state
26 or federal felony controlled substance violation.

27 (4) Violating or attempts to violate, directly or indirectly, or
28 assisting in or abetting the violation of, or conspiring to violate,
29 any provision of this chapter, or of the regulations adopted under
30 this chapter.

31 (5) Conviction of a crime substantially related to the
32 qualifications, functions, or duties of veterinary medicine,
33 veterinary surgery, or veterinary dentistry, in which case the record
34 of the conviction shall be conclusive evidence.

35 (d) The board shall not issue a veterinary assistant controlled
36 substance permit to any applicant with a state or federal felony
37 controlled substance conviction.

38 (e) (1) As part of the application for a veterinary assistant
39 controlled substance permit, the applicant shall submit to the
40 Department of Justice fingerprint images and related information,

1 as required by the Department of Justice for all veterinary assistant
2 applicants, for the purposes of obtaining information as to the
3 existence and content of a record of state or federal convictions
4 and state or federal arrests and information as to the existence and
5 content of a record of state or federal arrests for which the
6 Department of Justice establishes that the person is free on bail or
7 on his or her own recognizance pending trial or appeal.

8 (2) When received, the Department of Justice shall forward to
9 the Federal Bureau of Investigation requests for federal summary
10 criminal history information that it receives pursuant to this section.
11 The Department of Justice shall review any information returned
12 to it from the Federal Bureau of Investigation and compile and
13 disseminate a response to the board summarizing that information.

14 (3) The Department of Justice shall provide a state or federal
15 level response to the board pursuant to paragraph (1) of subdivision
16 (p) of Section 11105 of the Penal Code.

17 (4) The Department of Justice shall charge a reasonable fee
18 sufficient to cover the cost of processing the request described in
19 this subdivision.

20 (f) The board shall request from the Department of Justice
21 subsequent notification service, as provided pursuant to Section
22 11105.2 of the Penal Code, for persons described in paragraph (1)
23 of subdivision (e).

24 (g) This section shall become operative on July 1, 2015.

25 ~~SEC. 26.~~

26 *SEC. 30.* Section 4841.2 is added to the Business and
27 Professions Code, to read:

28 4841.2. (a) Except as provided in subdivision (b), a graduate
29 of a recognized veterinary college shall not perform animal health
30 care tasks otherwise performed by a registered veterinary technician
31 unless the graduate has obtained licensure or registration as
32 otherwise required under this chapter.

33 (b) If, on or before January 1, 2020, a graduate of a recognized
34 veterinary college has performed animal health care tasks otherwise
35 performed by a registered veterinary technician, the graduate shall
36 discontinue performing such duties on or after January 1, 2020,
37 unless the graduate is issued a license or registration as otherwise
38 required under this chapter.

39 ~~SEC. 27. Section 4990.06 of the Business and Professions~~
40 ~~Code is amended to read:~~

1 ~~4990.06. Subject to the State Civil Service Act (Part 2~~
2 ~~(commencing with Section 18500) of Division 5 of Title 2 of the~~
3 ~~Government Code) and except as provided by Sections 155, 156,~~
4 ~~and 159.5, the board may employ any clerical, technical, and other~~
5 ~~personnel as it deems necessary to carry out the provisions of this~~
6 ~~chapter and the other chapters it administers and enforces, within~~
7 ~~budget limitations. The board shall directly employ legal counsel,~~
8 ~~who shall work exclusively for, and report directly to, the board,~~
9 ~~upon a finding by the board that directly employing legal counsel~~
10 ~~will further the board's mission.~~

11 ~~SEC. 28:~~

12 ~~SEC. 31.~~ Section 11506 of the Business and Professions Code
13 is amended to read:

14 11506. This part shall be subject to review by the appropriate
15 policy committees of the Legislature.

16 ~~SEC. 29:~~

17 ~~SEC. 32.~~ Section 7000 of the Health and Safety Code is
18 amended to read:

19 7000. The definitions in this chapter apply to this division,
20 Division 8 (commencing with Section 8100) and Division 102
21 (commencing with Section 102100) of this code and Chapter 12
22 (commencing with Section 7600) of Division 3 of the Business
23 and Professions Code.

24 ~~SEC. 30:~~

25 ~~SEC. 33.~~ Section 7103 of the Health and Safety Code is
26 amended to read:

27 7103. (a) Every person, upon whom the duty of interment is
28 imposed by law, who omits to perform that duty within a
29 reasonable time is guilty of a misdemeanor.

30 (b) Every licensee or registrant pursuant to Chapter 12
31 (commencing with Section 7600) of Division 3 of the Business
32 and Professions Code, and the agents and employees of the licensee
33 or registrant, or any unlicensed person acting in a capacity in which
34 a license from the Cemetery and Funeral Bureau is required, upon
35 whom the duty of interment is imposed by law, who omits to
36 perform that duty within a reasonable time is guilty of a
37 misdemeanor that shall be punishable by imprisonment in a county
38 jail not exceeding one year, by a fine not exceeding ten thousand
39 dollars (\$10,000), or both that imprisonment and fine.

1 (c) In addition, any person, registrant, or licensee described in
2 subdivision (a) or (b) is liable to pay the person performing the
3 duty in his or her stead treble the expenses incurred by the latter
4 in making the interment, to be recovered in a civil action.

5 ~~SEC. 31.~~

6 SEC. 34. Section 8731 of the Health and Safety Code is
7 amended to read:

8 8731. (a) The cemetery authority may appoint a board of
9 trustees of not less than three in number as trustees of its
10 endowment care fund. The members of the board of trustees shall
11 hold office subject to the direction of the cemetery authority.

12 (b) If within 30 days after notice of nonreceipt by the Cemetery
13 and Funeral Bureau or other agency with regulatory authority over
14 cemetery authorities, the cemetery authority fails to file the report
15 required by Section 7612.6 of the Business and Professions Code,
16 or if the report is materially not in compliance with law or the
17 endowment care fund is materially not in compliance with law,
18 the cemetery authority may be required to appoint as sole trustee
19 of its endowment care fund under Section 8733.5, any bank or
20 trust company qualified under the provisions of the Banking Law
21 (Division 1 (commencing with Section 99) of the Financial Code)
22 to engage in the trust business. That requirement may be imposed
23 by the Cemetery and Funeral Bureau or other agency with
24 regulatory authority over cemetery authorities, provided that the
25 cemetery authority has received written notice of the alleged
26 violation and has been given the opportunity to correct the alleged
27 violation, and there has been a finding of a material violation in
28 an administrative hearing.

29 (c) (1) Each member of the board of trustees shall provide
30 signatory acknowledgment of understanding of the role of a trustee
31 in managing trust funds in the following areas:

32 (A) Trustee duties, powers, and liabilities as contained in Part
33 4 (commencing with Section 16000) of Division 9 of the Probate
34 Code.

35 (B) Reporting and regulatory requirements contained in Article
36 1.5 (commencing with Section 7611) of Chapter 12 of Division 3
37 of the Business and Professions Code.

38 (C) Provisions related to the care of active cemeteries contained
39 in Chapter 5 (commencing with Section 8700) of Part 3 of Division
40 8.

1 (2) The signatory acknowledgment shall be retained by the
2 cemetery authority during the duration of the trustee's term of
3 office.

4 ~~SEC. 32.~~

5 *SEC. 35.* Section 8778.5 of the Health and Safety Code is
6 amended to read:

7 8778.5. Each special care trust fund established pursuant to
8 this article shall be administered in compliance with the following
9 requirements:

10 (a) (1) The board of trustees shall honor a written request of
11 revocation by the trustor within 30 days upon receipt of the written
12 request.

13 (2) Except as provided in paragraph (3), the board of trustees
14 upon revocation of a special care trust may assess a revocation fee
15 on the earned income of the trust only, the amount of which shall
16 not exceed 10 percent of the trust corpus, as set forth in subdivision
17 (c) of Section 2370 of Title 16 of the California Code of
18 Regulations.

19 (3) If, prior to or upon the death of the beneficiary of a revocable
20 special care trust, the cemetery authority is unable to perform the
21 services of the special care trust fund agreement, the board of
22 trustees shall pay the entire trust corpus and all earned income to
23 the beneficiary or trustor, or the legal representative of either the
24 beneficiary or trustor, without the imposition of a revocation fee.

25 (b) Notwithstanding subdivision (d) of Section 2370 of Title 16
26 of the California Code of Regulations, the board of trustees may
27 charge an annual fee for administering a revocable special care
28 trust fund, which may be recovered by administrative withdrawals
29 from current trust income, but the total administrative withdrawals
30 in any year shall not exceed 4 percent of the trust balance.

31 (c) Notwithstanding Section 8785, any person, partnership, or
32 corporation who violates this section shall be subject to disciplinary
33 action as provided in Article 6 (commencing with Section 7686)
34 of Chapter 12 of Division 3 of the Business and Professions Code,
35 or by a civil fine not exceeding five hundred dollars (\$500), or by
36 both, as determined by the Cemetery and Funeral Bureau and shall
37 not be guilty of a crime.

38 ~~SEC. 33.~~

39 *SEC. 36.* Section 8785 of the Health and Safety Code is
40 amended to read:

1 8785. Any person, partnership, or corporation administering,
2 managing, or having responsibility for endowment care or special
3 care funds who violates the provisions of this chapter relating to
4 the collection, investment, or use of those funds shall be punished
5 either by imprisonment in a county jail for a period not exceeding
6 six months or by fine not exceeding five hundred dollars (\$500),
7 or by both such imprisonment and fine, or by imprisonment
8 pursuant to subdivision (h) of Section 1170 of the Penal Code for
9 16 months, or two or three years. If the violator is a cemetery
10 licensee or the holder of a certificate of authority, he, she, or it
11 shall be subject to disciplinary action as provided in Article 6
12 (commencing with Section 7686) of Chapter 12 of Division 3 of
13 the Business and Professions Code.

14 ~~SEC. 34.~~

15 *SEC. 37.* Section 103775 of the Health and Safety Code is
16 amended to read:

17 103775. (a) Every person, except a parent informant for a
18 certificate of live birth and as provided in subdivision (b), who is
19 responsible for supplying information who refuses or fails to
20 furnish correctly any information in his or her possession that is
21 required by this part, or furnishes false information affecting any
22 certificate or record required by this part, is guilty of a
23 misdemeanor.

24 (b) Every licensee or registrant pursuant to Chapter 12
25 (commencing with Section 7600) of Division 3 of the Business
26 and Professions Code, and the agents and employees of the
27 licensee, or any unlicensed person acting in a capacity in which a
28 license from the Cemetery and Funeral Bureau is required, who
29 is responsible for supplying information and who refuses or fails
30 to furnish correctly any information in his or her possession that
31 is required by this part, or furnishes false information with intent
32 to defraud affecting a death certificate or record required by this
33 part, is guilty of a misdemeanor that shall be punishable by
34 imprisonment in a county jail not exceeding one year, by a fine
35 not exceeding ten thousand dollars (\$10,000), or by both that
36 imprisonment and fine.

37 ~~SEC. 35.~~

38 *SEC. 38.* Section 103780 of the Health and Safety Code is
39 amended to read:

1 103780. (a) Every person, except as provided in subdivision
2 (b), who willfully alters or knowingly possesses more than one
3 altered document, other than as permitted by this part, or falsifies
4 any certificate of birth, fetal death, or death, or marriage license,
5 or any record established by this part is guilty of a misdemeanor.

6 (b) Every licensee or registrant pursuant to Chapter 12
7 (commencing with Section 7600) of Division 3 of the Business
8 and Professions Code, and the agents and employees of the
9 licensee, or any unlicensed person acting in a capacity in which a
10 license from the Cemetery and Funeral Bureau is required, who
11 willfully alters or knowingly possesses more than one altered
12 document, other than as permitted by this part, or falsifies any
13 certificate of death, is guilty of a misdemeanor that shall be
14 punishable by imprisonment in a county jail not exceeding one
15 year, by a fine not exceeding ten thousand dollars (\$10,000), or
16 by both that imprisonment and fine.

17 ~~SEC. 36.~~

18 *SEC. 39.* Section 5 of the Chiropractic Act, as amended by
19 Section 1 of Chapter 533 of the Statutes of 1983, is amended to
20 read:

21 ~~Sec. 5.~~

22 *Sec. 5.* (a) It shall be unlawful for any person to practice
23 chiropractic in this state without a license so to do.

24 (b) Any person wishing to practice chiropractic in this state
25 shall make application to the board 45 days prior to any meeting
26 thereof, upon such form and in such manner as may be provided
27 by the board.

28 (c) Proof of graduation from an approved chiropractic school
29 or college, as defined in Section 4, must reach the board 15 days
30 prior to any meeting thereof.

31 (d) On and after January 1, 2019, each application must be
32 accompanied by the fee specified in subdivision (a) of Section
33 1007 of the Business and Professions Code.

34 (e) Except in the cases herein otherwise prescribed, each
35 applicant shall present to the board at the time of making such
36 application a diploma from a high school and a transcript of 60
37 prechiropractic college credits satisfactory to the board, or proof,
38 satisfactory to the board, of education equivalent in training power
39 to such high school and college courses.

1 (f) The schedule of minimum educational requirements to enable
2 any person to practice chiropractic in this state is as follows, except
3 as herein otherwise provided:

4	Group 1	
5		
6	Anatomy, including embryology and histology.....	14%
7		
8	Group 2	
9		
10	Physiology.....	6%
11		
12	Group 3	
13		
14	Biochemistry and clinical nutrition.....	6%
15		
16	Group 4	
17		
18	Pathology and bacteriology.....	10%
19		
20	Group 5	
21		
22	Public health, hygiene and sanitation.....	3%
23		
24	Group 6	
25		
26	Diagnosis, dermatology, syphilology and geriatrics, and	
27	radiological technology, safety, and interpretation.....	18%
28		
29	Group 7	
30		
31	Obstetrics and gynecology and pediatrics.....	3%
32		
33	Group 8	
34		
35	Principles and practice of chiropractic, physical therapy,	
36	psychiatry, and office procedure.....	25%
37		
38	Total.....	85%
39		
40	Electives.....	15%

1
2 (g) Any applicant who had matriculated at a chiropractic college
3 prior to the effective date of the amendments to this section
4 submitted to the electors by the 1977–78 Regular Session of the
5 Legislature shall meet all requirements that existed immediately
6 prior to the effective date of those amendments but need not meet
7 the change in requirements made by said amendments.

8 ~~SEC. 37.~~

9 *SEC. 40.* Section 12 of the Chiropractic Act, as amended by
10 Section 78 of Chapter 429 of the Statutes of 2017, is amended to
11 read:

12 Sec. 12. (a) Licenses issued under the provisions of this section
13 expire at 12 midnight on the last day of the month of birth of
14 licentiates of the board.

15 (b) The board shall establish regulations for the administration
16 of a birth month renewal program.

17 (c) A person practicing chiropractic within this state shall, on
18 or before the last day of the person’s month of birth of each year,
19 after a license is issued to the person under this act, pay to the
20 Board of Chiropractic Examiners the renewal fee specified under
21 subdivision (d).

22 (d) On and after January 1, 2019, the renewal fee shall be the
23 amount specified in subdivision (c) of Section 1007 of the Business
24 and Professions Code.

25 (e) The secretary shall mail to a licensed chiropractor in this
26 state, on or before 60 days prior to the last day of the month of the
27 licensee’s birth each year, a notice that the renewal fee will be due
28 on or before the last day of the next month following the licensee’s
29 birth. Nothing in this act shall be construed to require the receipts
30 to be recorded in like manner as original licenses.

31 (f) The failure, neglect or refusal of a person holding a license
32 or certificate to practice under this act in the State of California to
33 pay the annual fee during the time the license remains in force
34 shall, after a period of 60 days from the last day of the month of
35 the licensee’s birth, automatically work a forfeiture of the license
36 or certificate, and it shall not be restored except upon the written
37 application therefor and the payment to the board of a fee of twice
38 the annual amount of the renewal fee in effect at the time the
39 restoration application is filed except that a licensee who fails,
40 refuses, or neglects to pay the annual tax within a period of 60

1 days after the last day of the month of the licensee’s birth of each
2 year shall not be required to submit to an examination for the
3 reissuance of the certificate.

4 ~~SEC. 38.~~

5 *SEC. 41.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1482

AUTHOR: J. Hill

SPONSOR: Senator Hill

VERSION: Amended 07/02/2018

INTRODUCED: 02/16/2018

BILL STATUS: 08/08/2018-From Assembly Appropriations Committee. Do pass. To Consent Calendar.

BILL LOCATION: Assembly Appropriations Committee

SUBJECT: Dental Hygienists

**RELATED
BILLS:**

SUMMARY

The Dental Practice Act (Act) provides for the licensure and regulation of the practice of dental hygienists by the Dental Hygiene Committee of California (DHCC), which is comprised of nine members appointed by the Governor, within the jurisdiction of the Dental Board of California (Board). Senate Bill (SB) 1482 would remove the DHCC from the jurisdiction of the Board and continue the DHCC by creating the Dental Hygiene Board of California within the Department of Consumer Affairs. The bill would change the manner of appointment of the hygiene board by requiring one public member to be appointed by the Senate Rules Committee Rules and one public member to be appointed by the Speaker of the Assembly rather than the Governor. The bill would extend the repeal date of the hygiene board and related appointment provisions to January 1, 2023.

Additionally, this bill would require an out-of-state applicant or licensee to instead furnish a hard copy of fingerprint cards if electronic fingerprint images do not exist.

Moreover, this bill would delete the requirement that the committee make a determination and would require the hygiene board to conduct random audits of licensees to ensure compliance with the continuing education requirements.

This bill would instead require, within the preceding 5 years, satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board (WREB) or any other clinical or dental hygiene examination approved by the hygiene board. Additionally, this bill would require the hygiene board to renew approval of educational programs for dental hygienist and authorizes the hygiene board to place a noncompliant educational program on probation, issue a citation and fine, or have its approval withdrawn. This bill would also specify limitations for fees limits the fee for a

site evaluation for dental hygienist educational programs that are not accredited to no more than \$2,100.

ANALYSIS

SB 1482 would provide the name change to establish the DHCC as a Board and establish their authority as an independent agency, eliminate confusion on whether the DHCC is an autonomous body or under the authority of the Board, add provisions to the Act would help staff complete tasks in a more efficient matter, issue moderate penalties for Dental Educational programs that have less severe deficiencies, and relieve the burden for out of state applicants to travel to California for electronic fingerprinting. DHCC's Executive Officer, Mr. Anthony Lum has stated that the DHCC would continue to present their recommendations regarding scope of practice changes to the Board for review, discussion, and recommendation.

The California Dental Association (CDA) voiced concerns regarding this bill. CDA noted concern regarding the removal of jurisdictional language and the DHCC becoming a Board. CDA explained that amending obsolete language would further separate hygiene and dentistry that may lead to the promulgation of conflicting regulations. CDA explained that there may be conflicting regulations if the jurisdictional language was removed. CDA noted that changing the DHCC to a Board would increase confusion as to why the two entities are separate.

REGISTERED SUPPORT/OPPOSITION

Support

California Dental Hygienists Association
Dental Hygiene Committee of California

Oppose

None on File.

Concern

CDA

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ OPPOSE:_____ NEUTRAL:_____ WATCH:_____

AMENDED IN ASSEMBLY JULY 2, 2018

AMENDED IN ASSEMBLY JUNE 6, 2018

AMENDED IN SENATE MAY 2, 2018

AMENDED IN SENATE APRIL 18, 2018

SENATE BILL

No. 1482

Introduced by Senator Hill

February 16, 2018

An act to amend Sections 101, 800, 1601.3, 1680, 1901, 1902, 1902.1, 1902.2, 1902.3, 1903, 1904, 1905, 1905.1, 1905.2, 1906, 1909, 1910.5, 1916, 1917, 1917.1, 1917.3, 1918, 1922, 1926.1, 1926.2, 1926.3, 1926.4, 1930, 1931, 1932, 1934, 1935, 1936, 1936.1, 1940, 1941, 1942, 1943, 1944, 1947, 1949, 1950, 1950.5, 1951, 1952, 1955, 1957, 1958, 1958.1, 1962, 1963, 1964, 1966, 1966.1, 1966.2, 1966.4, 1966.5, 1966.6, and 1967 of, and to add ~~Sections 1901.5~~ and *Section* 1941.5 to, the Business and Professions Code, to amend Section 13401 of the Corporations Code, and to amend Section 44876 of the Education Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, as amended, Hill. Dental hygienists.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dental hygienists by the Dental Hygiene Committee of California, which is comprised of 9 members appointed by the Governor, within the jurisdiction of the Dental Board of California. Existing law repeals the committee *and its authority to appoint an executive officer* on January 1, 2019, at which time the committee is subject to review by the appropriate policy committees of the Legislature.

This bill would remove the Dental Hygiene Committee from the jurisdiction of the Dental Board of California and continue the Dental Hygiene Committee of California by creating the Dental Hygiene Board of California within the Department of Consumer Affairs. The bill would change the manner of appointment of the hygiene board by requiring one public member to be appointed by the Senate Committee on Rules and one public member to be appointed by the Speaker of the Assembly rather than the Governor. The bill would extend the repeal date of the hygiene board and related appointment provisions to January 1, 2023, and would authorize the board to appoint an executive officer: 2023.

(2) Existing law requires an applicant for licensure as a registered dental hygienist to furnish electronic fingerprint images.

This bill would require an out-of-state applicant or licensee to instead furnish a hardcopy of fingerprint cards if electronic fingerprint images do not exist.

(3) Existing law authorizes the committee to condition dental hygienist licensure renewal on a licensee's submission of assurances that he or she will complete specified continuing education if the committee makes a specified determination.

This bill would delete the requirement that the committee make a determination and would require the hygiene board to conduct random audits of licensees to ensure compliance with the continuing education requirements.

(4) Existing law requires the committee to grant initial licensure as a registered dental hygienist to a person who satisfies specified requirements, including satisfactory performance on the state clinical examination or satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board, or any other clinical dental hygiene examination approved by the committee.

This bill would instead require, within the preceding 2 years, satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board or any other clinical or dental hygiene examination approved by the hygiene board.

(5) Existing law requires the committee to grant approval of educational programs for dental hygienists that meet specified standards and requirements.

This bill would require the hygiene board to renew approval of educational programs for dental hygienists that certify to the hygiene board that the program continues to meet the requirements prescribed

by the hygiene board, would authorize the hygiene board to conduct periodic surveys, evaluations, and site visits to educational programs, and would authorize the hygiene board to place a noncompliant educational program on probation, issue a citation and fine, or have its approval withdrawn.

(6) Existing law requires the committee to establish the amount of fees relating to the licensing of dental hygienists and limits the fee for a site evaluation for dental hygienist educational programs that are not accredited to no more than \$2,100.

This bill would delete the limit for conducting the site evaluations specified above and would instead specify that the fee to conduct a site visit to educational programs for dental hygienists shall not exceed the actual costs incurred by the hygiene board. The bill would limit the fee for a retired license to $\frac{1}{2}$ of the current license renewal fee.

The bill would make other conforming changes.

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

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

- 1 SECTION 1. Section 101 of the Business and Professions
2 Code, as added by Section 4 of Chapter 828 of the Statutes of
3 2017, is amended to read:
4 101. The department is comprised of the following:
5 (a) The Dental Board of California.
6 (b) The Medical Board of California.
7 (c) The State Board of Optometry.
8 (d) The California State Board of Pharmacy.
9 (e) The Veterinary Medical Board.
10 (f) The California Board of Accountancy.
11 (g) The California Architects Board.
12 (h) The Bureau of Barbering and Cosmetology.
13 (i) The Board for Professional Engineers, Land Surveyors, and
14 Geologists.
15 (j) The Contractors' State License Board.
16 (k) The Bureau for Private Postsecondary Education.
17 (l) The Bureau of Electronic and Appliance Repair, Home
18 Furnishings, and Thermal Insulation.
19 (m) The Board of Registered Nursing.
20 (n) The Board of Behavioral Sciences.

- 1 (o) The State Athletic Commission.
2 (p) The Cemetery and Funeral Bureau.
3 (q) The State Board of Guide Dogs for the Blind.
4 (r) The Bureau of Security and Investigative Services.
5 (s) The Court Reporters Board of California.
6 (t) The Board of Vocational Nursing and Psychiatric
7 Technicians.
8 (u) The Landscape Architects Technical Committee.
9 (v) The Division of Investigation.
10 (w) The Bureau of Automotive Repair.
11 (x) The Respiratory Care Board of California.
12 (y) The Acupuncture Board.
13 (z) The Board of Psychology.
14 (aa) The California Board of Podiatric Medicine.
15 (ab) The Physical Therapy Board of California.
16 (ac) The Arbitration Review Program.
17 (ad) The Physician Assistant Committee.
18 (ae) The Speech-Language Pathology and Audiology and
19 Hearing Aid Dispensers Board.
20 (af) The California Board of Occupational Therapy.
21 (ag) The Osteopathic Medical Board of California.
22 (ah) The Naturopathic Medicine Committee.
23 (ai) The Dental Hygiene Board of California.
24 (aj) The Professional Fiduciaries Bureau.
25 (ak) The State Board of Chiropractic Examiners.
26 (al) The Bureau of Real Estate Appraisers.
27 (am) The Structural Pest Control Board.
28 (an) The Bureau of Medical Cannabis Regulation.
29 (ao) Any other boards, offices, or officers subject to its
30 jurisdiction by law.
31 (ap) This section shall become operative on July 1, 2018.

32 SEC. 2. Section 800 of the Business and Professions Code is
33 amended to read:

34 800. (a) The Medical Board of California, the California Board
35 of Podiatric Medicine, the Board of Psychology, the Dental Board
36 of California, the Dental Hygiene Board of California, the
37 Osteopathic Medical Board of California, the State Board of
38 Chiropractic Examiners, the Board of Registered Nursing, the
39 Board of Vocational Nursing and Psychiatric Technicians of the
40 State of California, the State Board of Optometry, the Veterinary

1 Medical Board, the Board of Behavioral Sciences, the Physical
2 Therapy Board of California, the California State Board of
3 Pharmacy, the Speech-Language Pathology and Audiology and
4 Hearing Aid Dispensers Board, the California Board of
5 Occupational Therapy, the Acupuncture Board, and the Physician
6 Assistant Board shall each separately create and maintain a central
7 file of the names of all persons who hold a license, certificate, or
8 similar authority from that board. Each central file shall be created
9 and maintained to provide an individual historical record for each
10 licensee with respect to the following information:

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

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

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

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

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

34 (b) (1) Each board shall prescribe and promulgate forms on
35 which members of the public and other licensees or certificate
36 holders may file written complaints to the board alleging any act
37 of misconduct in, or connected with, the performance of
38 professional services by the licensee.

39 (2) If a board, or division thereof, a committee, or a panel has
40 failed to act upon a complaint or report within five years, or has

1 found that the complaint or report is without merit, the central file
2 shall be purged of information relating to the complaint or report.

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

7 (c) (1) The contents of any central file that are not public
8 records under any other provision of law shall be confidential
9 except that the licensee involved, or his or her counsel or
10 representative, shall have the right to inspect and have copies made
11 of his or her complete file except for the provision that may
12 disclose the identity of an information source. For the purposes of
13 this section, a board may protect an information source by
14 providing a copy of the material with only those deletions necessary
15 to protect the identity of the source or by providing a
16 comprehensive summary of the substance of the material.
17 Whichever method is used, the board shall ensure that full
18 disclosure is made to the subject of any personal information that
19 could reasonably in any way reflect or convey anything detrimental,
20 disparaging, or threatening to a licensee's reputation, rights,
21 benefits, privileges, or qualifications, or be used by a board to
22 make a determination that would affect a licensee's rights, benefits,
23 privileges, or qualifications. The information required to be
24 disclosed pursuant to Section 803.1 shall not be considered among
25 the contents of a central file for the purposes of this subdivision.

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

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

34 (4) These disclosures shall effect no change in the confidential
35 status of these records.

36 SEC. 3. Section 1601.3 of the Business and Professions Code
37 is amended to read:

38 1601.3. (a) All committees of the board have the authority to
39 evaluate all suggestions or requests for regulatory changes related
40 to their committee. Committees shall have the authority to hold

1 informational hearings in order to report and make appropriate
2 recommendations to the board, after consultation with departmental
3 legal counsel and the board's chief executive officer. The
4 committees shall include in any report regarding a proposed
5 regulatory change, at a minimum, the specific language or the
6 proposed change or changes and the reasons therefor and any facts
7 supporting the need for the change.

8 (b) No part of this section shall restrict the Dental Hygiene
9 Board of California from adopting, amending, or revoking
10 regulations authorized by Article 9 (commencing with Section
11 1900).

12 SEC. 4. Section 1680 of the Business and Professions Code is
13 amended to read:

14 1680. Unprofessional conduct by a person licensed under this
15 chapter is defined as, but is not limited to, any one of the following:

16 (a) The obtaining of any fee by fraud or misrepresentation.

17 (b) The employment directly or indirectly of any student or
18 suspended or unlicensed dentist to practice dentistry as defined in
19 this chapter.

20 (c) The aiding or abetting of any unlicensed person to practice
21 dentistry.

22 (d) The aiding or abetting of a licensed person to practice
23 dentistry unlawfully.

24 (e) The committing of any act or acts of sexual abuse,
25 misconduct, or relations with a patient that are substantially related
26 to the practice of dentistry.

27 (f) The use of any false, assumed, or fictitious name, either as
28 an individual, firm, corporation, or otherwise, or any name other
29 than the name under which he or she is licensed to practice, in
30 advertising or in any other manner indicating that he or she is
31 practicing or will practice dentistry, except that name as is specified
32 in a valid permit issued pursuant to Section 1701.5.

33 (g) The practice of accepting or receiving any commission or
34 the rebating in any form or manner of fees for professional services,
35 radiograms, prescriptions, or other services or articles supplied to
36 patients.

37 (h) The making use by the licensee or any agent of the licensee
38 of any advertising statements of a character tending to deceive or
39 mislead the public.

- 1 (i) The advertising of either professional superiority or the
2 advertising of performance of professional services in a superior
3 manner. This subdivision shall not prohibit advertising permitted
4 by subdivision (h) of Section 651.
- 5 (j) The employing or the making use of solicitors.
- 6 (k) The advertising in violation of Section 651.
- 7 (l) The advertising to guarantee any dental service, or to perform
8 any dental operation painlessly. This subdivision shall not prohibit
9 advertising permitted by Section 651.
- 10 (m) The violation of any of the provisions of law regulating the
11 procurement, dispensing, or administration of dangerous drugs,
12 as defined in Chapter 9 (commencing with Section 4000) or
13 controlled substances, as defined in Division 10 (commencing
14 with Section 11000) of the Health and Safety Code.
- 15 (n) The violation of any of the provisions of this division.
- 16 (o) The permitting of any person to operate dental radiographic
17 equipment who has not met the requirements of Section 1656.
- 18 (p) The clearly excessive prescribing or administering of drugs
19 or treatment, or the clearly excessive use of diagnostic procedures,
20 or the clearly excessive use of diagnostic or treatment facilities,
21 as determined by the customary practice and standards of the dental
22 profession.
- 23 Any person who violates this subdivision is guilty of a
24 misdemeanor and shall be punished by a fine of not less than one
25 hundred dollars (\$100) or more than six hundred dollars (\$600),
26 or by imprisonment for a term of not less than 60 days or more
27 than 180 days, or by both a fine and imprisonment.
- 28 (q) The use of threats or harassment against any patient or
29 licensee for providing evidence in any possible or actual
30 disciplinary action, or other legal action; or the discharge of an
31 employee primarily based on the employee's attempt to comply
32 with the provisions of this chapter or to aid in the compliance.
- 33 (r) Suspension or revocation of a license issued, or discipline
34 imposed, by another state or territory on grounds that would be
35 the basis of discipline in this state.
- 36 (s) The alteration of a patient's record with intent to deceive.
- 37 (t) Unsanitary or unsafe office conditions, as determined by the
38 customary practice and standards of the dental profession.
- 39 (u) The abandonment of the patient by the licensee, without
40 written notice to the patient that treatment is to be discontinued

1 and before the patient has ample opportunity to secure the services
2 of another dentist, registered dental hygienist, registered dental
3 hygienist in alternative practice, or registered dental hygienist in
4 extended functions and provided the health of the patient is not
5 jeopardized.

6 (v) The willful misrepresentation of facts relating to a
7 disciplinary action to the patients of a disciplined licensee.

8 (w) Use of fraud in the procurement of any license issued
9 pursuant to this chapter.

10 (x) Any action or conduct that would have warranted the denial
11 of the license.

12 (y) The aiding or abetting of a licensed dentist, dental assistant,
13 registered dental assistant, registered dental assistant in extended
14 functions, dental sedation assistant permitholder, orthodontic
15 assistant permitholder, registered dental hygienist, registered dental
16 hygienist in alternative practice, or registered dental hygienist in
17 extended functions to practice dentistry in a negligent or
18 incompetent manner.

19 (z) (1) The failure to report to the board in writing within seven
20 days any of the following: (A) the death of his or her patient during
21 the performance of any dental or dental hygiene procedure; (B)
22 the discovery of the death of a patient whose death is related to a
23 dental or dental hygiene procedure performed by him or her; or
24 (C) except for a scheduled hospitalization, the removal to a hospital
25 or emergency center for medical treatment of any patient to whom
26 oral conscious sedation, conscious sedation, or general anesthesia
27 was administered, or any patient as a result of dental or dental
28 hygiene treatment. With the exception of patients to whom oral
29 conscious sedation, conscious sedation, or general anesthesia was
30 administered, removal to a hospital or emergency center that is
31 the normal or expected treatment for the underlying dental
32 condition is not required to be reported. Upon receipt of a report
33 pursuant to this subdivision the board may conduct an inspection
34 of the dental office if the board finds that it is necessary. A dentist
35 shall report to the board all deaths occurring in his or her practice
36 with a copy sent to the Dental Hygiene Board of California if the
37 death was the result of treatment by a registered dental hygienist,
38 registered dental hygienist in alternative practice, or registered
39 dental hygienist in extended functions. A registered dental
40 hygienist, registered dental hygienist in alternative practice, or

1 registered dental hygienist in extended functions shall report to
2 the Dental Hygiene Board of California all deaths occurring as the
3 result of dental hygiene treatment, and a copy of the notification
4 shall be sent to the board.

5 (2) The report required by this subdivision shall be on a form
6 or forms approved by the board. The form or forms approved by
7 the board shall require the licensee to include, but not be limited
8 to, the following information for cases in which patients received
9 anesthesia: the date of the procedure; the patient's age in years
10 and months, weight, and sex; the patient's American Society of
11 Anesthesiologists (ASA) physical status; the patient's primary
12 diagnosis; the patient's coexisting diagnoses; the procedures
13 performed; the sedation setting; the medications used; the
14 monitoring equipment used; the category of the provider
15 responsible for sedation oversight; the category of the provider
16 delivering sedation; the category of the provider monitoring the
17 patient during sedation; whether the person supervising the sedation
18 performed one or more of the procedures; the planned airway
19 management; the planned depth of sedation; the complications
20 that occurred; a description of what was unexpected about the
21 airway management; whether there was transportation of the patient
22 during sedation; the category of the provider conducting
23 resuscitation measures; and the resuscitation equipment utilized.
24 Disclosure of individually identifiable patient information shall
25 be consistent with applicable law. A report required by this
26 subdivision shall not be admissible in any action brought by a
27 patient of the licensee providing the report.

28 (3) For the purposes of paragraph (2), categories of provider
29 are: General Dentist, Pediatric Dentist, Oral Surgeon, Dentist
30 Anesthesiologist, Physician Anesthesiologist, Dental Assistant,
31 Registered Dental Assistant, Dental Sedation Assistant, Registered
32 Nurse, Certified Registered Nurse Anesthetist, or Other.

33 (4) The form shall state that this information shall not be
34 considered an admission of guilt, but is for educational, data, or
35 investigative purposes.

36 (5) The board may assess a penalty on any licensee who fails
37 to report an instance of an adverse event as required by this
38 subdivision. The licensee may dispute the failure to file within 10
39 days of receiving notice that the board had assessed a penalty
40 against the licensee.

- 1 (aa) Participating in or operating any group advertising and
2 referral services that are in violation of Section 650.2.
- 3 (ab) The failure to use a fail-safe machine with an appropriate
4 exhaust system in the administration of nitrous oxide. The board
5 shall, by regulation, define what constitutes a fail-safe machine.
- 6 (ac) Engaging in the practice of dentistry with an expired license.
- 7 (ad) Except for good cause, the knowing failure to protect
8 patients by failing to follow infection control guidelines of the
9 board, thereby risking transmission of bloodborne infectious
10 diseases from dentist, dental assistant, registered dental assistant,
11 registered dental assistant in extended functions, dental sedation
12 assistant permitholder, orthodontic assistant permitholder,
13 registered dental hygienist, registered dental hygienist in alternative
14 practice, or registered dental hygienist in extended functions to
15 patient, from patient to patient, and from patient to dentist, dental
16 assistant, registered dental assistant, registered dental assistant in
17 extended functions, dental sedation assistant permitholder,
18 orthodontic assistant permitholder, registered dental hygienist,
19 registered dental hygienist in alternative practice, or registered
20 dental hygienist in extended functions. In administering this
21 subdivision, the board shall consider referencing the standards,
22 regulations, and guidelines of the State Department of Public
23 Health developed pursuant to Section 1250.11 of the Health and
24 Safety Code and the standards, guidelines, and regulations pursuant
25 to the California Occupational Safety and Health Act of 1973 (Part
26 1 (commencing with Section 6300) of Division 5 of the Labor
27 Code) for preventing the transmission of HIV, hepatitis B, and
28 other blood-borne pathogens in health care settings. The board
29 shall review infection control guidelines, if necessary, on an annual
30 basis and proposed changes shall be reviewed by the Dental
31 Hygiene Board of California to establish a consensus. The hygiene
32 board shall submit any recommended changes to the infection
33 control guidelines for review to establish a consensus. As
34 necessary, the board shall consult with the Medical Board of
35 California, the California Board of Podiatric Medicine, the Board
36 of Registered Nursing, and the Board of Vocational Nursing and
37 Psychiatric Technicians, to encourage appropriate consistency in
38 the implementation of this subdivision.
- 39 The board shall seek to ensure that all appropriate dental
40 personnel are informed of the responsibility to follow infection

1 control guidelines, and of the most recent scientifically recognized
2 safeguards for minimizing the risk of transmission of bloodborne
3 infectious diseases.

4 (ae) The utilization by a licensed dentist of any person to
5 perform the functions of any registered dental assistant, registered
6 dental assistant in extended functions, dental sedation assistant
7 permit holder, orthodontic assistant permit holder, registered dental
8 hygienist, registered dental hygienist in alternative practice, or
9 registered dental hygienist in extended functions who, at the time
10 of initial employment, does not possess a current, valid license or
11 permit to perform those functions.

12 (af) The prescribing, dispensing, or furnishing of dangerous
13 drugs or devices, as defined in Section 4022, in violation of Section
14 2242.1.

15 SEC. 5. Section 1901 of the Business and Professions Code is
16 amended to read:

17 1901. (a) There is hereby created in the Department of
18 Consumer Affairs a Dental Hygiene Board of California in which
19 the administration of this article is vested.

20 (b) Whenever the terms “Dental Hygiene Committee of
21 California” or “committee” are used in this article, they mean the
22 Dental Hygiene Board of California.

23 (c) Whenever the term “Dental Hygiene Committee of
24 California” is used in any other law, it means the Dental Hygiene
25 Board of California.

26 (d) This section shall remain in effect only until January 1, 2023,
27 and as of that date is repealed. Notwithstanding any other law, the
28 repeal of this section renders the hygiene board subject to review
29 by the appropriate policy committees of the Legislature.

30 ~~SEC. 6. Section 1901.5 is added to the Business and Professions~~
31 ~~Code, to read:~~

32 ~~1901.5. The board may appoint a person exempt from civil~~
33 ~~service who shall be designated as an executive officer and shall~~
34 ~~exercise the powers and perform the duties delegated by the board~~
35 ~~and vested in him or her by this article.~~

36 ~~SEC. 7.~~

37 SEC. 6. Section 1902 of the Business and Professions Code is
38 amended to read:

39 1902. For purposes of this article, the following definitions
40 apply:

1 (a) “Hygiene board” means the Dental Hygiene Board of
2 California.

3 (b) “Dental board” means the Dental Board of California.

4 (c) “Direct supervision” means the supervision of dental
5 procedures based on instructions given by a licensed dentist who
6 is required to be physically present in the treatment facility during
7 the performance of those procedures.

8 (d) “General supervision” means the supervision of dental
9 procedures based on instructions given by a licensed dentist who
10 is not required to be physically present in the treatment facility
11 during the performance of those procedures.

12 (e) “Oral prophylaxis” means preventive and therapeutic dental
13 procedures that include bacterial debridements with complete
14 removal, supra and subgingivally, of calculus, soft deposits, plaque,
15 and stains, and the smoothing of tooth surfaces. The objective of
16 this treatment is to create an environment in which the patient can
17 maintain healthy hard and soft tissues.

18 ~~SEC. 8.~~

19 *SEC. 7.* Section 1902.1 of the Business and Professions Code
20 is amended to read:

21 1902.1. Protection of the public shall be the highest priority
22 for the hygiene board in exercising its licensing, regulatory, and
23 disciplinary functions. Whenever the protection of the public is
24 inconsistent with other interests sought to be promoted, the
25 protection of the public shall be paramount.

26 ~~SEC. 9.~~

27 *SEC. 8.* Section 1902.2 of the Business and Professions Code
28 is amended to read:

29 1902.2. (a) A licensee shall report, upon his or her initial
30 licensure and any subsequent application for renewal or inactive
31 license, the practice or employment status of the licensee,
32 designated as one of the following:

33 (1) Full-time practice or employment in a dental or dental
34 hygiene practice of 32 hours per week or more in California.

35 (2) Full-time practice or employment in a dental or dental
36 hygiene practice of 32 hours or more outside of California.

37 (3) Part-time practice or employment in a dental or dental
38 hygiene practice for less than 32 hours per week in California.

1 (4) Part-time practice or employment in a dental or dental
2 hygiene practice for less than 32 hours per week outside of
3 California.

4 (5) Dental hygiene administrative employment that does not
5 include direct patient care, as may be further defined by the hygiene
6 board.

7 (6) Retired.

8 (7) Other practice or employment status, as may be further
9 defined by the hygiene board.

10 (b) Information collected pursuant to subdivision (a) shall be
11 posted on the Internet Web site of the hygiene board.

12 (c) (1) A licensee may report on his or her application for
13 renewal, and the hygiene board, as appropriate, shall collect,
14 information regarding the licensee's cultural background and
15 foreign language proficiency.

16 (2) Information collected pursuant to this subdivision shall be
17 aggregated on an annual basis, based on categories utilized by the
18 hygiene board in the collection of the data, into both statewide
19 totals and ZIP Code of primary practice or employment location
20 totals.

21 (3) Aggregated information under this subdivision shall be
22 compiled annually, and reported on the Internet Web site of the
23 hygiene board as appropriate, on or before July 1 of each year.

24 (d) It is the intent of the Legislature to utilize moneys in the
25 State Dental Hygiene Fund to pay any cost incurred by the hygiene
26 board in implementing this section.

27 ~~SEC. 10.~~

28 *SEC. 9.* Section 1902.3 of the Business and Professions Code
29 is amended to read:

30 1902.3. A registered dental hygienist licensed in another state
31 may teach in a dental hygiene college without being licensed in
32 this state if he or she has a special permit. The hygiene board may
33 issue a special permit to practice dental hygiene in a discipline at
34 a dental hygiene college in this state to any person who submits
35 an application and satisfies all of the following eligibility
36 requirements:

37 (a) Furnishing satisfactory evidence of having a pending contract
38 with a California dental hygiene college approved by the hygiene
39 board as a full-time or part-time professor, associate professor,
40 assistant professor, faculty member, or instructor.

1 (b) Furnishing satisfactory evidence of having graduated from
2 a dental hygiene college approved by the hygiene board.

3 (c) Furnishing satisfactory evidence of having been certified as
4 a diplomate of a specialty committee or, in lieu thereof, establishing
5 his or her qualifications to take a specialty committee examination
6 or furnishing satisfactory evidence of having completed an
7 advanced educational program in a discipline from a dental hygiene
8 college approved by the hygiene board.

9 (d) Furnishing satisfactory evidence of having successfully
10 completed an examination in California law and ethics developed
11 and administered by the hygiene board.

12 (e) Paying an application fee, subject to a biennial renewal fee,
13 as provided by Section 1944.

14 ~~SEC. 11.~~

15 *SEC. 10.* Section 1903 of the Business and Professions Code
16 is amended to read:

17 1903. (a) (1) The hygiene board shall consist of nine members
18 as follows:

19 (A) Seven members appointed by the Governor as follows:

20 (i) Two members shall be public members.

21 (ii) One member shall be a practicing general or public health
22 dentist who holds a current license in California.

23 (iii) Four members shall be registered dental hygienists who
24 hold current licenses in California. Of the registered dental
25 hygienist members, one shall be licensed either in alternative
26 practice or in extended functions, one shall be a dental hygiene
27 educator, and two shall be registered dental hygienists. No public
28 member shall have been licensed under this chapter within five
29 years of the date of his or her appointment or have any current
30 financial interest in a dental-related business.

31 (B) One public member appointed by the Senate Committee on
32 Rules.

33 (C) One public member appointed by the Speaker of the
34 Assembly.

35 (2) (A) The first appointment by the Senate Committee on
36 Rules or the Speaker of the Assembly pursuant to this subdivision
37 shall be made upon the expiration of the term of a public member
38 that is scheduled to occur, or otherwise occurs, on or after January
39 1, 2019.

1 (B) It is the intent of the Legislature that committee members
2 appointed prior to January 1, 2019, remain as hygiene board
3 members until their term expires or except as otherwise provided
4 in law, whichever occurs first.

5 (3) For purposes of this subdivision, a public health dentist is
6 a dentist whose primary employer or place of employment is in
7 any of the following:

8 (A) A primary care clinic licensed under subdivision (a) of
9 Section 1204 of the Health and Safety Code.

10 (B) A primary care clinic exempt from licensure pursuant to
11 subdivision (c) of Section 1206 of the Health and Safety Code.

12 (C) A clinic owned or operated by a public hospital or health
13 system.

14 (D) A clinic owned and operated by a hospital that maintains
15 the primary contract with a county government to fill the county's
16 role under Section 17000 of the Welfare and Institutions Code.

17 (b) (1) Except as specified in paragraph (2), members of the
18 hygiene board shall be appointed for a term of four years. Each
19 member shall hold office until the appointment and qualification
20 of his or her successor or until one year shall have lapsed since
21 the expiration of the term for which he or she was appointed,
22 whichever comes first.

23 (2) For the term commencing on January 1, 2012, two of the
24 public members, the general or public health dentist member, and
25 two of the registered dental hygienist members, other than the
26 dental hygiene educator member or the registered dental hygienist
27 member licensed in alternative practice or in extended functions,
28 shall each serve a term of two years, expiring January 1, 2014.

29 (c) Notwithstanding any other provision of law and subject to
30 subdivision (e), the Governor may appoint to the hygiene board a
31 person who previously served as a member of the former committee
32 or hygiene board even if his or her previous term expired.

33 (d) The hygiene board shall elect a president, a vice president,
34 and a secretary from its membership.

35 (e) No person shall serve as a member of the hygiene board for
36 more than two consecutive terms.

37 (f) A vacancy in the hygiene board shall be filled by appointment
38 to the unexpired term.

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

1 (h) The Governor shall have the power to remove any member
2 from the hygiene board for neglect of a duty required by law, for
3 incompetence, or for unprofessional or dishonorable conduct.

4 (i) The hygiene board, with the approval of the director, may
5 appoint a person exempt from civil service who shall be designated
6 as an executive officer and who shall exercise the powers and
7 perform the duties delegated by the hygiene board and vested in
8 him or her by this article.

9 (j) This section shall remain in effect only until January 1, 2023,
10 and as of that date is repealed.

11 ~~SEC. 12.~~

12 *SEC. 11.* Section 1904 of the Business and Professions Code
13 is amended to read:

14 1904. The hygiene board shall meet at least two times each
15 calendar year and shall conduct additional meetings in appropriate
16 locations that are necessary to transact its business.

17 ~~SEC. 13.~~

18 *SEC. 12.* Section 1905 of the Business and Professions Code
19 is amended to read:

20 1905. (a) The hygiene board shall perform the following
21 functions:

22 (1) Evaluate all registered dental hygienist, registered dental
23 hygienist in alternative practice, and registered dental hygienist in
24 extended functions educational programs that apply for approval
25 and grant or deny approval of those applications in accordance
26 with regulations adopted by the hygiene board. Any such
27 educational programs approved by the dental board on or before
28 June 30, 2009, shall be deemed approved by the hygiene board.
29 Any dental hygiene program accredited by the Commission on
30 Dental Accreditation may be approved.

31 (2) Withdraw or revoke its prior approval of a registered dental
32 hygienist, registered dental hygienist in alternative practice, or
33 registered dental hygienist in extended functions educational
34 program in accordance with regulations adopted by the hygiene
35 board. The hygiene board may withdraw or revoke a dental hygiene
36 program approval if the Commission on Dental Accreditation has
37 indicated an intent to withdraw approval or has withdrawn
38 approval.

39 (3) Review and evaluate all registered dental hygienist,
40 registered dental hygienist in alternative practice, and registered

1 dental hygienist in extended functions applications for licensure
2 to ascertain whether the applicant meets the appropriate licensing
3 requirements specified by statute and regulations, maintain
4 application records, cashier application fees, issue and renew
5 licenses, and perform any other tasks that are incidental to the
6 application and licensure processes.

7 (4) Determine the appropriate type of license examination
8 consistent with the provisions of this article, and develop or cause
9 to be developed and administer examinations in accordance with
10 regulations adopted by the hygiene board.

11 (5) Determine the amount of fees assessed under this article,
12 not to exceed the actual cost.

13 (6) Determine and enforce the continuing education
14 requirements specified in Section 1936.1.

15 (7) Deny, suspend, or revoke a license under this article, or
16 otherwise enforce the provisions of this article. Any such
17 proceedings shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title
19 2 of the Government Code, and the hygiene board shall have all
20 of the powers granted therein.

21 (8) Make recommendations to the dental board regarding dental
22 hygiene scope of practice issues.

23 (9) Adopt, amend, and revoke rules and regulations to implement
24 the provisions of this article, including the amount of required
25 supervision by a registered dental hygienist, a registered dental
26 hygienist in alternative practice, or a registered dental hygienist
27 in extended functions of a registered dental assistant.

28 (b) The hygiene board may employ employees and examiners
29 that it deems necessary to carry out its functions and responsibilities
30 under this article.

31 ~~SEC. 14.~~

32 *SEC. 13.* Section 1905.1 of the Business and Professions Code
33 is amended to read:

34 1905.1. The hygiene board may contract with the dental board
35 to carry out this article. The hygiene board may contract with the
36 dental board to perform investigations of applicants and licensees
37 under this article.

38 ~~SEC. 15.~~

39 *SEC. 14.* Section 1905.2 of the Business and Professions Code
40 is amended to read:

1 1905.2. Recommendations by the hygiene board regarding
2 scope of practice issues, as specified in paragraph (8) of subdivision
3 (a) of Section 1905, shall be approved, modified, or rejected by
4 the board within 90 days of submission of the recommendation to
5 the board. If the board rejects or significantly modifies the intent
6 or scope of the recommendation, the hygiene board may request
7 that the board provide its reasons in writing for rejecting or
8 significantly modifying the recommendation, which shall be
9 provided by the board within 30 days of the request.

10 ~~SEC. 16.~~

11 *SEC. 15.* Section 1906 of the Business and Professions Code
12 is amended to read:

13 1906. (a) The hygiene board shall adopt, amend, and revoke
14 regulations to implement the requirements of this article.

15 (b) All regulations adopted by the hygiene board shall comply
16 with the provisions of Chapter 3.5 (commencing with Section
17 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

18 (c) No regulation adopted by the hygiene board shall impose a
19 requirement or a prohibition directly upon a licensed dentist or on
20 the administration of a dental office, unless specifically authorized
21 by this article.

22 (d) Unless contrary to the provisions of this article, regulations
23 adopted by the dental board shall continue to apply to registered
24 dental hygienists, registered dental hygienists in alternative
25 practice, and registered dental hygienists in extended functions
26 until other regulations are adopted by the hygiene board. All
27 references in those regulations to “board” shall mean the hygiene
28 board, which shall solely enforce the regulations with respect to
29 registered dental hygienists, registered dental hygienists in
30 alternative practice, and registered dental hygienists in extended
31 functions.

32 ~~SEC. 17.~~

33 *SEC. 16.* Section 1909 of the Business and Professions Code
34 is amended to read:

35 1909. A registered dental hygienist is authorized to perform
36 the following procedures under direct supervision of a licensed
37 dentist, after submitting to the hygiene board evidence of
38 satisfactory completion of a course of instruction, approved by the
39 hygiene board, in the procedures:

40 (a) Soft-tissue curettage.

- 1 (b) Administration of local anesthesia.
- 2 (c) Administration of nitrous oxide and oxygen, whether
- 3 administered alone or in combination with each other.

4 ~~SEC. 18.~~

5 *SEC. 17.* Section 1910.5 of the Business and Professions Code
6 is amended to read:

7 1910.5. (a) In addition to the duties specified in Section 1910,
8 a registered dental hygienist is authorized to perform the following
9 additional duties, as specified:

10 (1) Determine which radiographs to perform on a patient who
11 has not received an initial examination by the supervising dentist
12 for the specific purpose of the dentist making a diagnosis and
13 treatment plan for the patient. In these circumstances, the dental
14 hygienist shall follow protocols established by the supervising
15 dentist. This paragraph only applies in the following settings:

- 16 (A) In a dental office setting.
- 17 (B) In a public health setting, using telehealth, as defined by
- 18 Section 2290.5, for the purpose of communication with the
- 19 supervising dentist, including, but not limited to, schools, head
- 20 start and preschool programs, and community clinics.

21 (2) Place protective restorations, which for this purpose are
22 identified as interim therapeutic restorations, and defined as a
23 direct provisional restoration placed to stabilize the tooth until a
24 licensed dentist diagnoses the need for further definitive treatment.
25 An interim therapeutic restoration consists of the removal of soft
26 material from the tooth using only hand instrumentation, without
27 the use of rotary instrumentation, and subsequent placement of an
28 adhesive restorative material. Local anesthesia shall not be
29 necessary for interim therapeutic restoration placement. Interim
30 therapeutic restorations shall be placed only in accordance with
31 both of the following:

- 32 (A) In either of the following settings:
- 33 (i) In a dental office setting.
- 34 (ii) In a public health setting, using telehealth, as defined by
- 35 Section 2290.5, for the purpose of communication with the
- 36 supervising dentist, including, but not limited to, schools, head
- 37 start and preschool programs, and community clinics.
- 38 (B) After the diagnosis, treatment plan, and instruction to
- 39 perform the procedure provided by a dentist.

1 (b) The functions described in subdivision (a) may be performed
2 by a registered dental hygienist only after completion of a program
3 that includes training in performing those functions, or after
4 providing evidence, satisfactory to the hygiene board, of having
5 completed a hygiene board-approved course in those functions.

6 (c) No later than January 1, 2018, the hygiene board shall adopt
7 regulations to establish requirements for courses of instruction for
8 the procedures authorized to be performed by a registered dental
9 hygienist and registered dental hygienist in alternative practice
10 pursuant to Sections 1910.5 and 1926.05, using the
11 competency-based training protocols established by the Health
12 Workforce Pilot Project (HWPP) No. 172 through the Office of
13 Health Planning and Development. The hygiene board shall use
14 the curriculum submitted by the board pursuant to Section 1753.55
15 to adopt regulatory language for approval of courses of instruction
16 for the Interim Therapeutic Restoration. Any subsequent
17 amendments to the regulations for the Interim Therapeutic
18 Restoration curriculum that are promulgated by the hygiene board
19 shall be agreed upon by the board and the hygiene board.

20 (d) This section shall become operative on January 1, 2018.

21 ~~SEC. 19.~~

22 *SEC. 18.* Section 1916 of the Business and Professions Code
23 is amended to read:

24 1916. (a) (1) An applicant for licensure under this article shall
25 furnish electronic fingerprint images for submission to state and
26 federal criminal justice agencies, including, but not limited to, the
27 Federal Bureau of Investigation, in order to establish the identity
28 of the applicant and for the other purposes described in this section.

29 (2) Notwithstanding paragraph (1), an out-of-state applicant or
30 licensee residing out of state for whom an electronic record of the
31 licensee's fingerprints does not exist shall furnish a hardcopy of
32 his or her fingerprint card if electronic fingerprint images are not
33 available or shared in the applicant's or licensee's state of
34 residence.

35 (b) The hygiene board shall submit the fingerprint images or
36 card to the Department of Justice for the purposes of obtaining
37 criminal offender record information regarding state and federal
38 level convictions and arrests, including arrests for which the
39 Department of Justice establishes that the person is free on bail or
40 on his or her own recognizance pending trial or appeal.

1 (c) When received, the Department of Justice shall forward to
2 the Federal Bureau of Investigation requests for federal summary
3 criminal history information received pursuant to this section. The
4 Department of Justice shall review the information returned from
5 the Federal Bureau of Investigation and compile and disseminate
6 the response to the hygiene board.

7 (d) The Department of Justice shall provide a response to the
8 hygiene board pursuant to subdivision (p) of Section 11105 of the
9 Penal Code.

10 (e) The hygiene board shall request from the Department of
11 Justice subsequent arrest notification service, as provided pursuant
12 to Section 11105.2 of the Penal Code.

13 (f) The information obtained as a result of the fingerprinting
14 shall be used in accordance with Section 11105 of the Penal Code,
15 and to determine whether the applicant is subject to denial of
16 licensure pursuant to Division 1.5 (commencing with Section 475)
17 or Section 1943.

18 (g) The Department of Justice shall charge a fee sufficient to
19 cover the cost of processing the request described in this section.

20 ~~SEC. 20:~~

21 *SEC. 19.* Section 1917 of the Business and Professions Code
22 is amended to read:

23 1917. The hygiene board shall grant initial licensure as a
24 registered dental hygienist to a person who satisfies all of the
25 following requirements:

26 (a) Completion of an educational program for registered dental
27 hygienists, approved by the hygiene board, accredited by the
28 Commission on Dental Accreditation, and conducted by a
29 degree-granting, postsecondary institution.

30 (b) Within the preceding two years, satisfactory completion of
31 the dental hygiene examination given by the Western Regional
32 Examining Board or any other clinical or dental hygiene
33 examination approved by the hygiene board.

34 (c) Satisfactory completion of the National Dental Hygiene
35 Board Examination.

36 (d) Satisfactory completion of the examination in California
37 law and ethics as prescribed by the hygiene board.

38 (e) Submission of a completed application form and all fees
39 required by the hygiene board.

1 (f) Satisfactory completion of hygiene board-approved
2 instruction in gingival soft tissue curettage, nitrous oxide-oxygen
3 analgesia, and local anesthesia.

4 ~~SEC. 21.~~

5 *SEC. 20.* Section 1917.1 of the Business and Professions Code
6 is amended to read:

7 1917.1. (a) The hygiene board may grant a license as a
8 registered dental hygienist to an applicant who has not taken a
9 clinical examination before the hygiene board, if the applicant
10 submits all of the following to the hygiene board:

11 (1) A completed application form and all fees required by the
12 hygiene board.

13 (2) Proof of a current license as a registered dental hygienist
14 issued by another state that is not revoked, suspended, or otherwise
15 restricted.

16 (3) Proof that the applicant has been in clinical practice as a
17 registered dental hygienist or has been a full-time faculty member
18 in an accredited dental hygiene education program for a minimum
19 of 750 hours per year for at least five years immediately preceding
20 the date of his or her application under this section. The clinical
21 practice requirement shall be deemed met if the applicant provides
22 proof of at least three years of clinical practice and commits to
23 completing the remaining two years of clinical practice by filing
24 with the hygiene board a copy of a pending contract to practice
25 dental hygiene in any of the following facilities:

26 (A) A primary care clinic licensed under subdivision (a) of
27 Section 1204 of the Health and Safety Code.

28 (B) A primary care clinic exempt from licensure pursuant to
29 subdivision (c) of Section 1206 of the Health and Safety Code.

30 (C) A clinic owned or operated by a public hospital or health
31 system.

32 (D) A clinic owned and operated by a hospital that maintains
33 the primary contract with a county government to fill the county's
34 role under Section 17000 of the Welfare and Institutions Code.

35 (4) Satisfactory performance on a California law and ethics
36 examination and any examination that may be required by the
37 hygiene board.

38 (5) Proof that the applicant has not been subject to disciplinary
39 action by any state in which he or she, is or has been previously,
40 issued any professional or vocational license. If the applicant has

1 been subject to disciplinary action, the hygiene board shall review
2 that action to determine if it warrants refusal to issue a license to
3 the applicant.

4 (6) Proof of graduation from a school of dental hygiene
5 accredited by the Commission on Dental Accreditation.

6 (7) Proof of satisfactory completion of the National Dental
7 Hygiene Board Examination and of a state clinical examination,
8 regional clinical licensure examination, or any other clinical dental
9 hygiene examination approved by the hygiene board.

10 (8) Proof that the applicant has not failed the state clinical
11 examination, the examination given by the Western Regional
12 Examining Board, or any other clinical dental hygiene examination
13 approved by the hygiene board for licensure to practice dental
14 hygiene under this chapter more than once or once within five
15 years prior to the date of his or her application for a license under
16 this section.

17 (9) Documentation of completion of a minimum of 25 units of
18 continuing education earned in the two years preceding application,
19 including completion of any continuing education requirements
20 imposed by the hygiene board on registered dental hygienists
21 licensed in this state at the time of application.

22 (10) Any other information as specified by the hygiene board
23 to the extent that it is required of applicants for licensure by
24 examination under this article.

25 (b) The hygiene board may periodically request verification of
26 compliance with the requirements of paragraph (3) of subdivision
27 (a), and may revoke the license upon a finding that the employment
28 requirement or any other requirement of paragraph (3) of
29 subdivision (a) has not been met.

30 (c) The hygiene board shall provide in the application packet
31 to each out-of-state dental hygienist pursuant to this section the
32 following information:

33 (1) The location of dental manpower shortage areas in the state.

34 (2) Any not-for-profit clinics, public hospitals, and accredited
35 dental hygiene education programs seeking to contract with
36 licensees for dental hygiene service delivery or training purposes.

37 ~~SEC. 22.~~

38 *SEC. 21.* Section 1917.3 of the Business and Professions Code
39 is amended to read:

1 1917.3. Notwithstanding Section 135, an examinee for a
2 registered dental hygienist license who either fails to pass the
3 clinical examination required by Section 1917 after three attempts
4 or fails to pass the clinical examination as a result of a single
5 incidence of imposing gross trauma on a patient shall not be
6 eligible for further reexamination until the examinee has
7 successfully completed remedial education at an approved dental
8 hygiene program or a comparable organization approved by the
9 hygiene board.

10 ~~SEC. 23.~~

11 *SEC. 22.* Section 1918 of the Business and Professions Code
12 is amended to read:

13 1918. The hygiene board shall license as a registered dental
14 hygienist in extended functions a person who meets all of the
15 following requirements:

16 (a) Holds a current license as a registered dental hygienist in
17 California.

18 (b) Completes clinical training approved by the hygiene board
19 in a facility affiliated with a dental school under the direct
20 supervision of the dental school faculty.

21 (c) Performs satisfactorily on an examination required by the
22 hygiene board.

23 (d) Completes an application form and pays all application fees
24 required by the hygiene board.

25 ~~SEC. 24.~~

26 *SEC. 23.* Section 1922 of the Business and Professions Code
27 is amended to read:

28 1922. The hygiene board shall license as a registered dental
29 hygienist in alternative practice a person who demonstrates
30 satisfactory performance on an examination in California law and
31 ethics required by the hygiene board and who completes an
32 application form and pays all application fees required by the
33 hygiene board and meets either of the following requirements:

34 (a) Holds a current California license as a registered dental
35 hygienist and meets the following requirements:

36 (1) Has been engaged in the practice of dental hygiene, as
37 defined in Section 1908, as a registered dental hygienist in any
38 setting, including, but not limited to, educational settings and public
39 health settings, for a minimum of 2,000 hours during the
40 immediately preceding 36 months.

1 (2) Has successfully completed a bachelor’s degree or its
 2 equivalent from a college or institution of higher education that is
 3 accredited by a national or regional accrediting agency recognized
 4 by the United States Department of Education, and a minimum of
 5 150 hours of additional educational requirements, as prescribed
 6 by the hygiene board by regulation, that are consistent with good
 7 dental and dental hygiene practice, including, but not necessarily
 8 limited to, dental hygiene technique and theory including
 9 gerontology and medical emergencies, and business administration
 10 and practice management.

11 (b) Has received a letter of acceptance into the employment
 12 utilization phase of the Health Manpower Pilot Project No. 155
 13 established by the Office of Statewide Health Planning and
 14 Development pursuant to Article 1 (commencing with Section
 15 128125) of Chapter 3 of Part 3 of Division 107 of the Health and
 16 Safety Code.

17 ~~SEC. 25.~~

18 *SEC. 24.* Section 1926.1 of the Business and Professions Code
 19 is amended to read:

20 1926.1. Notwithstanding any other provision of law, a
 21 registered dental hygienist in alternative practice may operate a
 22 mobile dental hygiene clinic provided by his or her property and
 23 casualty insurer as a temporary substitute site for the practice
 24 registered by him or her pursuant to Section 1926.3, if both of the
 25 following requirements are met:

26 (a) The licensee’s registered place of practice has been rendered
 27 and remains unusable due to loss or calamity.

28 (b) The licensee’s insurer registers the mobile dental hygiene
 29 clinic with the hygiene board in compliance with Section 1926.3.

30 ~~SEC. 26.~~

31 *SEC. 25.* Section 1926.2 of the Business and Professions Code
 32 is amended to read:

33 1926.2. (a) Notwithstanding any other provision of law, a
 34 registered dental hygienist in alternative practice may operate one
 35 mobile dental hygiene clinic registered as a dental hygiene office
 36 or facility. The owner or operator of the mobile dental hygiene
 37 clinic or unit shall be registered and operated in accordance with
 38 regulations established by the hygiene board, which regulations
 39 shall not be designed to prevent or lessen competition in service
 40 areas, and shall pay the fees described in Section 1944.

1 (b) A mobile service unit, as defined in subdivision (b) of
2 Section 1765.105 of the Health and Safety Code, and a mobile
3 unit operated by an entity that is exempt from licensure pursuant
4 to subdivision (b), (c), or (h) of Section 1206 of the Health and
5 Safety Code, are exempt from this article. Notwithstanding this
6 exemption, the owner or operator of the mobile unit shall notify
7 the hygiene board within 60 days of the date on which dental
8 hygiene services are first delivered in the mobile unit, or the date
9 on which the mobile unit's application pursuant to Section
10 1765.130 of the Health and Safety Code is approved, whichever
11 is earlier.

12 (c) A licensee practicing in a mobile unit described in
13 subdivision (b) is not subject to subdivision (a) as to that mobile
14 unit.

15 ~~SEC. 27.~~

16 *SEC. 26.* Section 1926.3 of the Business and Professions Code
17 is amended to read:

18 1926.3. Every person who is now or hereafter licensed as a
19 registered dental hygienist in alternative practice in this state shall
20 register with the executive officer, on forms prescribed by the
21 hygiene board, his or her place of practice, or, if he or she has more
22 than one place of practice pursuant to Section 1926.4, all of the
23 places of practice. If he or she has no place of practice, he or she
24 shall so notify the executive officer. A person licensed by the
25 hygiene board shall register with the executive officer within 30
26 days after the date of the issuance of his or her license as a
27 registered dental hygienist in alternative practice.

28 ~~SEC. 28.~~

29 *SEC. 27.* Section 1926.4 of the Business and Professions Code
30 is amended to read:

31 1926.4. When a registered dental hygienist in alternative
32 practice desires to have more than one place of practice, he or she
33 shall, prior to the opening of the additional office, apply to the
34 hygiene board, pay the fee required by Section 1944, and obtain
35 permission in writing from the hygiene board to have the additional
36 place of practice, subject to a biennial renewal fee described in
37 Section 1944.

38 ~~SEC. 29.~~

39 *SEC. 28.* Section 1930 of the Business and Professions Code
40 is amended to read:

1 1930. A registered dental hygienist in alternative practice shall
2 provide to the hygiene board documentation of an existing
3 relationship with at least one dentist for referral, consultation, and
4 emergency services.

5 ~~SEC. 30.~~

6 *SEC. 29.* Section 1931 of the Business and Professions Code
7 is amended to read:

8 1931. (a) (1) A dental hygienist in alternative practice may
9 provide services to a patient without obtaining written verification
10 that the patient has been examined by a dentist or physician and
11 surgeon licensed to practice in this state.

12 (2) If the dental hygienist in alternative practice provides
13 services to a patient 18 months or more after the first date that he
14 or she provides services to a patient, he or she shall obtain written
15 verification that the patient has been examined by a dentist or
16 physician and surgeon licensed to practice in this state. The
17 verification shall include a prescription for dental hygiene services
18 as described in subdivision (b).

19 (b) A registered dental hygienist in alternative practice may
20 provide dental hygiene services for a patient who presents to the
21 registered dental hygienist in alternative practice a written
22 prescription for dental hygiene services issued by a dentist or
23 physician and surgeon licensed to practice in this state. The
24 prescription shall be valid for a time period based on the dentist's
25 or physician and surgeon's professional judgment, but not to exceed
26 two years from the date it was issued.

27 (c) (1) The hygiene board may seek to obtain an injunction
28 against any registered dental hygienist in alternative practice who
29 provides services pursuant to this section, if the hygiene board has
30 reasonable cause to believe that the services are being provided to
31 a patient who has not received a prescription for those services
32 from a dentist or physician and surgeon licensed to practice in this
33 state.

34 (2) Providing services pursuant to this section without obtaining
35 a prescription in accordance with subdivision (b) shall constitute
36 unprofessional conduct on the part of the registered dental hygienist
37 in alternative practice, and reason for the hygiene board to revoke
38 or suspend the license of the registered dental hygienist in
39 alternative practice pursuant to Section 1947.

1 ~~SEC. 31.~~

2 *SEC. 30.* Section 1932 of the Business and Professions Code
3 is amended to read:

4 1932. (a) The hygiene board may, in its sole discretion, issue
5 a probationary license to an applicant who has satisfied all
6 requirements for licensure as a registered dental hygienist, a
7 registered dental hygienist in alternative practice, or a registered
8 dental hygienist in extended functions. The hygiene board may
9 require, as a term or condition of issuing the probationary license,
10 that the applicant comply with certain additional requirements,
11 including, but not limited to, the following:

12 (1) Successfully completing a professional competency
13 examination.

14 (2) Submitting to a medical or psychological evaluation.

15 (3) Submitting to continuing medical or psychological treatment.

16 (4) Abstaining from the use of alcohol or drugs.

17 (5) Submitting to random fluid testing for alcohol or controlled
18 substance abuse.

19 (6) Submitting to continuing participation in a hygiene
20 board-approved rehabilitation program.

21 (7) Restricting the type or circumstances of practice.

22 (8) Submitting to continuing education and coursework.

23 (9) Complying with requirements regarding notifying the
24 hygiene board of any change of employer or employment.

25 (10) Complying with probation monitoring.

26 (11) Complying with all laws and regulations governing the
27 practice of dental hygiene.

28 (12) Limiting his or her practice to a supervised, structured
29 environment in which his or her activities are supervised by a
30 specified person.

31 (b) The term of a probationary license is three years. During
32 the term of the license, the licensee may petition the hygiene board
33 for a modification of a term or condition of the license or for the
34 issuance of a license that is not probationary.

35 (c) The proceedings under this section shall be conducted in
36 accordance with Chapter 5 (commencing with Section 11500) of
37 Part 1 of Division 3 of Title 2 of the Government Code, and the
38 hygiene board shall have all the powers granted in that chapter.

1 ~~SEC. 32.~~

2 *SEC. 31.* Section 1934 of the Business and Professions Code
3 is amended to read:

4 1934. A licensee who changes his or her physical address of
5 record or email address shall notify the hygiene board within 30
6 days of the change. A licensee who changes his or her legal name
7 shall provide the hygiene board with documentation of the change
8 within 10 days.

9 ~~SEC. 33.~~

10 *SEC. 32.* Section 1935 of the Business and Professions Code
11 is amended to read:

12 1935. If not renewed, a license issued under the provisions of
13 this article, unless specifically excepted, expires at 12 midnight
14 on the last day of the month of the legal birth date of the licensee
15 during the second year of a two-year term. To renew an unexpired
16 license, the licensee shall, before the time at which the license
17 would otherwise expire, apply for renewal on a form prescribed
18 by the hygiene board and pay the renewal fee prescribed by this
19 article.

20 ~~SEC. 34.~~

21 *SEC. 33.* Section 1936 of the Business and Professions Code
22 is amended to read:

23 1936. Except as otherwise provided in this article, an expired
24 license may be renewed at any time within five years after its
25 expiration by filing an application for renewal on a form prescribed
26 by the hygiene board and payment of all accrued renewal and
27 delinquency fees. If the license is renewed after its expiration, the
28 licensee, as a condition precedent of renewal, shall also pay the
29 delinquency fee prescribed by this article. Renewal under this
30 section shall be effective on the date on which the application is
31 filed, on the date on which the renewal fee is paid, or on the date
32 on which the delinquency fee, if any, is paid, whichever last occurs.
33 If so renewed, the license shall continue in effect until the
34 expiration date provided in Section 1935 that next occurs after the
35 effective date of the renewal.

36 ~~SEC. 35.~~

37 *SEC. 34.* Section 1936.1 of the Business and Professions Code
38 is amended to read:

39 1936.1. (a) The hygiene board shall require, as a condition of
40 license renewal, that licensees submit assurances satisfactory to

1 the hygiene board that they will, during the succeeding two-year
2 period, inform themselves of the developments in the practice of
3 dental hygiene occurring since the original issuance of their
4 licenses by pursuing one or more courses of study satisfactory to
5 the hygiene board, or by other means deemed equivalent by the
6 hygiene board. The hygiene board shall adopt, amend, and revoke
7 regulations providing for the suspension of the licenses at the end
8 of the two-year period until compliance with the assurances
9 provided for in this section is accomplished. The hygiene board
10 shall conduct random audits of at least 5 percent of the licensee
11 population each year to ensure compliance of the continuing
12 education requirement.

13 (b) The hygiene board shall also, as a condition of license
14 renewal, require licensees to successfully complete a portion of
15 the required continuing education hours in specific areas adopted
16 in regulations by the hygiene board. The hygiene board may
17 prescribe this mandatory coursework within the general areas of
18 patient care, health and safety, and law and ethics. The mandatory
19 coursework prescribed by the hygiene board shall not exceed seven
20 and one-half hours per renewal period. Any mandatory coursework
21 required by the hygiene board shall be credited toward the
22 continuing education requirements established by the hygiene
23 board pursuant to subdivision (a).

24 (c) The providers of courses referred to in this section shall be
25 approved by the hygiene board. Providers approved by the dental
26 board shall be deemed approved by the hygiene board.

27 ~~SEC. 36.~~

28 *SEC. 35.* Section 1940 of the Business and Professions Code
29 is amended to read:

30 1940. (a) A licensee who desires an inactive license shall
31 submit an application to the hygiene board on a form provided by
32 the hygiene board.

33 (b) In order to restore an inactive license to active status, the
34 licensee shall submit an application to the hygiene board on a form
35 provided by the hygiene board, accompanied by evidence that the
36 licensee has completed the required number of hours of approved
37 continuing education in compliance with this article within the last
38 two years preceding the date of the application.

39 (c) The holder of an inactive license shall continue to pay to the
40 hygiene board the required biennial renewal fee.

1 (d) Within 30 days of receiving a request either to restore an
2 inactive license or to inactivate a license, the hygiene board shall
3 inform the applicant in writing whether the application is complete
4 and accepted for filing or is deficient and, if so, the specific
5 information required to complete the application.

6 ~~SEC. 37.~~

7 *SEC. 36.* Section 1941 of the Business and Professions Code
8 is amended to read:

9 1941. (a) The hygiene board shall grant or renew approval of
10 only those educational programs for a registered dental hygienist,
11 a registered dental hygienist in alternative practice, or a registered
12 dental hygienist in extended functions that continuously maintain
13 a high quality standard of instruction and, where appropriate, meet
14 the minimum standards set by the Commission on Dental
15 Accreditation of the American Dental Association or an equivalent
16 body, as determined by the hygiene board.

17 (b) A new educational program for registered dental hygienists
18 shall submit a feasibility study demonstrating a need for a new
19 educational program and shall apply for approval from the hygiene
20 board prior to seeking approval for initial accreditation from the
21 Commission on Dental Accreditation of the American Dental
22 Association or an equivalent body, as determined by the hygiene
23 board. The hygiene board may approve, provisionally approve, or
24 deny approval of any such new educational program.

25 (c) For purposes of this section, a new educational program for
26 registered dental hygienists means a program provided by a college
27 or institution of higher education that is accredited by a regional
28 accrediting agency recognized by the United States Department
29 of Education and that has as its primary purpose providing college
30 level courses leading to an associate or higher degree, that is either
31 affiliated with or conducted by a dental school approved by the
32 dental board, or that is accredited to offer college level or college
33 parallel programs by the Commission on Dental Accreditation of
34 the American Dental Association or an equivalent body, as
35 determined by the hygiene board.

36 ~~SEC. 38.~~

37 *SEC. 37.* Section 1941.5 is added to the Business and
38 Professions Code, to read:

39 1941.5. (a) The hygiene board shall renew approval of
40 educational programs for a registered dental hygienist, a registered

1 dental hygienist in alternative practice, or a registered dental
2 hygienist in extended functions that certify to the hygiene board
3 on a form prescribed by the hygiene board that the program
4 continues to meet the requirements prescribed by the hygiene
5 board.

6 (b) The hygiene board may conduct periodic surveys,
7 evaluations, and announced and unannounced site visits to existing
8 and new educational programs for a registered dental hygienist, a
9 registered dental hygienist in alternative practice, or a registered
10 dental hygienist in extended functions to ensure continued
11 compliance of educational program requirements and Commission
12 on Dental Accreditation standards for continued approval.

13 (c) An existing or new educational program for a registered
14 dental hygienist, a registered dental hygienist in alternative practice,
15 or a registered dental hygienist in extended functions that is found
16 to be noncompliant with the educational program requirements
17 and Commission on Dental Accreditation standards may be placed
18 on probation with terms, issued a citation and fine, or have its
19 approval withdrawn if compliance is not met within reasonable
20 specified timelines.

21 (d) The hygiene board, or through an authorized representative,
22 may issue a citation containing fines and orders of abatement for
23 any approved educational program for a registered dental hygienist,
24 a registered dental hygienist in alternative practice, or a registered
25 dental hygienist in extended functions for any violation of this
26 section or the regulations adopted pursuant to this section.

27 ~~SEC. 39.~~

28 *SEC. 38.* Section 1942 of the Business and Professions Code
29 is amended to read:

30 1942. (a) As used in this article “extramural dental facility”
31 means any clinical facility that has contracted with an approved
32 dental hygiene educational program for instruction in dental
33 hygiene, that exists outside or beyond the walls, boundaries, or
34 precincts of the primary campus of the approved program, and in
35 which dental hygiene services are rendered.

36 (b) An approved dental hygiene educational program shall
37 register an extramural dental facility with the hygiene board. That
38 registration shall be accompanied by information supplied by the
39 dental hygiene program pertaining to faculty supervision, scope
40 of treatment to be rendered, name and location of the facility, date

1 on which the operation will commence, discipline of which the
2 instruction is a part, and a brief description of the equipment and
3 facilities available. The foregoing information shall be
4 supplemented by a copy of the agreement between the approved
5 dental hygiene educational program or parent university, and the
6 affiliated institution establishing the contractual relationship. Any
7 change in the information initially provided to the hygiene board
8 shall be communicated to the hygiene board.

9 ~~SEC. 40.~~

10 *SEC. 39.* Section 1943 of the Business and Professions Code
11 is amended to read:

12 1943. (a) The hygiene board may deny an application to take
13 an examination for licensure as a registered dental hygienist, a
14 registered dental hygienist in alternative practice, or a registered
15 dental hygienist in extended functions at any time prior to licensure
16 for any of the following reasons:

17 (1) The applicant committed an act that is a ground for license
18 suspension or revocation under this code or that is a ground for
19 the denial of licensure under Section 480.

20 (2) The applicant committed or aided and abetted the
21 commission of any act for which a license is required under this
22 chapter.

23 (3) Another state or territory suspended or revoked the license
24 that it had issued to the applicant on a ground that constitutes a
25 basis in this state for the suspension or revocation of licensure
26 under this article.

27 (b) The proceedings under this section shall be conducted in
28 accordance with Chapter 5 (commencing with Section 11500) of
29 Part 1 of Division 3 of Title 2 of the Government Code, and the
30 hygiene board shall have all of the powers granted therein.

31 ~~SEC. 41.~~

32 *SEC. 40.* Section 1944 of the Business and Professions Code
33 is amended to read:

34 1944. (a) The hygiene board shall establish by resolution the
35 amount of the fees that relate to the licensing of a registered dental
36 hygienist, a registered dental hygienist in alternative practice, and
37 a registered dental hygienist in extended functions. The fees
38 established by board resolution in effect on June 30, 2009, as they
39 relate to the licensure of registered dental hygienists, registered
40 dental hygienists in alternative practice, and registered dental

1 hygienists in extended functions, shall remain in effect until
2 modified by the hygiene board. The fees are subject to the
3 following limitations:

4 (1) The application fee for an original license and the fee for
5 issuance of an original license shall not exceed two hundred fifty
6 dollars (\$250).

7 (2) The fee for examination for licensure as a registered dental
8 hygienist shall not exceed the actual cost of the examination.

9 (3) The fee for examination for licensure as a registered dental
10 hygienist in extended functions shall not exceed the actual cost of
11 the examination.

12 (4) The fee for examination for licensure as a registered dental
13 hygienist in alternative practice shall not exceed the actual cost of
14 administering the examination.

15 (5) The biennial renewal fee shall not exceed five hundred
16 dollars (\$500).

17 (6) The delinquency fee shall not exceed one-half of the renewal
18 fee. Any delinquent license may be restored only upon payment
19 of all fees, including the delinquency fee, and compliance with all
20 other applicable requirements of this article.

21 (7) The fee for issuance of a duplicate license to replace one
22 that is lost or destroyed, or in the event of a name change, shall
23 not exceed twenty-five dollars (\$25) or one-half of the renewal
24 fee, whichever is greater.

25 (8) The fee for certification of licensure shall not exceed one-half
26 of the renewal fee.

27 (9) The fee for each curriculum review and feasibility study
28 review for educational programs for dental hygienists who are not
29 accredited by a hygiene board-approved agency shall not exceed
30 two thousand one hundred dollars (\$2,100).

31 (10) The fee for each review or approval of course requirements
32 for licensure or procedures that require additional training shall
33 not exceed seven hundred fifty dollars (\$750).

34 (11) The initial application and biennial fee for a provider of
35 continuing education shall not exceed five hundred dollars (\$500).

36 (12) The amount of fees payable in connection with permits
37 issued under Section 1962 is as follows:

38 (A) The initial permit fee is an amount equal to the renewal fee
39 for the applicant's license to practice dental hygiene in effect on

1 the last regular renewal date before the date on which the permit
2 is issued.

3 (B) If the permit will expire less than one year after its issuance,
4 then the initial permit fee is an amount equal to 50 percent of the
5 renewal fee in effect on the last regular renewal date before the
6 date on which the permit is issued.

7 (13) The fee for the hygiene board to conduct a site visit to
8 educational programs for a registered dental hygienist, a registered
9 dental hygienist in alternative practice, or a registered dental
10 hygienist in extended functions to ensure compliance of educational
11 program requirements shall not exceed the actual cost incurred by
12 the hygiene board for cost recovery of site visit expenditures.

13 (14) The fee for a retired license shall not exceed one-half of
14 the current license renewal fee.

15 (b) The renewal and delinquency fees shall be fixed by the
16 hygiene board by resolution at not more than the current amount
17 of the renewal fee for a license to practice under this article nor
18 less than five dollars (\$5).

19 (c) Fees fixed by the hygiene board by resolution pursuant to
20 this section shall not be subject to the approval of the Office of
21 Administrative Law.

22 (d) Fees collected pursuant to this section shall be collected by
23 the hygiene board and deposited into the State Dental Hygiene
24 Fund, which is hereby created. All money in this fund shall, upon
25 appropriation by the Legislature in the annual Budget Act, be used
26 to implement this article.

27 (e) No fees or charges other than those listed in this section shall
28 be levied by the hygiene board in connection with the licensure of
29 registered dental hygienists, registered dental hygienists in
30 alternative practice, or registered dental hygienists in extended
31 functions.

32 (f) The fee for registration of an extramural dental facility shall
33 not exceed two hundred fifty dollars (\$250).

34 (g) The fee for registration of a mobile dental hygiene unit shall
35 not exceed one hundred fifty dollars (\$150).

36 (h) The biennial renewal fee for a mobile dental hygiene unit
37 shall not exceed two hundred fifty dollars (\$250).

38 (i) The fee for an additional office permit shall not exceed two
39 hundred fifty dollars (\$250).

1 (j) The biennial renewal fee for an additional office as described
2 in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

3 (k) The initial application and biennial special permit fee is an
4 amount equal to the biennial renewal fee specified in paragraph
5 (6) of subdivision (a).

6 (l) The fees in this section shall not exceed an amount sufficient
7 to cover the reasonable regulatory cost of carrying out this article.

8 ~~SEC. 42.~~

9 *SEC. 41.* Section 1947 of the Business and Professions Code
10 is amended to read:

11 1947. A license issued under this article and a license issued
12 under this chapter to a registered dental hygienist, to a registered
13 dental hygienist in alternative practice, or to a registered dental
14 hygienist in extended functions may be revoked or suspended by
15 the hygiene board for any reason specified in this article for the
16 suspension or revocation of a license to practice dental hygiene.

17 ~~SEC. 43.~~

18 *SEC. 42.* Section 1949 of the Business and Professions Code
19 is amended to read:

20 1949. A licensee may have his or her license revoked or
21 suspended, or may be reprimanded or placed on probation by the
22 hygiene board for unprofessional conduct, incompetence, gross
23 negligence, repeated acts of negligence in his or her profession,
24 receiving a license by mistake, or for any other cause applicable
25 to the licentiate provided in this article. The proceedings under
26 this article shall be conducted in accordance with Chapter 5
27 (commencing with Section 11500) of Part 1 of Division 3 of Title
28 2 of the Government Code, and the hygiene board shall have all
29 the powers granted therein.

30 ~~SEC. 44.~~

31 *SEC. 43.* Section 1950 of the Business and Professions Code
32 is amended to read:

33 1950. (a) A licensee may have his or her license revoked or
34 suspended, or may be reprimanded or placed on probation by the
35 hygiene board, for conviction of a crime substantially related to
36 the licensee's qualifications, functions, or duties. The record of
37 conviction or a copy certified by the clerk of the court or by the
38 judge in whose court the conviction occurred shall be conclusive
39 evidence of conviction.

1 (b) The hygiene board shall undertake proceedings under this
 2 section upon the receipt of a certified copy of the record of
 3 conviction. A plea or verdict of guilty or a conviction following a
 4 plea of nolo contendere made to a charge of a felony or of any
 5 misdemeanor substantially related to the licensee’s qualifications,
 6 functions, or duties is deemed to be a conviction within the
 7 meaning of this section.

8 (c) The hygiene board may reprimand a licensee or order a
 9 license suspended or revoked, or placed on probation or may
 10 decline to issue a license, when any of the following occur:

- 11 (1) The time for appeal has elapsed.
- 12 (2) The judgment of conviction has been affirmed on appeal.
- 13 (3) An order granting probation is made suspending the
 14 imposition of sentence, irrespective of a subsequent order under
 15 any provision of the Penal Code, including, but not limited to,
 16 Section 1203.4 of the Penal Code, allowing a person to withdraw
 17 his or her plea of guilty and to enter a plea of not guilty, or setting
 18 aside the verdict of guilty, or dismissing the accusation,
 19 information, or indictment.

20 ~~SEC. 45.~~

21 *SEC. 44.* Section 1950.5 of the Business and Professions Code
 22 is amended to read:

23 1950.5. Unprofessional conduct by a person licensed under
 24 this article is defined as, but is not limited to, any one of the
 25 following:

- 26 (a) The obtaining of any fee by fraud or misrepresentation.
- 27 (b) The aiding or abetting of any unlicensed person to practice
 28 dentistry or dental hygiene.
- 29 (c) The aiding or abetting of a licensed person to practice
 30 dentistry or dental hygiene unlawfully.
- 31 (d) The committing of any act or acts of sexual abuse,
 32 misconduct, or relations with a patient that are substantially related
 33 to the practice of dental hygiene.
- 34 (e) The use of any false, assumed, or fictitious name, either as
 35 an individual, firm, corporation, or otherwise, or any name other
 36 than the name under which he or she is licensed to practice, in
 37 advertising or in any other manner indicating that he or she is
 38 practicing or will practice dentistry, except that name as is specified
 39 in a valid permit issued pursuant to Section 1962.

1 (f) The practice of accepting or receiving any commission or
2 the rebating in any form or manner of fees for professional services,
3 radiographs, prescriptions, or other services or articles supplied to
4 patients.

5 (g) The making use by the licensee or any agent of the licensee
6 of any advertising statements of a character tending to deceive or
7 mislead the public.

8 (h) The advertising of either professional superiority or the
9 advertising of performance of professional services in a superior
10 manner. This subdivision shall not prohibit advertising permitted
11 by subdivision (h) of Section 651.

12 (i) The employing or the making use of solicitors.

13 (j) Advertising in violation of Section 651.

14 (k) Advertising to guarantee any dental hygiene service, or to
15 perform any dental hygiene procedure painlessly. This subdivision
16 shall not prohibit advertising permitted by Section 651.

17 (l) The violation of any of the provisions of this division.

18 (m) The permitting of any person to operate dental radiographic
19 equipment who has not met the requirements to do so, as
20 determined by the hygiene board.

21 (n) The clearly excessive administering of drugs or treatment,
22 or the clearly excessive use of treatment procedures, or the clearly
23 excessive use of treatment facilities, as determined by the
24 customary practice and standards of the dental hygiene profession.

25 Any person who violates this subdivision is guilty of a
26 misdemeanor and shall be punished by a fine of not less than one
27 hundred dollars (\$100) or more than six hundred dollars (\$600),
28 or by imprisonment for a term of not less than 60 days or more
29 than 180 days, or by both a fine and imprisonment.

30 (o) The use of threats or harassment against any patient or
31 licensee for providing evidence in any possible or actual
32 disciplinary action, or other legal action; or the discharge of an
33 employee primarily based on the employee's attempt to comply
34 with the provisions of this chapter or to aid in the compliance.

35 (p) Suspension or revocation of a license issued, or discipline
36 imposed, by another state or territory on grounds that would be
37 the basis of discipline in this state.

38 (q) The alteration of a patient's record with intent to deceive.

39 (r) Unsanitary or unsafe office conditions, as determined by the
40 customary practice and standards of the dental hygiene profession.

1 (s) The abandonment of the patient by the licensee, without
2 written notice to the patient that treatment is to be discontinued
3 and before the patient has ample opportunity to secure the services
4 of another registered dental hygienist, registered dental hygienist
5 in alternative practice, or registered dental hygienist in extended
6 functions and provided the health of the patient is not jeopardized.

7 (t) The willful misrepresentation of facts relating to a
8 disciplinary action to the patients of a disciplined licensee.

9 (u) Use of fraud in the procurement of any license issued
10 pursuant to this article.

11 (v) Any action or conduct that would have warranted the denial
12 of the license.

13 (w) The aiding or abetting of a registered dental hygienist,
14 registered dental hygienist in alternative practice, or registered
15 dental hygienist in extended functions to practice dental hygiene
16 in a negligent or incompetent manner.

17 (x) The failure to report to the hygiene board in writing within
18 seven days any of the following: (1) the death of his or her patient
19 during the performance of any dental hygiene procedure; (2) the
20 discovery of the death of a patient whose death is related to a dental
21 hygiene procedure performed by him or her; or (3) except for a
22 scheduled hospitalization, the removal to a hospital or emergency
23 center for medical treatment for a period exceeding 24 hours of
24 any patient as a result of dental or dental hygiene treatment. Upon
25 receipt of a report pursuant to this subdivision, the hygiene board
26 may conduct an inspection of the dental hygiene practice office if
27 the hygiene board finds that it is necessary.

28 (y) A registered dental hygienist, registered dental hygienist in
29 alternative practice, or registered dental hygienist in extended
30 functions shall report to the hygiene board all deaths occurring in
31 his or her practice with a copy sent to the dental board if the death
32 occurred while working as an employee in a dental office. A dentist
33 shall report to the dental board all deaths occurring in his or her
34 practice with a copy sent to the hygiene board if the death was the
35 result of treatment by a registered dental hygienist, registered dental
36 hygienist in alternative practice, or registered dental hygienist in
37 extended functions.

38 ~~SEC. 46.~~

39 *SEC. 45.* Section 1951 of the Business and Professions Code
40 is amended to read:

1 1951. The hygiene board may discipline a licensee by placing
2 him or her on probation under various terms and conditions that
3 may include, but are not limited to, the following:

4 (a) Requiring the licensee to obtain additional training or pass
5 an examination upon completion of training, or both. The
6 examination may be a written or oral examination, or both, and
7 may be a practical or clinical examination, or both, at the option
8 of the hygiene board.

9 (b) Requiring the licensee to submit to a complete diagnostic
10 examination by one or more physicians appointed by the hygiene
11 board, if warranted by the physical or mental condition of the
12 licensee. If the hygiene board requires the licensee to submit to an
13 examination, the hygiene board shall receive and consider any
14 other report of a complete diagnostic examination given by one
15 or more physicians of the licensee's choice.

16 (c) Restricting or limiting the extent, scope, or type of practice
17 of the licensee.

18 (d) Requiring restitution of fees to the licensee's patients or
19 payers of services, unless restitution has already been made.

20 (e) Providing the option of alternative community service in
21 lieu of all or part of a period of suspension in cases other than
22 violations relating to quality of care.

23 ~~SEC. 47.~~

24 *SEC. 46.* Section 1952 of the Business and Professions Code
25 is amended to read:

26 1952. It is unprofessional conduct for a person licensed under
27 this article to do any of the following:

28 (a) Obtain or possess in violation of law, or except as directed
29 by a licensed physician and surgeon, dentist, or podiatrist, a
30 controlled substance, as defined in Division 10 (commencing with
31 Section 11000) of the Health and Safety Code, or any dangerous
32 drug as defined in Section 4022.

33 (b) Use a controlled substance, as defined in Division 10
34 (commencing with Section 11000) of the Health and Safety Code,
35 or a dangerous drug as defined in Section 4022, or alcoholic
36 beverages or other intoxicating substances, to an extent or in a
37 manner dangerous or injurious to himself or herself, to any person,
38 or the public to the extent that the use impairs the licensee's ability
39 to conduct with safety to the public the practice authorized by his
40 or her license.

1 (c) Be convicted of a charge of violating any federal statute or
2 rules, or any statute or rule of this state, regulating controlled
3 substances, as defined in Division 10 (commencing with Section
4 11000) of the Health and Safety Code, or any dangerous drug, as
5 defined in Section 4022, or be convicted of more than one
6 misdemeanor, or any felony, involving the use or consumption of
7 alcohol or drugs, if the conviction is substantially related to the
8 practice authorized by his or her license.

9 (1) The record of conviction or a copy certified by the clerk of
10 the court or by the judge in whose court the conviction is had, shall
11 be conclusive evidence of a violation of this section. A plea or
12 verdict of guilty or a conviction following a plea of nolo contendere
13 is deemed to be a conviction within the meaning of this section.

14 (2) The hygiene board may order the license suspended or
15 revoked, or may decline to issue a license, when the time for appeal
16 has elapsed or the judgment of conviction has been affirmed on
17 appeal, or when an order granting probation is made suspending
18 imposition of sentence, irrespective of a subsequent order under
19 any provision of the Penal Code, including, but not limited to,
20 Section 1203.4 of the Penal Code, allowing a person to withdraw
21 his or her plea of guilty and to enter a plea of not guilty, or setting
22 aside the verdict of guilty, or dismissing the accusation,
23 information, or indictment.

24 ~~SEC. 48.~~

25 *SEC. 47.* Section 1955 of the Business and Professions Code
26 is amended to read:

27 1955. (a) (1) A licensee who fails or refuses to comply with
28 a request for a patient's dental or dental hygiene records that is
29 accompanied by that patient's written authorization for release of
30 the records to the hygiene board, within 15 days of receiving the
31 request and authorization, shall pay to the hygiene board a civil
32 or administrative penalty or fine up to a maximum of two hundred
33 fifty dollars (\$250) per day for each day that the documents have
34 not been produced after the 15th day, up to a maximum of five
35 thousand dollars (\$5,000) unless the licensee is unable to provide
36 the documents within this time period for good cause.

37 (2) A health care facility shall comply with a request for the
38 dental or dental hygiene records of a patient that is accompanied
39 by that patient's written authorization for release of records to the
40 hygiene board together with a notice citing this section and

1 describing the penalties for failure to comply with this section.
2 Failure to provide the authorizing patient’s dental hygiene records
3 to the hygiene board within 30 days of receiving this request,
4 authorization, and notice shall subject the health care facility to a
5 civil or administrative penalty or fine, payable to the hygiene board,
6 of up to a maximum of two hundred fifty dollars (\$250) per day
7 for each day that the documents have not been produced after the
8 30th day, up to a maximum of five thousand dollars (\$5,000),
9 unless the health care facility is unable to provide the documents
10 within this time period for good cause. This paragraph shall not
11 require health care facilities to assist the hygiene board in obtaining
12 the patient’s authorization. The hygiene board shall pay the
13 reasonable cost of copying the dental hygiene records.

14 (b) (1) A licensee who fails or refuses to comply with a court
15 order issued in the enforcement of a subpoena mandating the
16 release of records to the hygiene board shall pay to the hygiene
17 board a civil penalty of one thousand dollars (\$1,000) per day for
18 each day that the documents have not been produced after the date
19 by which the court order requires the documents to be produced,
20 unless it is determined that the order is unlawful or invalid. Any
21 statute of limitations applicable to the filing of an accusation by
22 the hygiene board shall be tolled during the period the licensee is
23 out of compliance with the court order and during any related
24 appeals.

25 (2) A licensee who fails or refuses to comply with a court order
26 issued in the enforcement of a subpoena mandating the release of
27 records to the hygiene board is guilty of a misdemeanor punishable
28 by a fine payable to the hygiene board not to exceed five thousand
29 dollars (\$5,000). The fine shall be added to the licensee’s renewal
30 fee if it is not paid by the next succeeding renewal date. Any statute
31 of limitations applicable to the filing of an accusation by the
32 hygiene board shall be tolled during the period the licensee is out
33 of compliance with the court order and during any related appeals.

34 (3) A health care facility that fails or refuses to comply with a
35 court order issued in the enforcement of a subpoena mandating
36 the release of patient records to the hygiene board, that is
37 accompanied by a notice citing this section and describing the
38 penalties for failure to comply with this section, shall pay to the
39 hygiene board a civil penalty of up to one thousand dollars (\$1,000)
40 per day for each day that the documents have not been produced,

1 up to ten thousand dollars (\$10,000), after the date by which the
2 court order requires the documents to be produced, unless it is
3 determined that the order is unlawful or invalid. Any statute of
4 limitations applicable to the filing of an accusation by the hygiene
5 board against a licensee shall be tolled during the period the health
6 care facility is out of compliance with the court order and during
7 any related appeals.

8 (4) A health care facility that fails or refuses to comply with a
9 court order, issued in the enforcement of a subpoena, mandating
10 the release of records to the hygiene board is guilty of a
11 misdemeanor punishable by a fine payable to the hygiene board
12 not to exceed five thousand dollars (\$5,000). Any statute of
13 limitations applicable to the filing of an accusation by the hygiene
14 board against a licensee shall be tolled during the period the health
15 care facility is out of compliance with the court order and during
16 any related appeals.

17 (c) Multiple acts by a licensee in violation of subdivision (b)
18 shall be punishable by a fine not to exceed five thousand dollars
19 (\$5,000) or by imprisonment in a county jail not exceeding six
20 months, or by both that fine and imprisonment. Multiple acts by
21 a health care facility in violation of subdivision (b) shall be
22 punishable by a fine not to exceed five thousand dollars (\$5,000)
23 and shall be reported to the State Department of Public Health and
24 shall be considered as grounds for disciplinary action with respect
25 to licensure, including suspension or revocation of the license or
26 permit.

27 (d) A failure or refusal to comply with a court order issued in
28 the enforcement of a subpoena mandating the release of records
29 to the hygiene board constitutes unprofessional conduct and is
30 grounds for suspension or revocation of his or her license.

31 (e) Imposition of the civil or administrative penalties authorized
32 by this section shall be in accordance with the Administrative
33 Procedure Act (Chapter 5 (commencing with Section 11500) of
34 Division 3 of Title 2 of the Government Code).

35 (f) For the purposes of this section, a “health care facility” means
36 a clinic or health care facility licensed or exempt from licensure
37 pursuant to Division 2 (commencing with Section 1200) of the
38 Health and Safety Code.

1 ~~SEC. 49.~~

2 *SEC. 48.* Section 1957 of the Business and Professions Code
3 is amended to read:

4 1957. (a) A person whose license has been revoked or
5 suspended, who has been placed on probation, or whose license
6 was surrendered pursuant to a stipulated settlement as a condition
7 to avoid a disciplinary administrative hearing, may petition the
8 hygiene board for reinstatement or modification of the penalty,
9 including modification or termination of probation, after a period
10 of not less than the following minimum periods have elapsed from
11 the effective date of the decision ordering disciplinary action:

12 (1) At least three years for reinstatement of a license revoked
13 for unprofessional conduct or surrendered pursuant to a stipulated
14 settlement as a condition to avoid an administrative disciplinary
15 hearing.

16 (2) At least two years for early termination, or modification of
17 a condition, of a probation of three years or more.

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

22 (b) The petition shall state any fact required by the hygiene
23 board.

24 (c) The petition may be heard by the hygiene board, or the
25 hygiene board may assign the petition to an administrative law
26 judge designated in Section 11371 of the Government Code.

27 (d) In considering reinstatement or modification or penalty, the
28 hygiene board or the administrative law judge hearing the petition
29 may consider the following:

30 (1) All activities of the petitioner since the disciplinary action
31 was taken.

32 (2) The offense for which the petitioner was disciplined.

33 (3) The petitioner's activities during the time the license or
34 permit was in good standing.

35 (4) The petitioner's rehabilitative efforts, general reputation for
36 truth, and professional ability.

37 (e) The hearing may be continued from time to time as the
38 hygiene board or the administrative law judge as designated in
39 Section 11371 of the Government Code finds necessary.

1 (f) The hygiene board or the administrative law judge may
2 impose necessary terms and conditions on the licentiate in
3 reinstating a license or permit or modifying a penalty.

4 (g) A petition shall not be considered while the petitioner is
5 under sentence for any criminal offense, including any period
6 during which the petitioner is on court-imposed probation or parole.

7 (h) A petition shall not be considered while there is an
8 accusation or petition to revoke probation pending against the
9 person.

10 (i) The hygiene board may deny without a hearing or argument
11 any petition filed pursuant to this section within a period of two
12 years from the effective date of the prior decision following a
13 hearing under this section. Nothing in this section shall be deemed
14 to alter Sections 822 and 823.

15 ~~SEC. 50.~~

16 *SEC. 49.* Section 1958 of the Business and Professions Code
17 is amended to read:

18 1958. A person, company, or association is guilty of a
19 misdemeanor, and upon conviction, shall be punished by
20 imprisonment in a county jail not less than 10 days nor more than
21 one year, or by a fine of not less than one hundred dollars (\$100)
22 nor more than one thousand five hundred dollars (\$1,500), or by
23 both that fine and imprisonment, who does any of the following:

24 (a) Assumes the title of “registered dental hygienist,” “registered
25 dental hygienist in alternative practice,” or “registered dental
26 hygienist in extended functions” or appends the letters “R.D.H.,”
27 “R.D.H.A.P.,” or “R.D.H.E.F.” to his or her name without having
28 had the right to assume the title conferred upon him or her through
29 licensure.

30 (b) Assumes any title, or appends any letters to his or her name,
31 with the intent to represent falsely that he or she has received a
32 dental hygiene degree or a license under this article.

33 (c) Engages in the practice of dental hygiene without causing
34 to be displayed in a conspicuous place in his or her office his or
35 her license under this article to practice dental hygiene.

36 (d) Within 10 days after demand is made by the executive officer
37 of the hygiene board, fails to furnish to the hygiene board the name
38 and address of all persons practicing or assisting in the practice of
39 dental hygiene in the office of the person, company, or association,
40 at any time within 60 days prior to the demand, together with a

1 sworn statement showing under and by what license or authority
2 this person, company, or association and any employees are or
3 have been practicing or assisting in the practice of dental hygiene.
4 This sworn statement shall not be used in any prosecution under
5 this section.

6 (e) Is under the influence of alcohol or a controlled substance
7 while engaged in the practice of dental hygiene in actual attendance
8 on patients to an extent that impairs his or her ability to conduct
9 the practice of dental hygiene with safety to patients and the public.

10 ~~SEC. 51.~~

11 *SEC. 50.* Section 1958.1 of the Business and Professions Code
12 is amended to read:

13 1958.1. (a) Notwithstanding any other law, with regard to an
14 individual who is required to register as a sex offender pursuant
15 to Section 290 of the Penal Code, or the equivalent in another state
16 or territory, under military law, or under federal law, all of the
17 following shall apply:

18 (1) The hygiene board shall deny an application by the individual
19 for licensure pursuant to this article.

20 (2) If the individual is licensed under this article, the hygiene
21 board shall promptly revoke the license of the individual. The
22 hygiene board shall not stay the revocation nor place the license
23 on probation.

24 (3) The hygiene board shall not reinstate or reissue the
25 individual's licensure under this article. The hygiene board shall
26 not issue a stay of license denial and place the license on probation.

27 (b) This section shall not apply to any of the following:

28 (1) An individual who has been relieved under Section 290.5
29 of the Penal Code of his or her duty to register as a sex offender,
30 or whose duty to register has otherwise been formally terminated
31 under California law or the law of the jurisdiction that requires his
32 or her registration as a sex offender.

33 (2) An individual who is required to register as a sex offender
34 pursuant to Section 290 of the Penal Code solely because of a
35 misdemeanor conviction under Section 314 of the Penal Code.
36 However, nothing in this paragraph shall prohibit the hygiene
37 board from exercising its discretion to discipline a licensee under
38 other provisions of state law based upon the licensee's conviction
39 under Section 314 of the Penal Code.

1 (3) Any administrative adjudication proceeding under Chapter
2 5 (commencing with Section 11500) of Part 1 of Division 3 of
3 Title 2 of the Government Code that is fully adjudicated prior to
4 January 1, 2013. A petition for reinstatement of a revoked or
5 surrendered license shall be considered a new proceeding for
6 purposes of this paragraph, and the prohibition against reinstating
7 a license to an individual who is required to register as a sex
8 offender shall be applicable.

9 ~~SEC. 52.~~

10 *SEC. 51.* Section 1962 of the Business and Professions Code
11 is amended to read:

12 1962. (a) An association, partnership, corporation, or group
13 of three or more registered dental hygienists in alternative practice
14 engaging in practice under a name that would otherwise be in
15 violation of Section 1960 may practice under that name if the
16 association, partnership, corporation, or group holds an unexpired,
17 unsuspended, and unrevoked permit issued by the hygiene board
18 under this section.

19 (b) An individual registered dental hygienist in alternative
20 practice or a pair of registered dental hygienists in alternative
21 practice who practice dental hygiene under a name that would
22 otherwise violate Section 1960 may practice under that name if
23 the licensees hold a valid permit issued by the hygiene board under
24 this section. The hygiene board shall issue a written permit
25 authorizing the holder to use a name specified in the permit in
26 connection with the holder's practice if the hygiene board finds
27 all of the following:

28 (1) The applicant or applicants are duly licensed registered
29 dental hygienists in alternative practice.

30 (2) The place where the applicant or applicants practice is owned
31 or leased by the applicant or applicants, and the practice conducted
32 at the place is wholly owned and entirely controlled by the
33 applicant or applicants and is an approved area or practice setting
34 pursuant to Section 1926.

35 (3) The name under which the applicant or applicants propose
36 to operate contains at least one of the following designations:
37 "dental hygiene group," "dental hygiene practice," or "dental
38 hygiene office," contains the family name of one or more of the
39 past, present, or prospective associates, partners, shareholders, or

1 members of the group, and is in conformity with Section 651 and
2 not in violation of subdivisions (i) and (j) of Section 1950.5.

3 (4) All licensed persons practicing at the location designated in
4 the application hold valid licenses and no charges of unprofessional
5 conduct are pending against any person practicing at that location.

6 (c) A permit issued under this section shall expire and become
7 invalid unless renewed in the manner provided for in this article
8 for the renewal of permits issued under this article.

9 (d) A permit issued under this section may be revoked or
10 suspended if the hygiene board finds that any requirement for
11 original issuance of a permit is no longer being fulfilled by the
12 permitholder. Proceedings for revocation or suspension shall be
13 governed by the Administrative Procedure Act.

14 (e) If charges of unprofessional conduct are filed against the
15 holder of a permit issued under this section, or a member of an
16 association, partnership, group, or corporation to whom a permit
17 has been issued under this section, proceedings shall not be
18 commenced for revocation or suspension of the permit until a final
19 determination of the charges of unprofessional conduct, unless the
20 charges have resulted in revocation or suspension of a license.

21 ~~SEC. 53.~~

22 *SEC. 52.* Section 1963 of the Business and Professions Code
23 is amended to read:

24 1963. The hygiene board may file a complaint for violation of
25 any part of this article with any court of competent jurisdiction
26 and may, by its officers, counsel and agents, assist in presenting
27 the law or facts at the trial. The district attorney of each county in
28 this state shall prosecute all violations of this article in their
29 respective counties in which the violations occur.

30 ~~SEC. 54.~~

31 *SEC. 53.* Section 1964 of the Business and Professions Code
32 is amended to read:

33 1964. In addition to the other proceedings provided for in this
34 article, on application of the hygiene board, the superior court of
35 any county shall issue an injunction to restrain an unlicensed person
36 from conducting the practice of dental hygiene, as defined in this
37 article.

38 ~~SEC. 55.~~

39 *SEC. 54.* Section 1966 of the Business and Professions Code
40 is amended to read:

1 1966. (a) It is the intent of the Legislature that the hygiene
2 board seek ways and means to identify and rehabilitate licensees
3 whose competency may be impaired due to abuse of dangerous
4 drugs or alcohol, so that licensees so afflicted may be treated and
5 returned to the practice of dental hygiene in a manner that will not
6 endanger the public health and safety. It is also the intent of the
7 Legislature that the hygiene board establish a diversion program
8 as a voluntary alternative approach to traditional disciplinary
9 actions.

10 (b) One or more diversion evaluation committees shall be
11 established by the hygiene board. The hygiene board shall establish
12 criteria for the selection of each diversion evaluation committee.
13 Each member of a diversion evaluation committee shall receive
14 per diem and expenses as provided in Section 103.

15 ~~SEC. 56.~~

16 *SEC. 55.* Section 1966.1 of the Business and Professions Code
17 is amended to read:

18 1966.1. (a) The hygiene board shall establish criteria for the
19 acceptance, denial, or termination of licensees in a diversion
20 program. Unless ordered by the hygiene board as a condition of a
21 licensee's disciplinary probation, only those licensees who have
22 voluntarily requested diversion treatment and supervision by a
23 diversion evaluation committee shall participate in a diversion
24 program.

25 (b) A licensee who is not the subject of a current investigation
26 may self-refer to the diversion program on a confidential basis,
27 except as provided in subdivision (f).

28 (c) A licensee under current investigation by the hygiene board
29 may also request entry into a diversion program by contacting the
30 hygiene board. The hygiene board may refer the licensee requesting
31 participation in the program to a diversion evaluation committee
32 for evaluation of eligibility. Prior to authorizing a licensee to enter
33 into the diversion program, the hygiene board may require the
34 licensee, while under current investigation for any violations of
35 this article or other violations, to execute a statement of
36 understanding that states that the licensee understands that his or
37 her violations of this article or other statutes, that would otherwise
38 be the basis for discipline, may still be investigated and the subject
39 of disciplinary action.

1 (d) If the reasons for a current investigation of a licensee are
2 based primarily on the self-administration of any controlled
3 substance or dangerous drugs or alcohol under Section 1951, or
4 the illegal possession, prescription, or nonviolent procurement of
5 any controlled substance or dangerous drugs for self-administration
6 that does not involve actual, direct harm to the public, the hygiene
7 board shall close the investigation without further action if the
8 licensee is accepted into the hygiene board's diversion program
9 and successfully completes the requirements of the program. If
10 the licensee withdraws or is terminated from the program by a
11 diversion evaluation committee, the investigation shall be reopened
12 and disciplinary action imposed, if warranted, as determined by
13 the hygiene board.

14 (e) Neither acceptance nor participation in the diversion program
15 shall preclude the hygiene board from investigating or continuing
16 to investigate, or taking disciplinary action or continuing to take
17 disciplinary action against, any licensee for any unprofessional
18 conduct committed before, during, or after participation in the
19 diversion program.

20 (f) All licensees shall sign an agreement of understanding that
21 the withdrawal or termination from the diversion program at a time
22 when a diversion evaluation committee determines the licensee
23 presents a threat to the public's health and safety shall result in the
24 utilization by the hygiene board of diversion treatment records in
25 disciplinary or criminal proceedings.

26 (g) Any licensee terminated from the diversion program for
27 failure to comply with program requirements is subject to
28 disciplinary action by the hygiene board for acts committed before,
29 during, and after participation in the diversion program. A licensee
30 who has been under investigation by the hygiene board and has
31 been terminated from the diversion program by a diversion
32 evaluation committee shall be reported by the diversion evaluation
33 committee to the hygiene board.

34 ~~SEC. 57.~~

35 *SEC. 56.* Section 1966.2 of the Business and Professions Code
36 is amended to read:

37 1966.2. Each diversion evaluation committee shall have the
38 following duties and responsibilities:

39 (a) To evaluate those licensees who request to participate in the
40 diversion program according to the guidelines prescribed by the

1 hygiene board and to consider the recommendations of any
2 licensees designated by the hygiene board to serve as consultants
3 on the admission of the licensee to the diversion program.

4 (b) To review and designate those treatment facilities to which
5 licensees in a diversion program may be referred.

6 (c) To receive and review information concerning a licensee
7 participating in the program.

8 (d) To consider in the case of each licensee participating in a
9 program whether he or she may safely continue or resume the
10 practice of dental hygiene.

11 (e) To perform other related duties as the hygiene board may
12 by regulation require.

13 ~~SEC. 58.~~

14 *SEC. 57.* Section 1966.4 of the Business and Professions Code
15 is amended to read:

16 1966.4. Each licensee who requests participation in a diversion
17 program shall agree to cooperate with the treatment program
18 designed by a diversion evaluation committee and to bear all costs
19 related to the program, unless the cost is waived by the hygiene
20 board. Any failure to comply with the provisions of a treatment
21 program may result in termination of the licensee's participation
22 in a program.

23 ~~SEC. 59.~~

24 *SEC. 58.* Section 1966.5 of the Business and Professions Code
25 is amended to read:

26 1966.5. (a) After a diversion evaluation committee, in its
27 discretion, has determined that a licensee has been rehabilitated
28 and the diversion program is completed, the diversion evaluation
29 committee shall purge and destroy all records pertaining to the
30 licensee's participation in the diversion program.

31 (b) Except as authorized by subdivision (f) of Section 1966.1,
32 all hygiene board and diversion evaluation committee records and
33 records of proceedings pertaining to the treatment of a licensee in
34 a program shall be kept confidential and are not subject to
35 discovery or subpoena.

36 ~~SEC. 60.~~

37 *SEC. 59.* Section 1966.6 of the Business and Professions Code
38 is amended to read:

39 1966.6. The hygiene board shall provide for the representation
40 of any person making reports to a diversion evaluation committee

1 or the hygiene board under this article in any action for defamation
2 for reports or information given to the diversion evaluation
3 committee or the hygiene board regarding a licensee’s participation
4 in the diversion program.

5 ~~SEC. 61.~~

6 *SEC. 60.* Section 1967 of the Business and Professions Code
7 is amended to read:

8 1967. A registered dental hygienist in alternative practice
9 corporation is a professional corporation that is authorized to render
10 professional services, as defined in Section 13401 of the
11 Corporations Code, so long as that professional corporation and
12 its shareholders, officers, directors, and professional employees
13 rendering professional services are in compliance with the
14 Moscone-Knox Professional Corporation Act (commencing with
15 Section 13400) of Part 4 of Division 3 of Title 1 of the
16 Corporations Code, this article, and all other statutes and
17 regulations now or hereafter adopted pertaining to the professional
18 corporation and the conduct of its affairs. With respect to a
19 registered dental hygienist in alternative practice corporation, the
20 governmental agency referred to in the Moscone-Knox Professional
21 Corporation Act is the Dental Hygiene Board of California.

22 ~~SEC. 62.~~

23 *SEC. 61.* Section 13401 of the Corporations Code is amended
24 to read:

25 13401. As used in this part:

26 (a) “Professional services” means any type of professional
27 services that may be lawfully rendered only pursuant to a license,
28 certification, or registration authorized by the Business and
29 Professions Code, the Chiropractic Act, or the Osteopathic Act.

30 (b) “Professional corporation” means a corporation organized
31 under the General Corporation Law or pursuant to subdivision (b)
32 of Section 13406 that is engaged in rendering professional services
33 in a single profession, except as otherwise authorized in Section
34 13401.5, pursuant to a certificate of registration issued by the
35 governmental agency regulating the profession as herein provided
36 and that in its practice or business designates itself as a professional
37 or other corporation as may be required by statute. However, any
38 professional corporation or foreign professional corporation
39 rendering professional services by persons duly licensed by the
40 Medical Board of California or any examining committee under

1 the jurisdiction of the board, the California Board of Podiatric
2 Medicine, the Osteopathic Medical Board of California, the Dental
3 Board of California, the Dental Hygiene Board of California, the
4 California State Board of Pharmacy, the Veterinary Medical Board,
5 the California Architects Board, the Court Reporters Board of
6 California, the Board of Behavioral Sciences, the Speech-Language
7 Pathology and Audiology Board, the Board of Registered Nursing,
8 or the State Board of Optometry shall not be required to obtain a
9 certificate of registration in order to render those professional
10 services.

11 (c) “Foreign professional corporation” means a corporation
12 organized under the laws of a state of the United States other than
13 this state that is engaged in a profession of a type for which there
14 is authorization in the Business and Professions Code for the
15 performance of professional services by a foreign professional
16 corporation.

17 (d) “Licensed person” means any natural person who is duly
18 licensed under the provisions of the Business and Professions
19 Code, the Chiropractic Act, or the Osteopathic Act to render the
20 same professional services as are or will be rendered by the
21 professional corporation or foreign professional corporation of
22 which he or she is, or intends to become, an officer, director,
23 shareholder, or employee.

24 (e) “Disqualified person” means a licensed person who for any
25 reason becomes legally disqualified (temporarily or permanently)
26 to render the professional services that the particular professional
27 corporation or foreign professional corporation of which he or she
28 is an officer, director, shareholder, or employee is or was rendering.

29 ~~SEC. 63.~~

30 *SEC. 62.* Section 44876 of the Education Code is amended to
31 read:

32 44876. The qualifications for a dental hygienist, dental
33 hygienist in alternative practice, or dental hygienist in extended
34 functions shall be a valid license issued by the Dental Hygiene
35 Board of California or by the Dental Board of California and either
36 a health and development credential, a standard designated services
37 credential with a specialization in health, or a services credential
38 with a specialization in health.

O

**DENTAL BOARD OF CALIFORNIA
BILL ANALYSIS
AUG 23 - AUG 24, 2018 BOARD MEETING**

BILL NUMBER: Senate Bill 1491

AUTHOR: Senate Business, Professions and Economic Development Committee **SPONSOR:**

VERSION: Amended 06/04/2018 **INTRODUCED:** 02/21/2018

BILL STATUS: 06/19/2018 – From Assembly Business and Professions Committee: Do pass to Assembly Appropriations Committee. **BILL LOCATION:** Assembly Appropriations Committee

SUBJECT: Healing Arts **RELATED BILLS:** SB 1492

SUMMARY

Senate Bill (SB) 1491 is the Omnibus Bill containing non-controversial language for various healing arts boards.

This bill is one of two “committee bills” authored by the Business, Professions, and Economic Development Committee (Committee) and is intended to consolidate non-controversial provisions related to various health related regulatory programs and professions governed by the Business and Professions Code (B&PC). Consolidating the provisions in one bill is designed to relieve the various licensing boards, bureaus, professions, and other regulatory agencies from the necessity and burden of having separate measures for a number of non-controversial revisions.

ANALYSIS

Many of the provisions of this bill are minor, technical, and updating changes, while other provisions are substantive changes intended to improve the ability of various licensing programs and other entities to efficiently and effectively administer their respective laws. However, as a committee bill, if controversy or opposition should arise regarding any provision that cannot be resolved, then that provision will be removed from the bill. This will eliminate the chance of placing any of the other provisions in jeopardy.

The Dental Board of California (Board) approved language for submission for the Omnibus Bill proposal at their November 2017 meeting. All of the provisions requested by the Board were included in SB 1482.

B&PC Section 1607 requires the Board to meet once a year in both Los Angeles and San Francisco after dental school commencement for the purpose of examining applicants. This language was necessary when the Board, formerly the Board of Dental Examiners of California, administered exams. However, the Board no longer administers examinations so the requirement is no longer necessary. This bill would remove this obsolete provision.

There are several provisions within the Dental Practice Act that reference or include dental assistants or dental assisting. However, several relevant sections currently do not reference either dental assistants or dental assisting, including sections specifying the requirements for continued education for licensure or permitting renewal. This bill would include dental assistants or dental assisting in certain sections to provide consistency across licensing statutes.

Current statute specifies the requirements an individual must meet to become an examiner for the licensure examination. B&PC Section 1621 requires possession of a valid license in one of the dental assistant categories, but does not currently specify that the license must be from one of the registered dental assistant categories. Additionally, B&PC Section 1621 does not currently provide an exemption to the licensure requirement for portfolio examiners who hold a position at a college or school. Examiners for the Licensure by Portfolio pathway for dentist licensure typically hold a position as an officer or faculty member and provide instruction in the same license category, and therefore should be allowed to be an examiner for the licensure examination. This bill would clarify the licensure requirements to be an examiner for the licensure examination and provide an exemption to this requirement for portfolio examiners.

REGISTERED SUPPORT/OPPOSITION

Support

California Board of Behavioral Sciences
Dental Board of California

Oppose

None on file.

STAFF RECOMMENDATION

Watch.

BOARD POSITION:

SUPPORT:_____ **OPPOSE:**_____ **NEUTRAL:**_____ **WATCH:**_____

AMENDED IN ASSEMBLY JUNE 4, 2018

AMENDED IN SENATE APRIL 2, 2018

SENATE BILL

No. 1491

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Dodd, Fuller, Galgiani, Glazer, Hernandez, Newman, Pan, and Wilk)

February 21, 2018

An act to amend Sections 27, 865, 1607, 1611, 1611.3, 1611.5, 1612, 1614, 1615, 1621, 1645, *1680*, 1750, 1750.2, 1750.4, 1751, 1753.7, 2290.5, 2556, 3004, *3040*, 3146, 3735, 3751, 4848, 4980.37, 4980.39, 4980.41, 4980.72, 4980.78, 4980.79, 4990.30, 4992, 4996.17, 4999.14, 4999.22, 4999.32, 4999.48, 4999.60, 4999.62, 4999.63, and 4999.100 of, and to repeal Sections ~~650.4 and 1601.5~~ *650.4, 1601.5, and 1601.6* of, the Business and Professions Code, and to amend Section 6924 of the Family Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) The Dental Practice Act provides for the licensure and regulation of dentists and registered dental assistants by the Dental Board of California, which is within the Department of Consumer Affairs, and requires the board to meet regularly once in San Francisco and once in Los Angeles each year after the commencement of dental schools for the purpose of examining applicants and at such other times as the board may designate. The act entitles the secretary of the board to traveling and other expenses and prohibits the secretary from receiving a salary. The act requires the board to examine all applicants for licensure to practice dentistry in the state and to issue licenses to those applicants

that pass the examination of the board. That act requires the board to adopt reasonably necessary rules concerning, among other things, the establishment of standards for the approval of dental colleges. That act requires the board to only use examiners who have been appointed by the board and meet specified criteria, including that the examiner holds no position as an officer of faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

This bill would delete the requirement that the board meet after the commencement of dental schools for the purpose of examining applicants, would delete the authorization for the secretary to receive expenses, and would delete the prohibition on the secretary receiving a salary. The bill would specify that the board is required to also examine applicants for a license to practice dental assisting and is required to issue a license to practice dentistry or a permit to practice dental assisting to an applicant who has successfully passed all licensing and permitting examinations administered by the board or any regional or national testing entity designated to administer an exam. The bill would require the board to adopt regulations instead of reasonably necessary rules concerning, among other things, the establishment of standards for the approval of dental assisting programs and educational courses. The bill would exempt a portfolio examiner from the above-described prohibition that he or she hold no position as an officer or faculty member.

The Dental Practice Act authorizes the board to inspect the books, records, and premises of any licensed dentist and makes failure to allow an inspection grounds for suspension or revocation of a license. That act requires the board to, among other things, keep a record of the names of all persons issued licenses to practice dentistry and issue a specified notice that it is the entity that regulates dentists.

This bill would specify that the above provisions also apply to the practice of dental assisting and to permitted dentists.

The Dental Practice Act also authorizes the board to require licensees to continue their education as a condition of licensure renewal and to submit assurances to the board that the licensees will inform themselves of new developments in the practice of dentistry since the licensees were originally licensed. The act authorizes a dental assistant to perform basic supportive dental procedures without a license under the supervision of a dentist if he or she meets certain requirements, including a board-approved course regarding the Dental Practice Act and a board-approved course in infection control, and requires the employer

of the dental assistant to ensure that he or she has successfully completed or does successfully complete those required courses. The act authorizes the board to issue an orthodontic assistant permit or a dental sedation assistant permit to a person who files an application and meets specified requirements, including completion of at least 12 months of work experience as a dental assistant and completion of a board-approved course regarding the Dental Practice Act and a board-approved course in infection control.

This bill would instead require a licensee under the chapter to continue his or her education as a condition of licensure renewal and would require a licensee to obtain evidence satisfactory to the board that he or she has, in the preceding 2 years, obtained continuing education relevant to the developments in the practice of dentistry or dental assisting consistent with regulations established by the board. The bill would require a dental assistant and an applicant for an orthodontic assistant permit or a dental sedation assistant permit to complete a 2-hour board-approved course in the Dental Practice Act and an 8-hour board-approved course in infection control. The bill would also require an applicant for an orthodontic assistant permit or a dental sedation assistant permit to have a current, ~~active~~ *active*, and valid licensure as a registered dental assistant and at least 12 months of verifiable work experience as a dental assistant.

The Dental Practice Act requires the Dental Board of California to amend, consistent with the federal Centers for Disease Control and Prevention recommendations for water quality, the regulations on the minimum standards for infection control to require water or other methods used for irrigation to be sterile or contain recognized disinfecting or antibacterial properties when performing dental procedures that expose dental pulp.

This bill would repeal that provision and would instead make using water, or other methods used for irrigation, that are not sterile or that do not contain recognized disinfecting or antibacterial properties when performing dental procedures on exposed dental pulp unprofessional conduct by a person licensed pursuant to the Dental Practice Act.

(2) (A) The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry, which is within the Department of Consumer Affairs, and requires a license issued under the act to expire at midnight in the last day of the licenseholder's birth month following its original issuance and thereafter at midnight on the last day of the licenseholder's birth month every 2

years if not renewed. *That act makes it unlawful for a person to engage in the practice of optometry or to display a sign in any other way to advertise or hold himself or herself out as an optometrist without having first obtained an optometrist license from the board or under the provisions of any former act relating to the practice of optometry. That act makes a violation of its provisions punishable as a misdemeanor.*

This bill would change the name of the State Board of Optometry to the California State Board of Optometry, and would require an optometric license to expire at midnight in the last day of the month in which the license was issued during the ~~second~~ 2nd year of a 2-year term if not renewed. *The bill would instead make it unlawful for a person to engage in the practice of optometry or to advertise himself or herself out as an optometrist without a valid, unrevoked California optometrist license. By changing the definition of an existing crime, this bill would result in a state-mandated local program.*

(B) Under existing law, the State Board of Optometry is responsible for the registration and regulation of registered dispensing opticians and makes a violation of any of the provisions regulating registered dispensing opticians punishable as a misdemeanor. Existing law makes it unlawful, except as provided, for a registered dispensing optician to advertise the furnishing of, or to furnish, services of an optometrist or a physician and surgeon, to directly employ an optometrist or physician and surgeon for the purpose of any examination or treatment of the eyes, or to duplicate or change lenses without a prescription or order from a person duly licensed to issue such a prescription or order.

This bill would additionally make it unlawful, except as provided, for a person who engages in the business of, or holds himself or herself out to be, a dispensing optician to do any of those above-described acts. By changing the definition of an existing crime, this bill would result in a state-mandated local program.

(3) The Respiratory Care Practice Act establishes the Respiratory Care Board of California, which is within the Department of Consumer Affairs, for the licensure and regulation of respiratory care practitioners. That act prohibits an applicant for licensure from receiving a license without first successfully passing all parts of the national registered respiratory therapist examination, but exempts a person from taking that exam who provides evidence that he or she passed the National Certified Respiratory Therapist Examination prior to January 1, 2015, if there is no evidence of prior license or job related discipline as determined by the board. That act authorizes a person whose license

has been revoked, surrendered, or suspended to petition the board for reinstatement and requires a person petitioning for reinstatement of his or her license that has been revoked or surrendered for 3 or more years to meet current education requirements required for licensure.

This bill would require an applicant for licensure to successfully pass the National Board for Respiratory Care's Therapist Multiple-Choice Examination, at the cut-off level required to qualify for the Clinical Stimulation Examination, and the Clinical Stimulation Examination, or any succeeding examinations, and would deem a person who took the National Certified Respiratory Therapist Examination prior to January 1, 2015, if there is no evidence of prior license or job related discipline as determined by the board, to meet that requirement. The bill would require a person petitioning the board for reinstatement of his or her license that has been revoked or surrendered for 3 or more years to also meet current examination requirements for initial licensure.

(4) The Veterinary Medicine Practice Act provides for the licensure and regulation of veterinarians and the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and requires an applicant for licensure to demonstrate his or her competency by examination. That act requires the examination to consist of certain components, including an examination concerning the act that is required to be administered by the board by mail.

This bill would require that component of the examination to be administered by the board by regular mail, email, or by both regular mail and email.

(5) The Board of Behavioral Sciences, which is within the Department of Consumer Affairs, licenses and regulates marriage and family therapists under the Licensed Marriage and Family Therapist Act, clinical social workers under the Clinical Social Worker Practice Act, and professional clinical counselors under the Licensed Professional Clinical Counselor Act.

(A) Those acts require applicants for licensure to, among other things, take a clinical examination, and authorize an applicant for licensure who obtained a license or registration under another jurisdiction to apply for licensure with the board without taking that examination if specified conditions are met.

This bill would instead provide that such an applicant can qualify for licensure with the board if ~~they~~ *he or she* obtained a license or registration under another jurisdiction and meet the specified conditions.

(B) The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act provide that any reference in the act to the term “intern” means an “associate.” Those acts require an applicant for licensure to meet specified education requirements, including 6 semester units or 9 quarter units of practicum. Those acts also require applicants for licensure or registration who began graduate study before August 1, 2012, and completed that study on or before December 31, 2018, to comply with specified educational and experience requirements and repeal those provisions on January 1, 2019.

This bill would make conforming changes by changing references to the term “intern” to “associate.” This bill would also require the above practicum requirement to be supervised. The bill would allow an applicant for a professional clinical counselor license to have field study experience instead of the required supervised practicum. The bill would also delete the repeal date for the provisions relating to applicants for licensure or registration who began graduate study before August 1, 2012, and completed that study on or before December 31, 2018.

(C) Under existing law, the offer, delivery, receipt, or acceptance by any person licensed as a healing arts professional of any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration as compensation or inducement for referring patients is unlawful and punishable as a crime. Existing law, however, authorizes the participation in or operation of a group advertising and referral service for licensed marriage and family therapists if certain conditions are met.

This bill would repeal that authorization for licensed marriage and family therapists to participate in or operate a group advertising and referral service. By deleting that authorization, this bill would expand an existing crime and thereby impose a state-mandated local program.

(6) The bill would also make nonsubstantive changes.

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

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

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

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

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:

3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
4 shall provide on the Internet information regarding the status of
5 every license issued by that entity in accordance with the California
6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
7 of Division 7 of Title 1 of the Government Code) and the
8 Information Practices Act of 1977 (Chapter 1 (commencing with
9 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
10 The public information to be provided on the Internet shall include
11 information on suspensions and revocations of licenses issued by
12 the entity and other related enforcement action, including
13 accusations filed pursuant to the Administrative Procedure Act
14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
15 Division 3 of Title 2 of the Government Code) taken by the entity
16 relative to persons, businesses, or facilities subject to licensure or
17 regulation by the entity. The information may not include personal
18 information, including home telephone number, date of birth, or
19 social security number. Each entity shall disclose a licensee's
20 address of record. However, each entity shall allow a licensee to
21 provide a post office box number or other alternate address, instead
22 of his or her home address, as the address of record. This section
23 shall not preclude an entity from also requiring a licensee, who
24 has provided a post office box number or other alternative mailing
25 address as his or her address of record, to provide a physical
26 business address or residence address only for the entity's internal
27 administrative use and not for disclosure as the licensee's address
28 of record or disclosure on the Internet.

29 (b) In providing information on the Internet, each entity specified
30 in subdivisions (c) and (d) shall comply with the Department of
31 Consumer Affairs' guidelines for access to public records.

32 (c) Each of the following entities within the Department of
33 Consumer Affairs shall comply with the requirements of this
34 section:

35 (1) The Board for Professional Engineers, Land Surveyors, and
36 Geologists shall disclose information on its registrants and
37 licensees.

1 (2) The Bureau of Automotive Repair shall disclose information
2 on its licensees, including auto repair dealers, smog stations, lamp
3 and brake stations, smog check technicians, and smog inspection
4 certification stations.

5 (3) The Bureau of Electronic and Appliance Repair, Home
6 Furnishings, and Thermal Insulation shall disclose information on
7 its licensees and registrants, including major appliance repair
8 dealers, combination dealers (electronic and appliance), electronic
9 repair dealers, service contract sellers, and service contract
10 administrators.

11 (4) The Cemetery and Funeral Bureau shall disclose information
12 on its licensees, including cemetery brokers, cemetery salespersons,
13 cemetery managers, crematory managers, cemetery authorities,
14 crematories, cremated remains disposers, embalmers, funeral
15 establishments, and funeral directors.

16 (5) The Professional Fiduciaries Bureau shall disclose
17 information on its licensees.

18 (6) The Contractors' State License Board shall disclose
19 information on its licensees and registrants in accordance with
20 Chapter 9 (commencing with Section 7000) of Division 3. In
21 addition to information related to licenses as specified in
22 subdivision (a), the board shall also disclose information provided
23 to the board by the Labor Commissioner pursuant to Section 98.9
24 of the Labor Code.

25 (7) The Bureau for Private Postsecondary Education shall
26 disclose information on private postsecondary institutions under
27 its jurisdiction, including disclosure of notices to comply issued
28 pursuant to Section 94935 of the Education Code.

29 (8) The California Board of Accountancy shall disclose
30 information on its licensees and registrants.

31 (9) The California Architects Board shall disclose information
32 on its licensees, including architects and landscape architects.

33 (10) The State Athletic Commission shall disclose information
34 on its licensees and registrants.

35 (11) The State Board of Barbering and Cosmetology shall
36 disclose information on its licensees.

37 (12) The State Board of Guide Dogs for the Blind shall disclose
38 information on its licensees and registrants.

39 (13) The Acupuncture Board shall disclose information on its
40 licensees.

1 (14) The Board of Behavioral Sciences shall disclose
2 information on its licensees and registrants.

3 (15) The Dental Board of California shall disclose information
4 on its licensees.

5 (16) The State Board of Optometry shall disclose information
6 on its licensees and registrants.

7 (17) The Board of Psychology shall disclose information on its
8 licensees, including psychologists, psychological assistants, and
9 registered psychologists.

10 (18) The Veterinary Medical Board shall disclose information
11 on its licensees, registrants, and permitholders.

12 (d) The State Board of Chiropractic Examiners shall disclose
13 information on its licensees.

14 (e) The Structural Pest Control Board shall disclose information
15 on its licensees, including applicators, field representatives, and
16 operators in the areas of fumigation, general pest and wood
17 destroying pests and organisms, and wood roof cleaning and
18 treatment.

19 (f) The Bureau of Medical Cannabis Regulation shall disclose
20 information on its licensees.

21 (g) “Internet” for the purposes of this section has the meaning
22 set forth in paragraph (6) of subdivision (f) of Section 17538.

23 SEC. 2. Section 650.4 of the Business and Professions Code
24 is repealed.

25 SEC. 3. Section 865 of the Business and Professions Code is
26 amended to read:

27 865. For the purposes of this article, the following terms shall
28 have the following meanings:

29 (a) “Mental health provider” means a physician and surgeon
30 specializing in the practice of psychiatry, a psychologist, a
31 psychological assistant, intern, or trainee, a licensed marriage and
32 family therapist, a registered associate marriage and family
33 therapist, a marriage and family therapist trainee, a licensed
34 educational psychologist, a credentialed school psychologist, a
35 licensed clinical social worker, an associate clinical social worker,
36 a licensed professional clinical counselor, a registered associate
37 clinical counselor, a professional clinical counselor trainee, or any
38 other person designated as a mental health professional under
39 California law or regulation.

1 (b) (1) “Sexual orientation change efforts” means any practices
2 by mental health providers that seek to change an individual’s
3 sexual orientation. This includes efforts to change behaviors or
4 gender expressions, or to eliminate or reduce sexual or romantic
5 attractions or feelings toward individuals of the same sex.

6 (2) “Sexual orientation change efforts” does not include
7 psychotherapies that: (A) provide acceptance, support, and
8 understanding of clients or the facilitation of clients’ coping, social
9 support, and identity exploration and development, including sexual
10 orientation-neutral interventions to prevent or address unlawful
11 conduct or unsafe sexual practices; and (B) do not seek to change
12 sexual orientation.

13 SEC. 4. Section 1601.5 of the Business and Professions Code
14 is repealed.

15 *SEC. 5. Section 1601.6 of the Business and Professions Code*
16 *is repealed.*

17 ~~1601.6.—(a) Consistent with and in addition to the federal
18 Centers for Disease Control and Prevention recommendations for
19 water quality, the board shall amend the regulations on the
20 minimum standards for infection control (Section 1005 of Title
21 16 of the California Code of Regulations) to require water or other
22 methods used for irrigation to be sterile or contain recognized
23 disinfecting or antibacterial properties when performing dental
24 procedures that expose dental pulp.~~

25 ~~(b) Until December 31, 2018, the adoption and readoption of a
26 regulation by the board consistent with this section shall be deemed
27 to be an emergency necessary for the immediate preservation of
28 the public peace, health and safety, or general welfare for purposes
29 of Sections 11346.1 and 11346.9 of the Government Code and the
30 board is hereby exempted from the requirement that it describe
31 facts showing the need for immediate action and from review of
32 the emergency regulations by the Office of Administrative Law.~~

33 ~~(c) The board shall adopt final regulations consistent with this
34 section on or before December 31, 2018.~~

35 ~~(d) It is the intent of the Legislature that the requirements
36 established by this section and any regulations adopted pursuant
37 to this section apply to individuals licensed to practice dentistry.
38 This section shall not be construed to impose any new duty or
39 obligation on a water district.~~

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 1607 of the Business and Professions Code is
3 amended to read:

4 1607. The board shall meet regularly once each year in San
5 Francisco and once each year in Los Angeles, and at such other
6 times and places as the board may designate, for the purpose of
7 transacting its business.

8 ~~SEC. 6.~~

9 *SEC. 7.* Section 1611 of the Business and Professions Code is
10 amended to read:

11 1611. The board shall carry out the purposes and enforce the
12 provisions of this chapter. It shall examine all applicants for a
13 license or permit to practice dentistry and dental assisting,
14 according to the provisions of this chapter, and shall issue licenses
15 and permits to practice dentistry and dental assisting in this state
16 to such applicants as successfully pass all applicable licensing and
17 permitting examinations administered by the board, or any regional
18 or national testing entity designated to administer licensing or
19 permitting examinations, and otherwise comply with the provisions
20 of this chapter. The board shall collect and apply all fees as directed
21 by this chapter.

22 ~~SEC. 7.~~

23 *SEC. 8.* Section 1611.3 of the Business and Professions Code
24 is amended to read:

25 1611.3. The board shall comply with the requirements of
26 Section 138 by January 1, 2013. The board shall require that the
27 notice under that section include a provision that the board is the
28 entity that regulates dentists and dental assistants and provide the
29 telephone number and Internet address of the board. The board
30 shall require the notice to be posted in a conspicuous location
31 accessible to public view.

32 ~~SEC. 8.~~

33 *SEC. 9.* Section 1611.5 of the Business and Professions Code
34 is amended to read:

35 1611.5. (a) The board may inspect the books, records, and
36 premises of any dentist licensed under this chapter and the licensing
37 documents, records, and premises of any dental assistant permitted
38 under this chapter in response to a complaint that a dentist or dental
39 assistant has violated any law or regulation that constitutes grounds

1 for disciplinary action by the board, and may employ inspectors
2 for this purpose.

3 (b) Failure to allow an inspection or any part thereof shall be
4 grounds for suspension or revocation of the license or permit in
5 accordance with Section 1670.

6 ~~SEC. 9.~~

7 *SEC. 10.* Section 1612 of the Business and Professions Code
8 is amended to read:

9 1612. The board shall keep a record of the names of all persons
10 to whom licenses or permits have been granted by it to practice
11 dentistry, dental assisting, or any other function requiring a permit,
12 and such other records as may be necessary to show plainly all of
13 its acts and proceedings.

14 ~~SEC. 10.~~

15 *SEC. 11.* Section 1614 of the Business and Professions Code
16 is amended to read:

17 1614. The board may adopt regulations pursuant to this chapter
18 concerning:

19 (a) The holding of meetings.

20 (b) The holding of examinations.

21 (c) The manner of issuance and reissuance of licenses.

22 (d) The establishment of standards for the approval of dental
23 colleges and dental assisting programs and educational courses.

24 (e) Prescribing subjects in which applicants are to be examined.

25 (f) The administration and enforcement of this chapter.

26 Such rules shall be adopted, amended, or repealed in accordance
27 with the provisions of the Administrative Procedure Act.

28 ~~SEC. 11.~~

29 *SEC. 12.* Section 1615 of the Business and Professions Code
30 is amended to read:

31 1615. Each member of the board shall receive a per diem and
32 expenses as provided in Section 103.

33 ~~SEC. 12.~~

34 *SEC. 13.* Section 1621 of the Business and Professions Code
35 is amended to read:

36 1621. The board shall utilize in the administration of its
37 licensure examinations only examiners whom it has appointed and
38 who meet the following criteria:

1 (a) Possession of a valid license to practice dentistry in this state
2 or possession of a valid license in one of the registered dental
3 assistant categories licensed under this chapter.

4 (b) Practice as a licensed dentist or in a licensure category
5 described in subdivision (a) for at least five years preceding his or
6 her appointment.

7 (c) Hold no position as an officer or faculty member at any
8 college, school, or institution that provides instruction in the same
9 licensure category as that held by the examiner. This subdivision
10 shall not apply to a portfolio examiner.

11 ~~SEC. 13.~~

12 *SEC. 14.* Section 1645 of the Business and Professions Code
13 is amended to read:

14 1645. (a) (1) All holders of licenses under this chapter shall
15 continue their education after receiving a license as a condition to
16 the renewal thereof, and shall obtain evidence satisfactory to the
17 board that they have, during the preceding two-year period,
18 obtained continuing education relevant to developments in the
19 practice of dentistry and dental assisting consistent with regulations
20 established by the board.

21 (2) The board shall adopt regulations providing for the
22 suspension of the licenses at the end of the two-year period until
23 compliance with this section is accomplished.

24 (b) The board may also, as a condition of license renewal,
25 require licentiates to successfully complete a portion of the required
26 continuing education hours in specific areas adopted in regulations
27 by the board. The board may prescribe this mandatory coursework
28 within the general areas of patient care, health and safety, and law
29 and ethics. The mandatory coursework prescribed by the board
30 shall not exceed fifteen hours per renewal period for dentists, and
31 seven and one-half hours per renewal period for dental auxiliaries.
32 Any mandatory coursework required by the board shall be credited
33 toward the continuing education requirements established by the
34 board pursuant to subdivision (a).

35 (c) For a retired dentist who provides only uncompensated care,
36 the board shall not require more than 60 percent of the hours of
37 continuing education that are required of other licensed dentists.
38 Notwithstanding subdivision (b), all of the hours of continuing
39 education as described in this subdivision shall be gained through
40 courses related to the actual delivery of dental services to the

1 patient or the community, as determined by the board. Nothing in
2 this subdivision shall be construed to reduce any requirements
3 imposed by the board pursuant to subdivision (b).

4 (d) The board shall report on the outcome of subdivision (c)
5 pursuant to, and at the time of, its regular sunset review process,
6 as provided in Section 1601.1.

7 *SEC. 15. Section 1680 of the Business and Professions Code*
8 *is amended to read:*

9 1680. Unprofessional conduct by a person licensed under this
10 chapter is defined as, but is not limited to, any one of the following:

11 (a) The obtaining of any fee by fraud or misrepresentation.

12 (b) The employment directly or indirectly of any student or
13 suspended or unlicensed dentist to practice dentistry as defined in
14 this chapter.

15 (c) The aiding or abetting of any unlicensed person to practice
16 dentistry.

17 (d) The aiding or abetting of a licensed person to practice
18 dentistry unlawfully.

19 (e) The committing of any act or acts of sexual abuse,
20 misconduct, or relations with a patient that are substantially related
21 to the practice of dentistry.

22 (f) The use of any false, assumed, or fictitious name, either as
23 an individual, firm, corporation, or otherwise, or any name other
24 than the name under which he or she is licensed to practice, in
25 advertising or in any other manner indicating that he or she is
26 practicing or will practice dentistry, except that name as is specified
27 in a valid permit issued pursuant to Section 1701.5.

28 (g) The practice of accepting or receiving any commission or
29 the rebating in any form or manner of fees for professional services,
30 radiograms, prescriptions, or other services or articles supplied to
31 patients.

32 (h) The making use by the licensee or any agent of the licensee
33 of any advertising statements of a character tending to deceive or
34 mislead the public.

35 (i) The advertising of either professional superiority or the
36 advertising of performance of professional services in a superior
37 manner. This subdivision shall not prohibit advertising permitted
38 by subdivision (h) of Section 651.

39 (j) The employing or the making use of solicitors.

40 (k) The advertising in violation of Section 651.

1 (l) The advertising to guarantee any dental service, or to perform
2 any dental operation painlessly. This subdivision shall not prohibit
3 advertising permitted by Section 651.

4 (m) The violation of any of the provisions of law regulating the
5 procurement, dispensing, or administration of dangerous drugs,
6 as defined in Chapter 9 (commencing with Section 4000) or
7 controlled substances, as defined in Division 10 (commencing
8 with Section 11000) of the Health and Safety Code.

9 (n) The violation of any of the provisions of this division.

10 (o) The permitting of any person to operate dental radiographic
11 equipment who has not met the requirements of Section 1656.

12 (p) The clearly excessive prescribing or administering of drugs
13 or treatment, or the clearly excessive use of diagnostic procedures,
14 or the clearly excessive use of diagnostic or treatment facilities,
15 as determined by the customary practice and standards of the dental
16 profession.

17 Any person who violates this subdivision is guilty of a
18 misdemeanor and shall be punished by a fine of not less than one
19 hundred dollars (\$100) or more than six hundred dollars (\$600),
20 or by imprisonment for a term of not less than 60 days or more
21 than 180 days, or by both a fine and imprisonment.

22 (q) The use of threats or harassment against any patient or
23 licensee for providing evidence in any possible or actual
24 disciplinary action, or other legal action; or the discharge of an
25 employee primarily based on the employee's attempt to comply
26 with the provisions of this chapter or to aid in the compliance.

27 (r) Suspension or revocation of a license issued, or discipline
28 imposed, by another state or territory on grounds that would be
29 the basis of discipline in this state.

30 (s) The alteration of a patient's record with intent to deceive.

31 (t) Unsanitary or unsafe office conditions, as determined by the
32 customary practice and standards of the dental profession.

33 (u) The abandonment of the patient by the licensee, without
34 written notice to the patient that treatment is to be discontinued
35 and before the patient has ample opportunity to secure the services
36 of another dentist, registered dental hygienist, registered dental
37 hygienist in alternative practice, or registered dental hygienist in
38 extended functions and provided the health of the patient is not
39 jeopardized.

1 (v) The willful misrepresentation of facts relating to a
2 disciplinary action to the patients of a disciplined licensee.

3 (w) Use of fraud in the procurement of any license issued
4 pursuant to this chapter.

5 (x) Any action or conduct that would have warranted the denial
6 of the license.

7 (y) The aiding or abetting of a licensed dentist, dental assistant,
8 registered dental assistant, registered dental assistant in extended
9 functions, dental sedation assistant permitholder, orthodontic
10 assistant permitholder, registered dental hygienist, registered dental
11 hygienist in alternative practice, or registered dental hygienist in
12 extended functions to practice dentistry in a negligent or
13 incompetent manner.

14 (z) (1) The failure to report to the board in writing within seven
15 days any of the following: (A) the death of his or her patient during
16 the performance of any dental or dental hygiene procedure; (B)
17 the discovery of the death of a patient whose death is related to a
18 dental or dental hygiene procedure performed by him or her; or
19 (C) except for a scheduled hospitalization, the removal to a hospital
20 or emergency center for medical treatment of any patient to whom
21 oral conscious sedation, conscious sedation, or general anesthesia
22 was administered, or any patient as a result of dental or dental
23 hygiene treatment. With the exception of patients to whom oral
24 conscious sedation, conscious sedation, or general anesthesia was
25 administered, removal to a hospital or emergency center that is
26 the normal or expected treatment for the underlying dental
27 condition is not required to be reported. Upon receipt of a report
28 pursuant to this subdivision the board may conduct an inspection
29 of the dental office if the board finds that it is necessary. A dentist
30 shall report to the board all deaths occurring in his or her practice
31 with a copy sent to the Dental Hygiene Committee of California
32 if the death was the result of treatment by a registered dental
33 hygienist, registered dental hygienist in alternative practice, or
34 registered dental hygienist in extended functions. A registered
35 dental hygienist, registered dental hygienist in alternative practice,
36 or registered dental hygienist in extended functions shall report to
37 the Dental Hygiene Committee of California all deaths occurring
38 as the result of dental hygiene treatment, and a copy of the
39 notification shall be sent to the board.

1 (2) The report required by this subdivision shall be on a form
2 or forms approved by the board. The form or forms approved by
3 the board shall require the licensee to include, but not be limited
4 to, the following information for cases in which patients received
5 anesthesia: the date of the procedure; the patient's age in years
6 and months, weight, and sex; the patient's American Society of
7 Anesthesiologists (ASA) physical status; the patient's primary
8 diagnosis; the patient's coexisting diagnoses; the procedures
9 performed; the sedation setting; the medications used; the
10 monitoring equipment used; the category of the provider
11 responsible for sedation oversight; the category of the provider
12 delivering sedation; the category of the provider monitoring the
13 patient during sedation; whether the person supervising the sedation
14 performed one or more of the procedures; the planned airway
15 management; the planned depth of sedation; the complications
16 that occurred; a description of what was unexpected about the
17 airway management; whether there was transportation of the patient
18 during sedation; the category of the provider conducting
19 resuscitation measures; and the resuscitation equipment utilized.
20 Disclosure of individually identifiable patient information shall
21 be consistent with applicable law. A report required by this
22 subdivision shall not be admissible in any action brought by a
23 patient of the licensee providing the report.

24 (3) For the purposes of paragraph (2), categories of provider
25 are: General Dentist, Pediatric Dentist, Oral Surgeon, Dentist
26 Anesthesiologist, Physician Anesthesiologist, Dental Assistant,
27 Registered Dental Assistant, Dental Sedation Assistant, Registered
28 Nurse, Certified Registered Nurse Anesthetist, or Other.

29 (4) The form shall state that this information shall not be
30 considered an admission of guilt, but is for educational, data, or
31 investigative purposes.

32 (5) The board may assess a penalty on any licensee who fails
33 to report an instance of an adverse event as required by this
34 subdivision. The licensee may dispute the failure to file within 10
35 days of receiving notice that the board had assessed a penalty
36 against the licensee.

37 (aa) Participating in or operating any group advertising and
38 referral services that are in violation of Section 650.2.

1 (ab) The failure to use a fail-safe machine with an appropriate
2 exhaust system in the administration of nitrous oxide. The board
3 shall, by regulation, define what constitutes a fail-safe machine.

4 (ac) Engaging in the practice of dentistry with an expired license.

5 (ad) Except for good cause, the knowing failure to protect
6 patients by failing to follow infection control guidelines of the
7 board, thereby risking transmission of bloodborne infectious
8 diseases from dentist, dental assistant, registered dental assistant,
9 registered dental assistant in extended functions, dental sedation
10 assistant permitholder, orthodontic assistant permitholder,
11 registered dental hygienist, registered dental hygienist in alternative
12 practice, or registered dental hygienist in extended functions to
13 patient, from patient to patient, and from patient to dentist, dental
14 assistant, registered dental assistant, registered dental assistant in
15 extended functions, dental sedation assistant permitholder,
16 orthodontic assistant permitholder, registered dental hygienist,
17 registered dental hygienist in alternative practice, or registered
18 dental hygienist in extended functions. In administering this
19 subdivision, the board shall consider referencing the standards,
20 regulations, and guidelines of the State Department of Public
21 Health developed pursuant to Section 1250.11 of the Health and
22 Safety Code and the standards, guidelines, and regulations pursuant
23 to the California Occupational Safety and Health Act of 1973 (Part
24 1 (commencing with Section 6300) of Division 5 of the Labor
25 Code) for preventing the transmission of HIV, hepatitis B, and
26 other blood-borne pathogens in health care settings. The board
27 shall review infection control guidelines, if necessary, on an annual
28 basis and proposed changes shall be reviewed by the Dental
29 Hygiene Committee of California to establish a consensus. The
30 committee shall submit any recommended changes to the infection
31 control guidelines for review to establish a consensus. As
32 necessary, the board shall consult with the Medical Board of
33 California, the California Board of Podiatric Medicine, the Board
34 of Registered Nursing, and the Board of Vocational Nursing and
35 Psychiatric Technicians, to encourage appropriate consistency in
36 the implementation of this subdivision.

37 The board shall seek to ensure that all appropriate dental
38 personnel are informed of the responsibility to follow infection
39 control guidelines, and of the most recent scientifically recognized

1 safeguards for minimizing the risk of transmission of bloodborne
2 infectious diseases.

3 (ae) The utilization by a licensed dentist of any person to
4 perform the functions of any registered dental assistant, registered
5 dental assistant in extended functions, dental sedation assistant
6 permitholder, orthodontic assistant permitholder, registered dental
7 hygienist, registered dental hygienist in alternative practice, or
8 registered dental hygienist in extended functions who, at the time
9 of initial employment, does not possess a current, valid license or
10 permit to perform those functions.

11 (af) The prescribing, dispensing, or furnishing of dangerous
12 drugs or devices, as defined in Section 4022, in violation of Section
13 2242.1.

14 (ag) *Using water, or other methods used for irrigation, that are*
15 *not sterile or that do not contain recognized disinfecting or*
16 *antibacterial properties when performing dental procedures on*
17 *exposed dental pulp.*

18 ~~SEC. 14.~~

19 *SEC. 16.* Section 1750 of the Business and Professions Code
20 is amended to read:

21 1750. (a) A dental assistant is an individual who, without a
22 license, may perform basic supportive dental procedures, as
23 authorized by Section 1750.1 and by regulations adopted by the
24 board, under the supervision of a licensed dentist. “Basic supportive
25 dental procedures” are those procedures that have technically
26 elementary characteristics, are completely reversible, and are
27 unlikely to precipitate potentially hazardous conditions for the
28 patient being treated.

29 (b) The supervising licensed dentist shall be responsible for
30 determining the competency of the dental assistant to perform the
31 basic supportive dental procedures, as authorized by Section
32 1750.1.

33 (c) The employer of a dental assistant shall be responsible for
34 ensuring that the dental assistant who has been in continuous
35 employment for 120 days or more, has already successfully
36 completed, or successfully completes, all of the following within
37 a year of the date of employment:

38 (1) A board-approved two-hour course in the Dental Practice
39 Act.

40 (2) A board-approved eight-hour course in infection control.

1 (3) A course in basic life support offered by an instructor
2 approved by the American Red Cross or the American Heart
3 Association, or any other course approved by the board as
4 equivalent and that provides the student the opportunity to engage
5 in hands-on simulated clinical scenarios.

6 (d) The employer of a dental assistant shall be responsible for
7 ensuring that the dental assistant maintains certification in basic
8 life support.

9 (e) This section shall become operative on January 1, 2010.

10 ~~SEC. 15.~~

11 *SEC. 17.* Section 1750.2 of the Business and Professions Code
12 is amended to read:

13 1750.2. (a) The board may issue an orthodontic assistant permit
14 to a person who files a completed application including a fee and
15 provides evidence, satisfactory to the board, of all of the following
16 eligibility requirements:

17 (1) Current, active, and valid licensure as a registered dental
18 assistant or completion of at least 12 months of verifiable work
19 experience as a dental assistant.

20 (2) Successful completion of a two-hour board-approved course
21 in the Dental Practice Act and an eight-hour board-approved course
22 in infection control.

23 (3) Successful completion of a course in basic life support
24 offered by an instructor approved by the American Red Cross or
25 the American Heart Association, or any other course approved by
26 the board as equivalent.

27 (4) Successful completion of a board-approved orthodontic
28 assistant course, which may commence after the completion of six
29 months of work experience as a dental assistant.

30 (5) Passage of a written examination administered by the board
31 after completion of all of the other requirements of this subdivision.
32 The written examination shall encompass the knowledge, skills,
33 and abilities necessary to competently perform the duties specified
34 in Section 1750.3.

35 (b) A person who holds an orthodontic assistant permit pursuant
36 to this section shall be subject to the same continuing education
37 requirements for registered dental assistants as established by the
38 board pursuant to Section 1645 and the renewal requirements of
39 Article 6 (commencing with Section 1715).

1 ~~SEC. 16.~~

2 *SEC. 18.* Section 1750.4 of the Business and Professions Code
3 is amended to read:

4 1750.4. (a) The board may issue a dental sedation assistant
5 permit to a person who files a completed application including a
6 fee and provides evidence, satisfactory to the board, of all of the
7 following eligibility requirements:

8 (1) Current, active, and valid licensure as a registered dental
9 assistant or completion of at least 12 months of verifiable work
10 experience as a dental assistant.

11 (2) Successful completion of a two-hour board-approved course
12 in the Dental Practice Act and an eight-hour board-approved course
13 in infection control.

14 (3) Successful completion of a course in basic life support
15 offered by an instructor approved by the American Red Cross or
16 the American Heart Association, or any other course approved by
17 the board as equivalent.

18 (4) Successful completion of a board-approved dental sedation
19 assistant course, which may commence after the completion of six
20 months of work experience as a dental assistant.

21 (5) Passage of a written examination administered by the board
22 after completion of all of the other requirements of this subdivision.
23 The written examination shall encompass the knowledge, skills,
24 and abilities necessary to competently perform the duties specified
25 in Section 1750.5.

26 (b) A person who holds a permit pursuant to this section shall
27 be subject to the continuing education requirements established
28 by the board pursuant to Section 1645 and the renewal requirements
29 of Article 6 (commencing with Section 1715).

30 ~~SEC. 17.~~

31 *SEC. 19.* Section 1751 of the Business and Professions Code
32 is amended to read:

33 1751. At least once every seven years, the board shall review
34 the allowable duties for dental assistants, registered dental
35 assistants, registered dental assistants in extended functions, dental
36 sedation assistant permitholders, and orthodontic assistant
37 permitholders, the supervision level for these categories, and the
38 settings under which these duties may be performed, and shall
39 update the regulations as necessary to keep them current with the
40 state of the dental practice.

1 ~~SEC. 18.~~

2 *SEC. 20.* Section 1753.7 of the Business and Professions Code
3 is amended to read:

4 1753.7. A licensed dentist may simultaneously utilize in his
5 or her practice no more than three registered dental assistants in
6 extended functions or registered dental hygienists in extended
7 functions licensed pursuant to Section 1753 or 1918.

8 ~~SEC. 19.~~

9 *SEC. 21.* Section 2290.5 of the Business and Professions Code
10 is amended to read:

11 2290.5. (a) For purposes of this division, the following
12 definitions shall apply:

13 (1) “Asynchronous store and forward” means the transmission
14 of a patient’s medical information from an originating site to the
15 health care provider at a distant site without the presence of the
16 patient.

17 (2) “Distant site” means a site where a health care provider who
18 provides health care services is located while providing these
19 services via a telecommunications system.

20 (3) “Health care provider” means either of the following:

21 (A) A person who is licensed under this division.

22 (B) An associate marriage and family therapist or marriage and
23 family therapist trainee functioning pursuant to Section 4980.43.

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

28 (5) “Synchronous interaction” means a real-time interaction
29 between a patient and a health care provider located at a distant
30 site.

31 (6) “Telehealth” means the mode of delivering health care
32 services and public health via information and communication
33 technologies to facilitate the diagnosis, consultation, treatment,
34 education, care management, and self-management of a patient’s
35 health care while the patient is at the originating site and the health
36 care provider is at a distant site. Telehealth facilitates patient
37 self-management and caregiver support for patients and includes
38 synchronous interactions and asynchronous store and forward
39 transfers.

1 (b) Prior to the delivery of health care via telehealth, the health
2 care provider initiating the use of telehealth shall inform the patient
3 about the use of telehealth and obtain verbal or written consent
4 from the patient for the use of telehealth as an acceptable mode of
5 delivering health care services and public health. The consent shall
6 be documented.

7 (c) Nothing in this section shall preclude a patient from receiving
8 in-person health care delivery services during a specified course
9 of health care and treatment after agreeing to receive services via
10 telehealth.

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

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

18 (f) All laws regarding the confidentiality of health care
19 information and a patient’s rights to his or her medical information
20 shall apply to telehealth interactions.

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

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

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

36 (3) For the purposes of this subdivision, “telehealth” shall
37 include “telemedicine” as the term is referenced in Sections 482.12,
38 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

39 *SEC. 22. Section 2556 of the Business and Professions Code*
40 *is amended to read:*

1 2556. (a) Except as authorized by Section 655, it is unlawful
 2 for a registered dispensing optician *or a person who engages in*
 3 *the business of, or holds himself or herself out to be, a dispensing*
 4 *optician* to do any of the following: to advertise the furnishing of,
 5 or to furnish, the services of an optometrist or a physician and
 6 surgeon, to directly employ an optometrist or physician and surgeon
 7 for the purpose of any examination or treatment of the eyes, or to
 8 duplicate or change lenses without a prescription or order from a
 9 person duly licensed to issue the same. For the purposes of this
 10 section, “furnish” does not mean to enter into a landlord-tenant
 11 relationship of any kind.

12 (b) Notwithstanding Section 125.9, the board may, by regulation,
 13 impose and issue administrative fines and citations for a violation
 14 of this section or Section 655, which may be assessed in addition
 15 to any other applicable fines, citations, or administrative or criminal
 16 actions.

17 ~~SEC. 20.~~

18 ~~SEC. 23.~~ Section 3004 of the Business and Professions Code
 19 is amended to read:

20 3004. (a) As used in this chapter, “board” means the State
 21 Board of Optometry.

22 (b) Any reference in this code or any other code to the “State
 23 Board of Optometry” shall be deemed to refer to the “California
 24 State Board of Optometry.”

25 ~~SEC. 24. Section 3040 of the Business and Professions Code~~
 26 ~~is amended to read:~~

27 3040. (a) It is unlawful for a person to engage in the practice
 28 of optometry ~~or to display a sign or in any other way~~ to advertise
 29 or hold himself or herself out as an optometrist without ~~having~~
 30 ~~first obtained an optometrist license from the board under the~~
 31 ~~provisions of this chapter or under the provisions of any former~~
 32 ~~act relating to the practice of optometry. a valid, unrevoked~~
 33 *California optometrist license.* The practice of optometry includes
 34 the performing or controlling of any acts set forth in Section 3041.

35 ~~In~~

36 (b) *In* any prosecution for a violation of this section, the use of
 37 test cards, test lenses, or of trial frames is prima facie evidence of
 38 the practice of optometry.

1 ~~SEC. 21.~~

2 *SEC. 25.* Section 3146 of the Business and Professions Code
3 is amended to read:

4 3146. An optometric license issued under this chapter expires
5 at midnight on the last day of the month in which the license was
6 issued during the second year of a two-year term if not renewed.
7 To renew an unexpired license, the optometrist shall apply for
8 renewal on a form prescribed by the board and pay the renewal
9 fee prescribed by this chapter.

10 ~~SEC. 22.~~

11 *SEC. 26.* Section 3735 of the Business and Professions Code
12 is amended to read:

13 3735. (a) Except as otherwise provided in this chapter, an
14 applicant shall not receive a license under this chapter without first
15 successfully passing the National Board for Respiratory Care's
16 Therapist Multiple-Choice Examination, at the cut-off level
17 required to qualify for the Clinical Simulation Examination, and
18 the Clinical Simulation Examination, or any succeeding
19 examinations.

20 (b) Notwithstanding subdivision (a), any person applying for
21 licensure who provides evidence that he or she passed the national
22 Certified Respiratory Therapist Examination or Written Registry
23 Examination prior to January 1, 2015, shall be deemed to have
24 met the examination requirement of subdivision (a), provided there
25 is no evidence of prior license or job-related discipline, as
26 determined by the board in its discretion.

27 ~~SEC. 23.~~

28 *SEC. 27.* Section 3751 of the Business and Professions Code
29 is amended to read:

30 3751. (a) A person whose license has been revoked,
31 surrendered, or suspended, or placed on probation, may petition
32 the board for reinstatement, modification, or termination of
33 probation, provided the person has paid all outstanding fees, fines,
34 and cost recovery in full, and monthly probation monitoring
35 payments are current.

36 (b) A person petitioning for reinstatement of his or her license
37 that has been revoked or surrendered for three or more years shall
38 also meet the current education and examination requirements
39 required for initial licensure.

1 (c) A petition may be filed only after a period of time has
2 elapsed, but not less than the following minimum periods from
3 the effective date of the decision ordering that disciplinary action:

4 (1) At least three years for reinstatement of a license that has
5 been revoked or surrendered.

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

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

11 (d) The petition shall state any facts as may be required by the
12 board. The petition shall be accompanied by at least two verified
13 recommendations from licensed health care practitioners who have
14 personal knowledge of the professional activities of the petitioner
15 since the disciplinary penalty was imposed. The board may accept
16 or reject the petition.

17 (e) Written or oral argument may be provided by the petitioner
18 or, at the request of the board, by the Attorney General. Unless
19 the board or the petitioner requests the presentation of oral
20 argument, the petition shall be considered and voted upon by mail.
21 If the petitioner or the board requests the opportunity for oral
22 argument, the petition shall be heard by the board or the board
23 may assign the petition to an administrative law judge.

24 (f) Consideration shall be given to all activities of the petitioner
25 since the disciplinary action was taken, the offense for which the
26 petitioner was disciplined, the petitioner's activities during the
27 time the license was in good standing, and the petitioner's
28 rehabilitative efforts, general reputation for truth, and professional
29 ability.

30 (g) The board may deny the petition for reinstatement, reinstate
31 the license without terms and conditions, require an examination
32 for the reinstatement, restoration, or modification of probation, or
33 reinstate the license with terms and conditions as it deems
34 necessary. Where a petition is heard by an administrative law
35 judge, the administrative law judge shall render a proposed decision
36 to the board denying the petition for reinstatement, reinstating the
37 license without terms and conditions, requiring an examination
38 for the reinstatement, or reinstating the license with terms and
39 conditions as he or she deems necessary. The board may take any

1 action with respect to the proposed decision and petition as it deems
2 appropriate.

3 (h) No petition shall be considered under either of the following
4 circumstances:

5 (1) If the petitioner is under sentence for any criminal offense
6 including any period during which the petitioner is on
7 court-imposed probation or parole.

8 (2) If an accusation or a petition to revoke probation is pending
9 against the person.

10 (i) The board may deny without a hearing or argument any
11 petition filed pursuant to this section within a period of three years
12 from the effective date of the prior decision.

13 (j) Petitions for reinstatement shall include a processing fee
14 equal to fees charged pursuant to subdivisions (a) and (h) of Section
15 3775. In addition, petitions for reinstatement that are granted shall
16 include a fee equal to the fee charged pursuant to subdivision (d)
17 of Section 3775, before the license may be reinstated.

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

20 ~~SEC. 24.~~

21 *SEC. 28.* Section 4848 of the Business and Professions Code
22 is amended to read:

23 4848. (a) (1) The board shall, by means of examination,
24 ascertain the professional qualifications of all applicants for
25 licenses to practice veterinary medicine in this state and shall issue
26 a license to every person whom it finds to be qualified. No license
27 shall be issued to anyone who has not demonstrated his or her
28 competency by examination.

29 (2) The examination shall consist of each of the following:

30 (A) A licensing examination that is administered on a national
31 basis.

32 (B) A California state board examination.

33 (C) An examination concerning those statutes and regulations
34 of the Veterinary Medicine Practice Act administered by the board.
35 The examination shall be administered by regular mail, email, or
36 by both regular mail and email, and provided to applicants within
37 10 to 20 days of eligibility determination. The board shall have 10
38 to 20 days from the date of receipt to process the examination and
39 provide candidates with the results of the examination. The
40 applicant shall certify that he or she personally completed the

1 examination. Any false statement is a violation subject to Section
2 4831. University of California and Western University of Health
3 Sciences veterinary medical students who have successfully
4 completed a board-approved course on veterinary law and ethics
5 covering the Veterinary Medicine Practice Act shall be exempt
6 from this provision.

7 (3) The examinations may be given at the same time or at
8 different times as determined by the board. For examination
9 purposes, the board may make contractual arrangements on a sole
10 source basis with organizations furnishing examination material
11 as it may deem desirable and shall be exempt from Section 10115
12 of the Public Contract Code.

13 (4) The licensing examination may be waived by the board in
14 any case in which it determines that the applicant has taken and
15 passed an examination for licensure in another state substantially
16 equivalent in scope and subject matter to the licensing examination
17 last given in California before the determination is made, and has
18 achieved a score on the out-of-state examination at least equal to
19 the score required to pass the licensing examination administered
20 in California.

21 (5) Nothing in this chapter shall preclude the board from
22 permitting a person who has completed a portion of his or her
23 educational program, as determined by the board, in a veterinary
24 college recognized by the board under Section 4846 to take any
25 examination or any part thereof prior to satisfying the requirements
26 for application for a license established by Section 4846.

27 (b) For purposes of reciprocity, the board shall waive the
28 examination requirements of subdivision (a), and issue a license
29 to an applicant to practice veterinary medicine if the applicant
30 meets all of the following requirements and would not be denied
31 issuance of a license by any other provision of this code:

32 (1) The applicant holds a current valid license in good standing
33 in another state, Canadian province, or United States territory and,
34 within three years immediately preceding filing an application for
35 licensure in this state, has practiced clinical veterinary medicine
36 for a minimum of two years and completed a minimum of 2,944
37 hours of clinical practice. Experience obtained while participating
38 in an American Veterinary Medical Association (AVMA)
39 accredited institution's internship, residency, or specialty board

1 training program shall be valid for meeting the minimum
2 experience requirement.

3 The term “in good standing” means that an applicant under this
4 section:

5 (A) Is not currently under investigation nor has been charged
6 with an offense for any act substantially related to the practice of
7 veterinary medicine by any public agency, nor entered into any
8 consent agreement or been subject to an administrative decision
9 that contains conditions placed by an agency upon an applicant’s
10 professional conduct or practice, including any voluntary surrender
11 of license, nor been the subject of an adverse judgment resulting
12 from the practice of veterinary medicine that the board determines
13 constitutes evidence of a pattern of incompetence or negligence.

14 (B) Has no physical or mental impairment related to drugs or
15 alcohol, and has not been found mentally incompetent by a
16 physician so that the applicant is unable to undertake the practice
17 of veterinary medicine in a manner consistent with the safety of a
18 patient or the public.

19 (2) At the time of original licensure, the applicant passed the
20 national licensing requirement in veterinary science with a passing
21 score or scores on the examination or examinations equal to or
22 greater than the passing score required to pass the national licensing
23 examination or examinations administered in this state.

24 (3) The applicant has either graduated from a veterinary college
25 recognized by the board under Section 4846 or possesses a
26 certificate issued by the Educational Commission for Foreign
27 Veterinary Graduates (ECFVG) or the Program for the Assessment
28 of Veterinary Education Equivalence (PAVE).

29 (4) The applicant passes an examination concerning the statutes
30 and regulations of the Veterinary Medicine Practice Act,
31 administered by the board, pursuant to subparagraph (C) of
32 paragraph (2) of subdivision (a).

33 (5) The applicant completes an approved educational curriculum
34 on regionally specific and important diseases and conditions. The
35 board, in consultation with the California Veterinary Medical
36 Association (CVMA), shall approve educational curricula that
37 cover appropriate regionally specific and important diseases and
38 conditions that are common in California. The curricula shall focus
39 on small and large animal diseases consistent with the current
40 proportion of small and large animal veterinarians practicing in

1 the state. The approved curriculum shall not exceed 30 hours of
2 educational time. The approved curriculum may be offered by
3 multiple providers so that it is widely accessible to candidates
4 licensed under this subdivision.

5 (c) The board shall issue a temporary license valid for one year
6 to an applicant to practice veterinary medicine under the
7 supervision of another California-licensed veterinarian in good
8 standing if the applicant satisfies all of the following requirements:

9 (1) The applicant meets the requirements of paragraphs (1) to
10 (4), inclusive, of subdivision (b).

11 (2) The applicant would not be denied issuance of a license
12 under any other provision of this chapter.

13 (3) The applicant agrees to complete the approved educational
14 curriculum described in paragraph (5) of subdivision (b) on
15 regionally specific and important diseases and conditions during
16 the period of temporary licensure.

17 (d) Upon completion of the curriculum described in paragraph
18 (5) of subdivision (b), a temporary licensee shall submit an
19 application for full licensure accompanied by verification of
20 completion of that curriculum and all applicable fees.

21 (e) The board, in its discretion, may extend the expiration date
22 of a temporary license issued pursuant to subdivision (c) for not
23 more than one year for reasons of health, military service, or undue
24 hardship. An application for an extension shall be submitted on a
25 form provided by the board.

26 ~~SEC. 25.~~

27 *SEC. 29.* Section 4980.37 of the Business and Professions Code
28 is amended to read:

29 4980.37. (a) This section shall apply to applicants for licensure
30 or registration who began graduate study before August 1, 2012,
31 and completed that study on or before December 31, 2018. Those
32 applicants may alternatively qualify under paragraph (2) of
33 subdivision (a) of Section 4980.36.

34 (b) To qualify for a license or registration, applicants shall
35 possess a doctor's or master's degree in marriage, family, and child
36 counseling, marriage and family therapy, couple and family
37 therapy, psychology, clinical psychology, counseling psychology,
38 or counseling with an emphasis in either marriage, family, and
39 child counseling or marriage and family therapy, obtained from a
40 school, college, or university accredited by a regional or national

1 institutional accrediting agency that is recognized by the United
2 States Department of Education or approved by the Bureau for
3 Private Postsecondary Education. The board has the authority to
4 make the final determination as to whether a degree meets all
5 requirements, including, but not limited to, course requirements,
6 regardless of accreditation or approval. In order to qualify for
7 licensure pursuant to this section, a doctor's or master's degree
8 program shall be a single, integrated program primarily designed
9 to train marriage and family therapists and shall contain no less
10 than 48 semester *units* or 72 quarter units of instruction. This
11 instruction shall include no less than 12 semester units or 18 quarter
12 units of coursework in the areas of marriage, family, and child
13 counseling, and marital and family systems approaches to
14 treatment. The coursework shall include all of the following areas:

15 (1) The salient theories of a variety of psychotherapeutic
16 orientations directly related to marriage and family therapy, and
17 marital and family systems approaches to treatment.

18 (2) Theories of marriage and family therapy and how they can
19 be utilized in order to intervene therapeutically with couples,
20 families, adults, children, and groups.

21 (3) Developmental issues and life events from infancy to old
22 age and their effect on individuals, couples, and family
23 relationships. This may include coursework that focuses on specific
24 family life events and the psychological, psychotherapeutic, and
25 health implications that arise within couples and families,
26 including, but not limited to, childbirth, child rearing, childhood,
27 adolescence, adulthood, marriage, divorce, blended families,
28 stepparenting, abuse and neglect of older and dependent adults,
29 and geropsychology.

30 (4) A variety of approaches to the treatment of children.

31 The board shall, by regulation, set forth the subjects of instruction
32 required in this subdivision.

33 (c) (1) In addition to the 12 semester or 18 quarter units of
34 coursework specified in subdivision (b), the doctor's or master's
35 degree program shall contain not less than six semester *units* or
36 nine quarter units of supervised practicum in applied
37 psychotherapeutic technique, assessments, diagnosis, prognosis,
38 and treatment of premarital, couple, family, and child relationships,
39 including dysfunctions, healthy functioning, health promotion,
40 and illness prevention, in a supervised clinical placement that

1 provides supervised fieldwork experience within the scope of
2 practice of a marriage and family therapist.

3 (2) For applicants who enrolled in a degree program on or after
4 January 1, 1995, the practicum shall include a minimum of 150
5 hours of face-to-face experience counseling individuals, couples,
6 families, or groups.

7 (3) The practicum hours shall be considered as part of the 48
8 semester or 72 quarter unit requirement.

9 (d) As an alternative to meeting the qualifications specified in
10 subdivision (b), the board shall accept as equivalent degrees those
11 master's or doctor's degrees granted by educational institutions
12 whose degree program is approved by the Commission on
13 Accreditation for Marriage and Family Therapy Education.

14 (e) In order to provide an integrated course of study and
15 appropriate professional training, while allowing for innovation
16 and individuality in the education of marriage and family therapists,
17 a degree program that meets the educational qualifications for
18 licensure or registration under this section shall do all of the
19 following:

20 (1) Provide an integrated course of study that trains students
21 generally in the diagnosis, assessment, prognosis, and treatment
22 of mental disorders.

23 (2) Prepare students to be familiar with the broad range of
24 matters that may arise within marriage and family relationships.

25 (3) Train students specifically in the application of marriage
26 and family relationship counseling principles and methods.

27 (4) Encourage students to develop those personal qualities that
28 are intimately related to the counseling situation such as integrity,
29 sensitivity, flexibility, insight, compassion, and personal presence.

30 (5) Teach students a variety of effective psychotherapeutic
31 techniques and modalities that may be utilized to improve, restore,
32 or maintain healthy individual, couple, and family relationships.

33 (6) Permit an emphasis or specialization that may address any
34 one or more of the unique and complex array of human problems,
35 symptoms, and needs of Californians served by marriage and
36 family therapists.

37 (7) Prepare students to be familiar with cross-cultural mores
38 and values, including a familiarity with the wide range of racial
39 and ethnic backgrounds common among California's population,

1 including, but not limited to, Blacks, Hispanics, Asians, and Native
2 Americans.

3 (f) Educational institutions are encouraged to design the
4 practicum required by this section to include marriage and family
5 therapy experience in low income and multicultural mental health
6 settings.

7 ~~SEC. 26.~~

8 *SEC. 30.* Section 4980.39 of the Business and Professions Code
9 is amended to read:

10 4980.39. (a) An applicant for licensure whose education
11 qualifies him or her under Section 4980.37 shall complete, as a
12 condition of licensure, a minimum of 10 contact hours of
13 coursework in aging and long-term care, which may include, but
14 is not limited to, the biological, social, and psychological aspects
15 of aging. On and after January 1, 2012, this coursework shall
16 include instruction on the assessment and reporting of, as well as
17 treatment related to, elder and dependent adult abuse and neglect.

18 (b) Coursework taken in fulfillment of other educational
19 requirements for licensure pursuant to this chapter, or in a separate
20 course of study, may, at the discretion of the board, fulfill the
21 requirements of this section.

22 (c) In order to satisfy the coursework requirement of this section,
23 the applicant shall submit to the board a certification from the chief
24 academic officer of the educational institution from which the
25 applicant graduated stating that the coursework required by this
26 section is included within the institution's required curriculum for
27 graduation, or within the coursework, that was completed by the
28 applicant.

29 (d) The board shall not issue a license to the applicant until the
30 applicant has met the requirements of this section.

31 ~~SEC. 27.~~

32 *SEC. 31.* Section 4980.41 of the Business and Professions Code
33 is amended to read:

34 4980.41. (a) An applicant for licensure whose education
35 qualifies him or her under Section 4980.37 shall complete the
36 following coursework or training in order to be eligible to sit for
37 the licensing examinations as specified in subdivision (d) of Section
38 4980.40:

39 (1) A two semester or three quarter unit course in California
40 law and professional ethics for marriage and family therapists,

1 which shall include, but not be limited to, the following areas of
2 study:

3 (A) Contemporary professional ethics and statutory, regulatory,
4 and decisional laws that delineate the profession's scope of
5 practice.

6 (B) The therapeutic, clinical, and practical considerations
7 involved in the legal and ethical practice of marriage and family
8 therapy, including family law.

9 (C) The current legal patterns and trends in the mental health
10 profession.

11 (D) The psychotherapist-patient privilege, confidentiality, the
12 patient dangerous to self or others, and the treatment of minors
13 with and without parental consent.

14 (E) A recognition and exploration of the relationship between
15 a practitioner's sense of self and human values and his or her
16 professional behavior and ethics.

17 This course may be considered as part of the 48 semester or 72
18 quarter unit requirements contained in Section 4980.37.

19 (2) A minimum of seven contact hours of training or coursework
20 in child abuse assessment and reporting as specified in Section 28
21 and any regulations promulgated thereunder.

22 (3) A minimum of 10 contact hours of training or coursework
23 in human sexuality as specified in Section 25, and any regulations
24 promulgated thereunder. When coursework in a master's or
25 doctor's degree program is acquired to satisfy this requirement, it
26 shall be considered as part of the 48 semester or 72 quarter unit
27 requirement contained in Section 4980.37.

28 (4) For persons who began graduate study on or after January
29 1, 1986, a master's or doctor's degree qualifying for licensure shall
30 include specific instruction in alcoholism and other chemical
31 substance dependency as specified by regulation. When coursework
32 in a master's or doctor's degree program is acquired to satisfy this
33 requirement, it shall be considered as part of the 48 semester or
34 72 quarter unit requirement contained in Section 4980.37.
35 Coursework required under this paragraph may be satisfactory if
36 taken either in fulfillment of other educational requirements for
37 licensure or in a separate course. The applicant may satisfy this
38 requirement by successfully completing this coursework from a
39 master's or doctoral degree program at an accredited or approved
40 institution, as described in subdivision (b) of Section 4980.37, or

1 from a board-accepted provider of continuing education, as
2 described in Section 4980.54.

3 (5) For persons who began graduate study during the period
4 commencing on January 1, 1995, and ending on December 31,
5 2003, a master's or doctor's degree qualifying for licensure shall
6 include coursework in spousal or partner abuse assessment,
7 detection, and intervention. For persons who began graduate study
8 on or after January 1, 2004, a master's or doctor's degree qualifying
9 for licensure shall include a minimum of 15 contact hours of
10 coursework in spousal or partner abuse assessment, detection, and
11 intervention strategies, including knowledge of community
12 resources, cultural factors, and same gender abuse dynamics.
13 Coursework required under this paragraph may be satisfactory if
14 taken either in fulfillment of other educational requirements for
15 licensure or in a separate course. The applicant may satisfy this
16 requirement by successfully completing this coursework from a
17 master's or doctoral degree program at an accredited or approved
18 institution, as described in subdivision (b) of Section 4980.37, or
19 from a board-accepted provider of continuing education, as
20 described in Section 4980.54.

21 (6) For persons who began graduate study on or after January
22 1, 2001, an applicant shall complete a minimum of a two semester
23 or three quarter unit survey course in psychological testing. When
24 coursework in a master's or doctor's degree program is acquired
25 to satisfy this requirement, it may be considered as part of the 48
26 semester or 72 quarter unit requirement of Section 4980.37.

27 (7) For persons who began graduate study on or after January
28 1, 2001, an applicant shall complete a minimum of a two semester
29 or three quarter unit survey course in psychopharmacology. When
30 coursework in a master's or doctor's degree program is acquired
31 to satisfy this requirement, it may be considered as part of the 48
32 semester or 72 quarter unit requirement of Section 4980.37.

33 (b) The requirements added by paragraphs (6) and (7) of
34 subdivision (a) are intended to improve the educational
35 qualifications for licensure in order to better prepare future
36 licentiates for practice and are not intended in any way to expand
37 or restrict the scope of practice for licensed marriage and family
38 therapists.

1 ~~SEC. 28.~~

2 *SEC. 32.* Section 4980.72 of the Business and Professions Code
3 is amended to read:

4 4980.72. (a) This section applies to a person who is licensed
5 outside of California and applies for licensure on or after January
6 1, 2016.

7 (b) The board may issue a license to a person who, at the time
8 of submitting an application for a license pursuant to this chapter,
9 holds a valid license in good standing issued by a board of marriage
10 counselor examiners, board of marriage and family therapists, or
11 corresponding authority, of any state or country, if all of the
12 following conditions are satisfied:

13 (1) The applicant's education is substantially equivalent, as
14 defined in Section 4980.79. The applicant's degree title need not
15 be identical to that required by Section 4980.36 or 4980.37.

16 (2) The applicant complies with Section 4980.76, if applicable.

17 (3) The applicant's supervised experience is substantially
18 equivalent to that required for a license under this chapter. The
19 board shall consider hours of experience obtained outside of
20 California during the six-year period immediately preceding the
21 date the applicant initially obtained the license described above.
22 If the applicant has less than 3,000 hours of qualifying supervised
23 experience, time actively licensed as a marriage and family
24 therapist shall be accepted at a rate of 100 hours per month, up to
25 a maximum of 1,200 hours, if the applicant's degree meets the
26 practicum requirement described in subparagraph (C) of paragraph
27 (1) of subdivision (b) of Section 4980.79 without exemptions or
28 remediation.

29 (4) The applicant passes the California law and ethics
30 examination.

31 (5) The applicant passes a clinical examination designated by
32 the board. An applicant who obtained his or her license or
33 registration under another jurisdiction may qualify for licensure
34 with the board without taking the clinical examination if both of
35 the following conditions are met:

36 (A) The applicant obtained a passing score on the clinical
37 licensing examination set forth in regulation as accepted by the
38 board.

39 (B) The applicant's license or registration in that jurisdiction is
40 active, in good standing at the time of his or her application, and

1 is not revoked, suspended, surrendered, denied, or otherwise
2 restricted or encumbered.

3 ~~SEC. 29.~~

4 *SEC. 33.* Section 4980.78 of the Business and Professions Code
5 is amended to read:

6 4980.78. (a) This section applies to persons who apply for
7 licensure or registration on or after January 1, 2016, and who do
8 not hold a license as described in Section 4980.72.

9 (b) For purposes of Section 4980.74, education is substantially
10 equivalent if all of the following requirements are met:

11 (1) The degree is obtained from a school, college, or university
12 accredited by a regional or national institutional accrediting agency
13 that is recognized by the United States Department of Education
14 and consists of, at a minimum, the following:

15 (A) (i) For an applicant who obtained his or her degree within
16 the timeline prescribed by subdivision (a) of Section 4980.36, the
17 degree shall contain no less than 60 semester units or 90 quarter
18 units of instruction.

19 (ii) Up to 12 semester units or 18 quarter units of instruction
20 may be remediated, if missing from the degree. The remediation
21 may occur while the applicant is registered as an intern.

22 (B) For an applicant who obtained his or her degree within the
23 timeline prescribed by subdivision (a) of Section 4980.37, the
24 degree shall contain no less than 48 semester units or 72 quarter
25 units of instruction.

26 (C) Six semester units or nine quarter units of supervised
27 practicum, including, but not limited to, a minimum of 150 hours
28 of face-to-face experience counseling individuals, couples, families,
29 or groups, and an additional 75 hours of either face-to-face
30 experience counseling individuals, couples, families, or groups or
31 client centered advocacy, or a combination of face-to-face
32 experience counseling individuals, couples, families, or groups
33 and client centered advocacy.

34 (D) Twelve semester units or 18 quarter units in the areas of
35 marriage, family, and child counseling and marital and family
36 systems approaches to treatment, as specified in subparagraph (A)
37 of paragraph (1) of subdivision (d) of Section 4980.36.

38 (2) The applicant shall complete coursework in California law
39 and ethics as follows:

1 (A) An applicant who completed a course in law and
2 professional ethics for marriage and family therapists as specified
3 in paragraph (8) of subdivision (a) of Section 4980.81, that did not
4 contain instruction in California law and ethics, shall complete an
5 18-hour course in California law and professional ethics. The
6 content of the course shall include, but not be limited to,
7 advertising, scope of practice, scope of competence, treatment of
8 minors, confidentiality, dangerous patients, psychotherapist-patient
9 privilege, recordkeeping, patient access to records, state and federal
10 laws relating to confidentiality of patient health information, dual
11 relationships, child abuse, elder and dependent adult abuse, online
12 therapy, insurance reimbursement, civil liability, disciplinary
13 actions and unprofessional conduct, ethics complaints and ethical
14 standards, termination of therapy, standards of care, relevant family
15 law, therapist disclosures to patients, differences in legal and ethical
16 standards in different types of work settings, and licensing law
17 and licensing process. This coursework shall be completed prior
18 to registration as an intern.

19 (B) An applicant who has not completed a course in law and
20 professional ethics for marriage and family therapists as specified
21 in paragraph (8) of subdivision (a) of Section 4980.81 shall
22 complete this required coursework. The coursework shall contain
23 content specific to California law and ethics. This coursework shall
24 be completed prior to registration as an intern.

25 (3) The applicant completes the educational requirements
26 specified in Section 4980.81 not already completed in his or her
27 education. The coursework may be from an accredited school,
28 college, or university as specified in paragraph (1), from an
29 educational institution approved by the Bureau for Private
30 Postsecondary Education, or from a continuing education provider
31 that is acceptable to the board as defined in Section 4980.54.
32 Undergraduate courses shall not satisfy this requirement.

33 (4) The applicant completes the following coursework not
34 already completed in his or her education from an accredited
35 school, college, or university as specified in paragraph (1) from
36 an educational institution approved by the Bureau for Private
37 Postsecondary Education, or from a continuing education provider
38 that is acceptable to the board as defined in Section 4980.54.
39 Undergraduate courses shall not satisfy this requirement.

1 (A) At least three semester units, or 45 hours, of instruction
2 regarding the principles of mental health recovery-oriented care
3 and methods of service delivery in recovery-oriented practice
4 environments, including structured meetings with various
5 consumers and family members of consumers of mental health
6 services to enhance understanding of their experience of mental
7 illness, treatment, and recovery.

8 (B) At least one semester unit, or 15 hours, of instruction that
9 includes an understanding of various California cultures and the
10 social and psychological implications of socioeconomic position.

11 (5) An applicant may complete any units and course content
12 requirements required under paragraphs (3) and (4) not already
13 completed in his or her education while registered as an intern,
14 unless otherwise specified.

15 (6) The applicant's degree title need not be identical to that
16 required by subdivision (b) of Section 4980.36.

17 ~~SEC. 30.~~

18 *SEC. 34.* Section 4980.79 of the Business and Professions Code
19 is amended to read:

20 4980.79. (a) This section applies to persons who apply for
21 licensure or registration on or after January 1, 2016, and who hold
22 a license as described in Section 4980.72.

23 (b) For purposes of Section 4980.72, education is substantially
24 equivalent if all of the following requirements are met:

25 (1) The degree is obtained from a school, college, or university
26 accredited by a regional or national institutional accrediting agency
27 recognized by the United States Department of Education and
28 consists of, at a minimum, the following:

29 (A) (i) For an applicant who obtained his or her degree within
30 the timeline prescribed by subdivision (a) of Section 4980.36, the
31 degree shall contain no less than 60 semester units or 90 quarter
32 units of instruction.

33 (ii) Up to 12 semester units or 18 quarter units of instruction
34 may be remediated, if missing from the degree. The remediation
35 may occur while the applicant is registered as an intern.

36 (B) For an applicant who obtained his or her degree within the
37 timeline prescribed by subdivision (a) of Section 4980.37, the
38 degree shall contain no less than 48 semester units or 72 quarter
39 units of instruction.

1 (C) Six semester units or nine quarter units of supervised
2 practicum, including, but not limited to, a minimum of 150 hours
3 of face-to-face experience counseling individuals, couples, families,
4 or groups, and an additional 75 hours of either face-to-face
5 experience counseling individuals, couples, families, or groups or
6 client centered advocacy, or a combination of face-to-face
7 experience counseling individuals, couples, families, or groups
8 and client centered advocacy.

9 (i) An out-of-state applicant who has been licensed for at least
10 two years in clinical practice, as verified by the board, is exempt
11 from this requirement.

12 (ii) An out-of-state applicant who has been licensed for less
13 than two years in clinical practice, as verified by the board, who
14 does not meet the supervised practicum requirement, shall
15 remediate it by obtaining 150 hours of face-to-face experience
16 counseling individuals, couples, families, or groups, and an
17 additional 75 hours of either face-to-face experience counseling
18 individuals, couples, families, or groups or client centered
19 advocacy, or a combination of face-to-face experience counseling
20 individuals, couples, families, or groups and client centered
21 advocacy. These hours are in addition to the 3,000 hours of
22 experience required by this chapter, and shall be gained while
23 registered as an intern.

24 (D) Twelve semester units or 18 quarter units in the areas of
25 marriage, family, and child counseling and marital and family
26 systems approaches to treatment, as specified in subparagraph (A)
27 of paragraph (1) of subdivision (d) of Section 4980.36.

28 (2) An applicant shall complete coursework in California law
29 and ethics as follows:

30 (A) An applicant who completed a course in law and
31 professional ethics for marriage and family therapists as specified
32 in paragraph (8) of subdivision (a) of Section 4980.81 that did not
33 include instruction in California law and ethics, shall complete an
34 18-hour course in California law and professional ethics. The
35 content of the course shall include, but not be limited to,
36 advertising, scope of practice, scope of competence, treatment of
37 minors, confidentiality, dangerous patients, psychotherapist-patient
38 privilege, recordkeeping, patient access to records, state and federal
39 laws relating to confidentiality of patient health information, dual
40 relationships, child abuse, elder and dependent adult abuse, online

1 therapy, insurance reimbursement, civil liability, disciplinary
2 actions and unprofessional conduct, ethics complaints and ethical
3 standards, termination of therapy, standards of care, relevant family
4 law, therapist disclosures to patients, differences in legal and ethical
5 standards in different types of work settings, and licensing law
6 and licensing process. This coursework shall be completed prior
7 to registration as an intern.

8 (B) An applicant who has not completed a course in law and
9 professional ethics for marriage and family therapists as specified
10 in paragraph (8) of subdivision (a) of Section 4980.81 shall
11 complete this required coursework. The coursework shall include
12 content specific to California law and ethics. An applicant shall
13 complete this coursework prior to registration as an intern.

14 (3) The applicant completes the educational requirements
15 specified in Section 4980.81 not already completed in his or her
16 education. The coursework may be from an accredited school,
17 college, or university as specified in paragraph (1), from an
18 educational institution approved by the Bureau for Private
19 Postsecondary Education, or from a continuing education provider
20 that is acceptable to the board as defined in Section 4980.54.
21 Undergraduate coursework shall not satisfy this requirement.

22 (4) The applicant completes the following coursework not
23 already completed in his or her education from an accredited
24 school, college, or university as specified in paragraph (1) above,
25 from an educational institution approved by the Bureau for Private
26 Postsecondary Education, or from a continuing education provider
27 that is acceptable to the board as defined in Section 4980.54.
28 Undergraduate coursework shall not satisfy this requirement.

29 (A) At least three semester units, or 45 hours, of instruction
30 pertaining to the principles of mental health recovery-oriented care
31 and methods of service delivery in recovery-oriented practice
32 environments, including structured meetings with various
33 consumers and family members of consumers of mental health
34 services to enhance understanding of their experience of mental
35 illness, treatment, and recovery.

36 (B) At least one semester unit, or 15 hours, of instruction that
37 includes an understanding of various California cultures and the
38 social and psychological implications of socioeconomic position.

39 (5) An applicant's degree title need not be identical to that
40 required by subdivision (b) of Section 4980.36.

1 (6) An applicant may complete any units and course content
2 requirements required under paragraphs (3) and (4) not already
3 completed in his or her education while registered as an intern,
4 unless otherwise specified.

5 ~~SEC. 31.~~

6 *SEC. 35.* Section 4990.30 of the Business and Professions Code
7 is amended to read:

8 4990.30. (a) A licensed marriage and family therapist, associate
9 marriage and family therapist, licensed clinical social worker,
10 associate clinical social worker, licensed professional clinical
11 counselor, associate professional clinical counselor, or licensed
12 educational psychologist whose license or registration has been
13 revoked, suspended, or placed on probation, may petition the board
14 for reinstatement or modification of the penalty, including
15 modification or termination of probation. The petition shall be on
16 a form provided by the board and shall state any facts and
17 information as may be required by the board including, but not
18 limited to, proof of compliance with the terms and conditions of
19 the underlying disciplinary order. The petition shall be verified by
20 the petitioner who shall file an original and sufficient copies of
21 the petition, together with any supporting documents, for the
22 members of the board, the administrative law judge, and the
23 Attorney General.

24 (b) The licensee or registrant may file the petition on or after
25 the expiration of the following timeframes, each of which
26 commences on the effective date of the decision ordering the
27 disciplinary action or, if the order of the board, or any portion of
28 it, is stayed by the board itself or by the superior court, from the
29 date the disciplinary action is actually implemented in its entirety:

30 (1) Three years for reinstatement of a license or registration that
31 was revoked for unprofessional conduct, except that the board
32 may, in its sole discretion, specify in its revocation order that a
33 petition for reinstatement may be filed after two years.

34 (2) Two years for early termination of any probation period of
35 three years or more.

36 (3) One year for modification of a condition, reinstatement of
37 a license or registration revoked for mental or physical illness, or
38 termination of probation of less than three years.

1 (c) The petition may be heard by the board itself or the board
2 may assign the petition to an administrative law judge pursuant to
3 Section 11512 of the Government Code.

4 (d) The petitioner may request that the board schedule the
5 hearing on the petition for a board meeting at a specific city where
6 the board regularly meets.

7 (e) The petitioner and the Attorney General shall be given timely
8 notice by letter of the time and place of the hearing on the petition
9 and an opportunity to present both oral and documentary evidence
10 and argument to the board or the administrative law judge.

11 (f) The petitioner shall at all times have the burden of production
12 and proof to establish by clear and convincing evidence that he or
13 she is entitled to the relief sought in the petition.

14 (g) The board, when it is hearing the petition itself, or an
15 administrative law judge sitting for the board, may consider all
16 activities of the petitioner since the disciplinary action was taken,
17 the offense for which the petitioner was disciplined, the petitioner's
18 activities during the time his or her license or registration was in
19 good standing, and the petitioner's rehabilitative efforts, general
20 reputation for truth, and professional ability.

21 (h) The hearing may be continued from time to time as the board
22 or the administrative law judge deems appropriate but in no case
23 may the hearing on the petition be delayed more than 180 days
24 from its filing without the consent of the petitioner.

25 (i) The board itself, or the administrative law judge if one is
26 designated by the board, shall hear the petition and shall prepare
27 a written decision setting forth the reasons supporting the decision.
28 In a decision granting a petition reinstating a license or modifying
29 a penalty, the board itself, or the administrative law judge, may
30 impose any terms and conditions that the agency deems reasonably
31 appropriate, including those set forth in Sections 823 and 4990.40.
32 If a petition is heard by an administrative law judge sitting alone,
33 the administrative law judge shall prepare a proposed decision and
34 submit it to the board. The board may take action with respect to
35 the proposed decision and petition as it deems appropriate.

36 (j) The petitioner shall pay a fingerprinting fee and provide a
37 current set of his or her fingerprints to the board. The petitioner
38 shall execute a form authorizing release to the board or its designee,
39 of all information concerning the petitioner's current physical and
40 mental condition. Information provided to the board pursuant to

1 the release shall be confidential and shall not be subject to
2 discovery or subpoena in any other proceeding, and shall not be
3 admissible in any action, other than before the board, to determine
4 the petitioner's fitness to practice as required by Section 822.

5 (k) The board may delegate to its executive officer authority to
6 order investigation of the contents of the petition.

7 (l) No petition shall be considered while the petitioner is under
8 sentence for any criminal offense, including any period during
9 which the petitioner is on court-imposed probation or parole or
10 the petitioner is required to register pursuant to Section 290 of the
11 Penal Code. No petition shall be considered while there is an
12 accusation or petition to revoke probation pending against the
13 petitioner.

14 (m) Except in those cases where the petitioner has been
15 disciplined for violation of Section 822, the board may in its
16 discretion deny without hearing or argument any petition that is
17 filed pursuant to this section within a period of two years from the
18 effective date of a prior decision following a hearing under this
19 section.

20 ~~SEC. 32.~~

21 *SEC. 36.* Section 4992 of the Business and Professions Code
22 is amended to read:

23 4992. (a) Every applicant for a license under this chapter shall
24 file an application with the board accompanied by the application
25 fee prescribed by this chapter. Every application shall also be
26 accompanied by the applicable examination fee prescribed by this
27 chapter.

28 (b) The application shall contain information showing that the
29 applicant has all the qualifications required by the board for
30 admission to an examination.

31 ~~SEC. 33.~~

32 *SEC. 37.* Section 4996.17 of the Business and Professions Code
33 is amended to read:

34 4996.17. (a) (1) Experience gained outside of California shall
35 be accepted toward the licensure requirements if it is substantially
36 the equivalent of the requirements of this chapter.

37 (2) Commencing January 1, 2014, an applicant with education
38 gained outside of California shall complete an 18-hour course in
39 California law and professional ethics. The content of the course
40 shall include, but not be limited to, the following: advertising,

1 scope of practice, scope of competence, treatment of minors,
2 confidentiality, dangerous patients, psychotherapist-patient
3 privilege, recordkeeping, patient access to records, state and federal
4 laws related to confidentiality of patient health information, dual
5 relationships, child abuse, elder and dependent adult abuse, online
6 therapy, insurance reimbursement, civil liability, disciplinary
7 actions and unprofessional conduct, ethics complaints and ethical
8 standards, termination of therapy, standards of care, relevant family
9 law, therapist disclosures to patients, differences in legal and ethical
10 standards in different types of work settings, and licensing law
11 and process.

12 (b) The board may issue a license to any person who, at the time
13 of application, holds a valid clinical social work license issued by
14 a board of clinical social work examiners or corresponding
15 authority of any state, if the person passes, or has passed, the
16 licensing examinations as specified in Section 4996.1 and pays
17 the required fees. Issuance of the license is conditioned upon all
18 of the following:

19 (1) The applicant has supervised experience that is substantially
20 the equivalent of that required by this chapter. If the applicant has
21 less than 3,200 hours of qualifying supervised experience, time
22 actively licensed as a clinical social worker shall be accepted at a
23 rate of 100 hours per month up to a maximum of 1,200 hours.

24 (2) Completion of the following coursework or training in or
25 out of this state:

26 (A) A minimum of seven contact hours of training or coursework
27 in child abuse assessment and reporting as specified in Section 28,
28 and any regulations promulgated thereunder.

29 (B) A minimum of 10 contact hours of training or coursework
30 in human sexuality as specified in Section 25, and any regulations
31 promulgated thereunder.

32 (C) A minimum of 15 contact hours of training or coursework
33 in alcoholism and other chemical substance dependency, as
34 specified by regulation.

35 (D) A minimum of 15 contact hours of coursework or training
36 in spousal or partner abuse assessment, detection, and intervention
37 strategies.

38 (3) Commencing January 1, 2014, completion of an 18-hour
39 course in California law and professional ethics. The content of
40 the course shall include, but not be limited to, the following:

1 advertising, scope of practice, scope of competence, treatment of
2 minors, confidentiality, dangerous patients, psychotherapist-patient
3 privilege, recordkeeping, patient access to records, state and federal
4 laws related to confidentiality of patient health information, dual
5 relationships, child abuse, elder and dependent adult abuse, online
6 therapy, insurance reimbursement, civil liability, disciplinary
7 actions and unprofessional conduct, ethics complaints and ethical
8 standards, termination of therapy, standards of care, relevant family
9 law, therapist disclosures to patients, differences in legal and ethical
10 standards in different types of work settings, and licensing law
11 and process.

12 (4) The applicant's license is in good standing and is not
13 suspended, revoked, restricted, sanctioned, or voluntarily
14 surrendered in any state.

15 (5) The applicant is not currently under investigation in any
16 other state, and has not been charged with an offense for any act
17 substantially related to the practice of social work by any public
18 agency, entered into any consent agreement or been subject to an
19 administrative decision that contains conditions placed by an
20 agency upon an applicant's professional conduct or practice,
21 including any voluntary surrender of license, or been the subject
22 of an adverse judgment resulting from the practice of social work
23 that the board determines constitutes evidence of a pattern of
24 incompetence or negligence.

25 (6) The applicant shall provide a certification from each state
26 where he or she holds a license pertaining to licensure, disciplinary
27 action, and complaints pending.

28 (7) The applicant is not subject to denial of licensure under
29 Section 480, 4992.3, 4992.35, or 4992.36.

30 (c) The board may issue a license to any person who, at the time
31 of application, holds a valid clinical social work license issued by
32 a board of clinical social work examiners or a corresponding
33 authority of any state, if the person has held that license for at least
34 four years immediately preceding the date of application, the person
35 passes, or has passed, the licensing examinations as specified in
36 Section 4996.1, and the person pays the required fees. Issuance of
37 the license is conditioned upon all of the following:

38 (1) Completion of the following coursework or training in or
39 out of state:

1 (A) A minimum of seven contact hours of training or coursework
2 in child abuse assessment and reporting as specified in Section 28,
3 and any regulations promulgated thereunder.

4 (B) A minimum of 10 contact hours of training or coursework
5 in human sexuality as specified in Section 25, and any regulations
6 promulgated thereunder.

7 (C) A minimum of 15 contact hours of training or coursework
8 in alcoholism and other chemical substance dependency, as
9 specified by regulation.

10 (D) A minimum of 15 contact hours of coursework or training
11 in spousal or partner abuse assessment, detection, and intervention
12 strategies.

13 (2) Commencing January 1, 2014, completion of an 18-hour
14 course in California law and professional ethics. The content of
15 the course shall include, but not be limited to, the following:
16 advertising, scope of practice, scope of competence, treatment of
17 minors, confidentiality, dangerous patients, psychotherapist-patient
18 privilege, recordkeeping, patient access to records, state and federal
19 laws related to confidentiality of patient health information, dual
20 relationships, child abuse, elder and dependent adult abuse, online
21 therapy, insurance reimbursement, civil liability, disciplinary
22 actions and unprofessional conduct, ethics complaints and ethical
23 standards, termination of therapy, standards of care, relevant family
24 law, therapist disclosures to patients, differences in legal and ethical
25 standards in different types of work settings, and licensing law
26 and process.

27 (3) The applicant has been licensed as a clinical social worker
28 continuously for a minimum of four years prior to the date of
29 application.

30 (4) The applicant's license is in good standing and is not
31 suspended, revoked, restricted, sanctioned, or voluntarily
32 surrendered in any state.

33 (5) The applicant is not currently under investigation in any
34 other state, and has not been charged with an offense for any act
35 substantially related to the practice of social work by any public
36 agency, entered into any consent agreement or been subject to an
37 administrative decision that contains conditions placed by an
38 agency upon an applicant's professional conduct or practice,
39 including any voluntary surrender of license, or been the subject
40 of an adverse judgment resulting from the practice of social work

1 that the board determines constitutes evidence of a pattern of
2 incompetence or negligence.

3 (6) The applicant provides a certification from each state where
4 he or she holds a license pertaining to licensure, disciplinary action,
5 and complaints pending.

6 (7) The applicant is not subject to denial of licensure under
7 Section 480, 4992.3, 4992.35, or 4992.36.

8 (d) An applicant who obtained his or her license or registration
9 under another jurisdiction may qualify for licensure with the board
10 without taking the clinical examination specified in Section 4996.1
11 if both of the following conditions are met:

12 (1) The applicant obtained a passing score on the clinical
13 licensing examination set forth in regulation as accepted by the
14 board.

15 (2) The applicant's license or registration in that jurisdiction is
16 active, in good standing at the time of his or her application, and
17 is not revoked, suspended, surrendered, denied, or otherwise
18 restricted or encumbered.

19 ~~SEC. 34.~~

20 *SEC. 38.* Section 4999.14 of the Business and Professions Code
21 is amended to read:

22 4999.14. The board shall do all of the following:

23 (a) Communicate information about its activities, the
24 requirements and qualifications for licensure, and the practice of
25 professional clinical counseling to the relevant educational
26 institutions, supervisors, professional associations, applicants,
27 clinical counselor trainees, associates, and the public.

28 (b) Develop policies and procedures to assist educational
29 institutions in meeting the educational qualifications of Sections
30 4999.32 and 4999.33.

31 ~~SEC. 35.~~

32 *SEC. 39.* Section 4999.22 of the Business and Professions Code
33 is amended to read:

34 4999.22. (a) Nothing in this chapter shall prevent qualified
35 persons from doing work of a psychosocial nature consistent with
36 the standards and ethics of their respective professions. However,
37 these qualified persons shall not hold themselves out to the public
38 by any title or description of services incorporating the words
39 "licensed professional clinical counselor" and shall not state that
40 they are licensed to practice professional clinical counseling, unless

1 they are otherwise licensed to provide professional clinical
2 counseling services.

3 (b) Nothing in this chapter shall be construed to constrict, limit,
4 or withdraw provisions of the Medical Practice Act, the Clinical
5 Social Worker Practice Act, the Nursing Practice Act, the
6 Psychology Licensing Law, or the Licensed Marriage and Family
7 Therapist Act.

8 (c) This chapter shall not apply to any priest, rabbi, or minister
9 of the gospel of any religious denomination who performs
10 counseling services as part of his or her pastoral or professional
11 duties, or to any person who is admitted to practice law in this
12 state, or who is licensed to practice medicine, who provides
13 counseling services as part of his or her professional practice.

14 (d) This chapter shall not apply to an employee of a
15 governmental entity or a school, college, or university, or of an
16 institution both nonprofit and charitable, if his or her practice is
17 performed solely under the supervision of the entity, school,
18 college, university, or institution by which he or she is employed,
19 and if he or she performs those functions as part of the position
20 for which he or she is employed.

21 (e) All persons registered as associates or licensed under this
22 chapter shall not be exempt from this chapter or the jurisdiction
23 of the board.

24 ~~SEC. 36.~~

25 *SEC. 40.* Section 4999.32 of the Business and Professions Code
26 is amended to read:

27 4999.32. (a) This section shall apply to applicants for licensure
28 or registration who began graduate study before August 1, 2012,
29 and completed that study on or before December 31, 2018. Those
30 applicants may alternatively qualify under paragraph (2) of
31 subdivision (a) of Section 4999.33.

32 (b) To qualify for licensure or registration, applicants shall
33 possess a master's or doctoral degree that is counseling or
34 psychotherapy in content and that meets the requirements of this
35 section, obtained from an accredited or approved institution, as
36 defined in Section 4999.12. For purposes of this subdivision, a
37 degree is "counseling or psychotherapy in content" if it contains
38 the supervised practicum or field study experience described in
39 paragraph (3) of subdivision (c) and, except as provided in
40 subdivision (d), the coursework in the core content areas listed in

1 subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision
2 (c).

3 (c) The degree described in subdivision (b) shall contain not
4 less than 48 graduate semester *units* or 72 graduate quarter units
5 of instruction, which shall, except as provided in subdivision (d),
6 include all of the following:

7 (1) The equivalent of at least three semester units or four and
8 one-half quarter units of graduate study in each of the following
9 core content areas:

10 (A) Counseling and psychotherapeutic theories and techniques,
11 including the counseling process in a multicultural society, an
12 orientation to wellness and prevention, counseling theories to assist
13 in selection of appropriate counseling interventions, models of
14 counseling consistent with current professional research and
15 practice, development of a personal model of counseling, and
16 multidisciplinary responses to crises, emergencies, and disasters.

17 (B) Human growth and development across the lifespan,
18 including normal and abnormal behavior and an understanding of
19 developmental crises, disability, psychopathology, and situational
20 and environmental factors that affect both normal and abnormal
21 behavior.

22 (C) Career development theories and techniques, including
23 career development decisionmaking models and interrelationships
24 among and between work, family, and other life roles and factors,
25 including the role of multicultural issues in career development.

26 (D) Group counseling theories and techniques, including
27 principles of group dynamics, group process components,
28 developmental stage theories, therapeutic factors of group work,
29 group leadership styles and approaches, pertinent research and
30 literature, group counseling methods, and evaluation of
31 effectiveness.

32 (E) Assessment, appraisal, and testing of individuals, including
33 basic concepts of standardized and nonstandardized testing and
34 other assessment techniques, norm-referenced and
35 criterion-referenced assessment, statistical concepts, social and
36 cultural factors related to assessment and evaluation of individuals
37 and groups, and ethical strategies for selecting, administering, and
38 interpreting assessment instruments and techniques in counseling.

39 (F) Multicultural counseling theories and techniques, including
40 counselors' roles in developing cultural self-awareness, identity

1 development, promoting cultural social justice, individual and
2 community strategies for working with and advocating for diverse
3 populations, and counselors' roles in eliminating biases and
4 prejudices, and processes of intentional and unintentional
5 oppression and discrimination.

6 (G) Principles of the diagnostic process, including differential
7 diagnosis, and the use of current diagnostic tools, such as the
8 current edition of the Diagnostic and Statistical ~~Manual~~, *Manual*
9 *of Mental Disorders*, the impact of co-occurring substance use
10 disorders or medical psychological disorders, established diagnostic
11 criteria for mental or emotional disorders, and the treatment
12 modalities and placement criteria within the continuum of care.

13 (H) Research and evaluation, including studies that provide an
14 understanding of research methods, statistical analysis, the use of
15 research to inform evidence-based practice, the importance of
16 research in advancing the profession of counseling, and statistical
17 methods used in conducting research, needs assessment, and
18 program evaluation.

19 (I) Professional orientation, ethics, and law in counseling,
20 including professional ethical standards and legal considerations,
21 licensing law and process, regulatory laws that delineate the
22 profession's scope of practice, counselor-client privilege,
23 confidentiality, the client dangerous to self or others, treatment of
24 minors with or without parental consent, relationship between
25 practitioner's sense of self and human values, functions and
26 relationships with other human service providers, strategies for
27 collaboration, and advocacy processes needed to address
28 institutional and social barriers that impede access, equity, and
29 success for clients.

30 (2) In addition to the course requirements described in paragraph
31 (1), a minimum of 12 semester units or 18 quarter units of advanced
32 coursework to develop knowledge of specific treatment issues,
33 special populations, application of counseling constructs,
34 assessment and treatment planning, clinical interventions,
35 therapeutic relationships, psychopathology, or other clinical topics.

36 (3) Not less than six semester units or nine quarter units of
37 supervised practicum or field study experience that involves direct
38 client contact in a clinical setting that provides a range of
39 professional clinical counseling experience, including the
40 following:

- 1 (A) Applied psychotherapeutic techniques.
- 2 (B) Assessment.
- 3 (C) Diagnosis.
- 4 (D) Prognosis.
- 5 (E) Treatment.
- 6 (F) Issues of development, adjustment, and maladjustment.
- 7 (G) Health and wellness promotion.
- 8 (H) Other recognized counseling interventions.
- 9 (I) A minimum of 150 hours of face-to-face supervised clinical
- 10 experience counseling individuals, families, or groups.
- 11 (d) (1) (A) An applicant whose degree is deficient in no more
- 12 than two of the required areas of study listed in subparagraphs (A)
- 13 to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy
- 14 those deficiencies by successfully completing ~~post-master's~~
- 15 *postmaster's* or postdoctoral degree coursework at an accredited
- 16 or approved institution, as defined in Section 4999.12.
- 17 (B) Notwithstanding subparagraph (A), no applicant shall be
- 18 deficient in the required areas of study specified in ~~subparagraphs~~
- 19 *subparagraph* (E) or (G) of paragraph (1) of subdivision (c).
- 20 (2) Coursework taken to meet deficiencies in the required areas
- 21 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
- 22 (1) of subdivision (c) shall be the equivalent of three semester units
- 23 or four and one-half quarter units of study.
- 24 (3) The board shall make the final determination as to whether
- 25 a degree meets all requirements, including, but not limited to,
- 26 course requirements, regardless of accreditation.
- 27 (e) In addition to the degree described in this section, or as part
- 28 of that degree, an applicant shall complete the following
- 29 coursework or training prior to registration as an associate:
- 30 (1) A minimum of 15 contact hours of instruction in alcoholism
- 31 and other chemical substance abuse dependency, as specified by
- 32 regulation.
- 33 (2) A minimum of 10 contact hours of training or coursework
- 34 in human sexuality as specified in Section 25, and any regulations
- 35 promulgated thereunder.
- 36 (3) A two semester unit or three quarter unit survey course in
- 37 psychopharmacology.
- 38 (4) A minimum of 15 contact hours of instruction in spousal or
- 39 partner abuse assessment, detection, and intervention strategies,

1 including knowledge of community resources, cultural factors,
2 and same gender abuse dynamics.

3 (5) A minimum of seven contact hours of training or coursework
4 in child abuse assessment and reporting as specified in Section 28
5 and any regulations adopted thereunder.

6 (6) A minimum of 18 contact hours of instruction in California
7 law and professional ethics for professional clinical counselors
8 that includes, but is not limited to, instruction in advertising, scope
9 of practice, scope of competence, treatment of minors,
10 confidentiality, dangerous clients, psychotherapist-client privilege,
11 recordkeeping, client access to records, dual relationships, child
12 abuse, elder and dependent adult abuse, online therapy, insurance
13 reimbursement, civil liability, disciplinary actions and
14 unprofessional conduct, ethics complaints and ethical standards,
15 termination of therapy, standards of care, relevant family law,
16 therapist disclosures to clients, and state and federal laws related
17 to confidentiality of patient health information. When coursework
18 in a master's or doctoral degree program is acquired to satisfy this
19 requirement, it shall be considered as part of the 48 semester unit
20 or 72 quarter unit requirement in subdivision (c).

21 (7) A minimum of 10 contact hours of instruction in aging and
22 long-term care, which may include, but is not limited to, the
23 biological, social, and psychological aspects of aging. On and after
24 January 1, 2012, this coursework shall include instruction on the
25 assessment and reporting of, as well as treatment related to, elder
26 and dependent adult abuse and neglect.

27 (8) A minimum of 15 contact hours of instruction in crisis or
28 trauma counseling, including multidisciplinary responses to crises,
29 emergencies, or disasters, and brief, intermediate, and long-term
30 approaches.

31 ~~SEC. 37.~~

32 *SEC. 41.* Section 4999.48 of the Business and Professions Code
33 is amended to read:

34 4999.48. The board shall adopt regulations regarding the
35 supervision of associates that may include, but not be limited to,
36 the following:

- 37 (a) Supervisor qualifications.
- 38 (b) Continuing education requirements of supervisors.
- 39 (c) Registration or licensing of supervisors, or both.
- 40 (d) General responsibilities of supervisors.

1 (e) The board's authority in cases of noncompliance or gross
2 or repeated negligence by supervisors.

3 ~~SEC. 38.~~

4 *SEC. 42.* Section 4999.60 of the Business and Professions Code
5 is amended to read:

6 4999.60. (a) This section applies to persons who are licensed
7 outside of California and apply for licensure on or after January
8 1, 2016.

9 (b) The board may issue a license to a person who, at the time
10 of submitting an application for a license pursuant to this chapter,
11 holds a valid license in good standing as a professional clinical
12 counselor, or other counseling license that allows the applicant to
13 independently provide clinical mental health services, in another
14 jurisdiction of the United States, if all of the following conditions
15 are satisfied:

16 (1) The applicant's education is substantially equivalent, as
17 defined in Section 4999.63.

18 (2) The applicant complies with subdivision (c) of Section
19 4999.40, if applicable.

20 (3) The applicant's supervised experience is substantially
21 equivalent to that required for a license under this chapter. The
22 board shall consider hours of experience obtained outside of
23 California during the six-year period immediately preceding the
24 date the applicant initially obtained the license described above.
25 If the applicant has less than 3,000 hours of qualifying supervised
26 experience, time actively licensed as a professional clinical
27 counselor shall be accepted at a rate of 100 hours per month up to
28 a maximum of 1,200 hours if the applicant's degree meets the
29 practicum requirement described in subparagraph (C) of paragraph
30 (1) of subdivision (b) of Section 4999.63 without exemptions or
31 remediation.

32 (4) The applicant passes the examinations required to obtain a
33 license under this chapter. An applicant who obtained his or her
34 license or registration under another jurisdiction may qualify for
35 licensure with the board without taking the clinical examination
36 if both of the following conditions are met:

37 (A) The applicant obtained a passing score on the clinical
38 licensing examination set forth in regulation as accepted by the
39 board.

1 (B) The applicant’s license or registration in that jurisdiction is
2 active, in good standing at the time of his or her application, and
3 is not revoked, suspended, surrendered, denied, or otherwise
4 restricted or encumbered.

5 ~~SEC. 39.~~

6 *SEC. 43.* Section 4999.62 of the Business and Professions Code
7 is amended to read:

8 4999.62. (a) This section applies to persons who apply for
9 licensure or registration on or after January 1, 2016, and who do
10 not hold a license as described in Section 4999.60.

11 (b) For purposes of Section 4999.61, education is substantially
12 equivalent if all of the following requirements are met:

13 (1) The degree is obtained from an accredited or approved
14 institution, as defined in Section 4999.12, and consists of, at a
15 minimum, the following:

16 (A) (i) For an applicant who obtained his or her degree within
17 the timeline prescribed by subdivision (a) of Section 4999.33 the
18 degree shall contain no less than 60 graduate semester units or 90
19 graduate quarter units of instruction.

20 (ii) Up to 12 semester units or 18 quarter units of instruction
21 may be remediated, if missing from the degree. The remediation
22 may occur while the applicant is registered as an associate.

23 (B) For an applicant who obtained his or her degree within the
24 timeline prescribed by subdivision (a) of Section 4999.32 the
25 degree shall contain no less than 48 graduate semester units or 72
26 graduate quarter units of instruction.

27 (C) Six semester units or nine quarter units of supervised
28 practicum or field study experience, including, but not limited to,
29 a minimum of 280 hours of face-to-face supervised clinical
30 experience counseling individuals, families, or groups.

31 (D) The required areas of study listed in subparagraphs (A) to
32 (M), inclusive, of paragraph (1) of subdivision (c) of Section
33 4999.33.

34 (i) (I) An applicant whose degree is deficient in no more than
35 six of the required areas of study listed in subparagraphs (A) to
36 (M), inclusive, of paragraph (1) of subdivision (c) of Section
37 4999.33 may satisfy those deficiencies by successfully completing
38 graduate level coursework at an accredited or approved institution,
39 as defined in Section 4999.12. Coursework taken to meet any

1 deficiencies shall be the equivalent of three semester units or four
2 and one-half quarter units of study.

3 (II) Notwithstanding subclause (I), no applicant shall be deficient
4 in the required areas of study specified in subparagraph (E) or (G)
5 of paragraph (1) of subdivision (c) of Section 4999.33.

6 (ii) An applicant who completed a course in professional
7 orientation, ethics, and law in counseling as required by
8 subparagraph (I) of paragraph (1) of subdivision (c) of Section
9 4999.33 that did not contain instruction in California law and ethics
10 shall complete an 18-hour course in California law and professional
11 ethics that includes, but is not limited to, instruction in advertising,
12 scope of practice, scope of competence, treatment of minors,
13 confidentiality, dangerous clients, psychotherapist-client privilege,
14 recordkeeping, client access to records, state and federal laws
15 relating to confidentiality of patient health information, dual
16 relationships, child abuse, elder and dependent adult abuse, online
17 therapy, insurance reimbursement, civil liability, disciplinary
18 actions and unprofessional conduct, ethics complaints and ethical
19 standards, termination of therapy, standards of care, relevant family
20 law, and therapist disclosures to clients. An applicant shall
21 complete this coursework prior to registration as an associate.

22 (iii) An applicant who has not completed a course in professional
23 orientation, ethics, and law in counseling as required by
24 subparagraph (I) of paragraph (1) of subdivision (c) of Section
25 4999.33 shall complete this required coursework, including content
26 in California law and ethics. An applicant shall complete this
27 coursework prior to registration as an associate.

28 (2) The applicant completes any units required by subdivision
29 (c) of Section 4999.33 not already completed in his or her education
30 as follows:

31 (A) At least 15 semester units or 22.5 quarter units of advanced
32 coursework to develop knowledge of specific treatment issues or
33 special populations. This coursework is in addition to the course
34 requirements described in subparagraph (D) of paragraph (1).

35 (B) Coursework shall be from an accredited or approved school,
36 college, or university as defined in Section 4999.12.

37 (3) (A) The applicant completes the following coursework not
38 already completed in his or her education:

39 (i) A minimum of 10 contact hours of training in human
40 sexuality, as specified in Section 25 and any regulations

1 promulgated thereunder, including the study of the physiological,
2 psychological, and social cultural variables associated with sexual
3 behavior, gender identity, and the assessment and treatment of
4 psychosexual dysfunction.

5 (ii) A minimum of 15 contact hours of instruction in spousal or
6 partner abuse assessment, detection, intervention strategies, and
7 same-gender abuse dynamics.

8 (iii) A minimum of seven contact hours of training or
9 coursework in child abuse assessment and reporting as specified
10 in Section 28 and any regulations promulgated thereunder.

11 (iv) A minimum of 10 contact hours of instruction in aging and
12 long-term care, including biological, social, cognitive, and
13 psychological aspects of aging. This coursework shall include
14 instruction on the assessment and reporting of, as well as treatment
15 related to, elder and dependent adult abuse and neglect.

16 (B) This coursework may be from an accredited or approved
17 school, college, or university as defined in Section 4999.12, or
18 from a continuing education provider that is acceptable to the board
19 as defined in Section 4999.76. Undergraduate coursework shall
20 not satisfy this requirement.

21 (4) The applicant completes the following coursework not
22 already completed in his or her education from an accredited or
23 approved school, college, or university as defined in Section
24 4999.12, or from a continuing education provider that is acceptable
25 to the board as defined in Section 4999.76. Undergraduate
26 coursework shall not satisfy this requirement.

27 (A) At least three semester units, or 45 hours, of instruction
28 regarding the principles of mental health recovery-oriented care
29 and methods of service delivery in recovery-oriented practice
30 environments, including structured meetings with various
31 consumers and family members of consumers of mental health
32 services to enhance understanding of their experiences of mental
33 illness, treatment, and recovery.

34 (B) At least one semester unit, or 15 hours, of instruction that
35 includes an understanding of various California cultures and the
36 social and psychological implications of socioeconomic position.

37 (5) An applicant may complete any units and course content
38 requirements required under paragraph (2), (3), or (4) not already
39 completed in his or her education while registered with the board
40 as an associate.

1 ~~SEC. 40.~~

2 ~~SEC. 44.~~ Section 4999.63 of the Business and Professions Code
3 is amended to read:

4 4999.63. (a) This section applies to persons who apply for
5 licensure or registration on or after January 1, 2016, and who hold
6 a license as described in Section 4999.60.

7 (b) For purposes of Section 4999.60, education is substantially
8 equivalent if all of the following requirements are met:

9 (1) The degree is obtained from an accredited or approved
10 institution, as defined in Section 4999.12, and consists of the
11 following:

12 (A) (i) For an applicant who obtained his or her degree within
13 the timeline prescribed by subdivision (a) of Section 4999.33 the
14 degree shall contain no less than 60 graduate semester *units* or 90
15 graduate quarter units of instruction.

16 (ii) Up to 12 semester units or 18 quarter units of instruction
17 may be remediated, if missing from the degree. The remediation
18 may occur while the applicant is registered as an associate.

19 (B) For an applicant who obtained his or her degree within the
20 timeline prescribed by subdivision (a) of Section 4999.32 the
21 degree shall contain no less than 48 graduate semester *units* or 72
22 graduate quarter units of instruction.

23 (C) Six semester units or nine quarter units of supervised
24 practicum or field study experience, including, but not limited to,
25 a minimum of 280 hours of face-to-face supervised clinical
26 experience counseling individuals, families, or groups.

27 (i) An applicant who has been licensed for at least two years in
28 clinical practice, as verified by the board, is exempt from this
29 requirement.

30 (ii) An out-of-state applicant who has been licensed for less
31 than two years in clinical practice, as verified by the board, who
32 does not meet the supervised practicum or field study experience
33 requirement, shall remediate the requirement by demonstrating
34 completion of a total of 280 hours of face-to-face supervised
35 clinical experience, as specified in subparagraph (K) of paragraph
36 (3) of subdivision (c) of Section 4999.33. Any postdegree hours
37 gained to meet this requirement are in addition to the 3,000 hours
38 of experience required by this chapter, and shall be gained while
39 the applicant is registered with the board as an associate.

1 (D) The required areas of study specified in subparagraphs (A)
2 to (M), inclusive, of paragraph (1) of subdivision (c) of Section
3 4999.33.

4 (i) (I) An applicant whose degree is deficient in no more than
5 six of the required areas of study specified in subparagraphs (A)
6 to (M), inclusive, of paragraph (1) of subdivision (c) of Section
7 4999.33 may satisfy those deficiencies by successfully completing
8 graduate level coursework at an accredited or approved institution,
9 as defined in Section 4999.12. Coursework taken to meet any
10 deficiencies shall be the equivalent of three semester units or four
11 and one-half quarter units of study.

12 (II) Notwithstanding subclause (I), no applicant shall be deficient
13 in the required areas of study specified in ~~subparagraphs~~
14 *subparagraph* (E) or (G) of paragraph (1) of subdivision (c) of
15 Section 4999.33.

16 (ii) An applicant who completed a course in professional
17 orientation, ethics, and law in counseling as required by
18 subparagraph (I) of paragraph (1) of subdivision (c) of Section
19 4999.33 that did not contain instruction in California law and ethics
20 shall complete an 18-hour course in California law and professional
21 ethics that includes, but is not limited to, instruction in advertising,
22 scope of practice, scope of competence, treatment of minors,
23 confidentiality, dangerous clients, psychotherapist-client privilege,
24 recordkeeping, client access to records, state and federal laws
25 relating to confidentiality of patient health information, dual
26 relationships, child abuse, elder and dependent adult abuse, online
27 therapy, insurance reimbursement, civil liability, disciplinary
28 actions and unprofessional conduct, ethics complaints and ethical
29 standards, termination of therapy, standards of care, relevant family
30 law, and therapist disclosures to clients. An applicant shall
31 complete this coursework prior to registration as an associate.

32 (iii) An applicant who has not completed a course in professional
33 orientation, ethics, and law in counseling as required by
34 subparagraph (I) of paragraph (1) of subdivision (c) of Section
35 4999.33 shall complete this required coursework, including content
36 in California law and ethics. An applicant shall complete this
37 coursework prior to registration as an associate.

38 (2) The applicant completes any units required under subdivision
39 (c) of Section 4999.33 not already completed in his or her education
40 as follows:

1 (A) At least 15 semester units or 22.5 quarter units of advanced
2 coursework to develop knowledge of specific treatment issues or
3 special populations. This coursework is in addition to the course
4 requirements described in subparagraph (D) of paragraph (1).

5 (B) Coursework shall be from an accredited or approved school,
6 college, or university as defined in Section 4999.12.

7 (3) The applicant completes the following coursework not
8 already completed in his or her education:

9 (A) A minimum of 10 contact hours of training in human
10 sexuality, as specified in Section 25 and any regulations
11 promulgated thereunder, including the study of the physiological,
12 psychological, and social cultural variables associated with sexual
13 behavior, gender identity, and the assessment and treatment of
14 psychosexual dysfunction.

15 (B) A minimum of 15 contact hours of instruction in spousal
16 or partner abuse assessment, detection, intervention strategies, and
17 same-gender abuse dynamics.

18 (C) A minimum of seven contact hours of training or coursework
19 in child abuse assessment and reporting as specified in Section 28
20 and any regulations promulgated under that section.

21 (D) A minimum of 10 contact hours of instruction in aging and
22 long-term care, including biological, social, cognitive, and
23 psychological aspects of aging. This coursework shall include
24 instruction on the assessment and reporting of, as well as treatment
25 related to, elder and dependent adult abuse and neglect.

26 (E) This coursework may be from an accredited or approved
27 school, college, or university as defined in Section 4999.12, or
28 from a continuing education provider that is acceptable to the board
29 as defined in Section 4999.76. Undergraduate coursework shall
30 not satisfy this requirement.

31 (4) The applicant completes the following coursework not
32 already completed in his or her education from an accredited or
33 approved school, college, or university as defined in Section
34 4999.12, or from a continuing education provider that is acceptable
35 to the board as defined in Section 4999.76. Undergraduate
36 coursework shall not satisfy this requirement.

37 (A) At least three semester units or 45 hours of instruction
38 regarding the principles of mental health recovery-oriented care
39 and methods of service delivery in recovery-oriented practice
40 environments, including structured meetings with various

1 consumers and family members of consumers of mental health
2 services to enhance understanding of their experience of mental
3 illness, treatment, and recovery.

4 (B) At least one semester unit or 15 hours of instruction that
5 includes an understanding of various California cultures and the
6 social and psychological implications of socioeconomic position.

7 (5) An applicant may complete any units and course content
8 requirements required by subparagraph (D) of paragraph (1) or
9 paragraphs (2), (3), and (4) not already completed in his or her
10 education while registered with the board as an associate, unless
11 otherwise specified.

12 ~~SEC. 41.~~

13 *SEC. 45.* Section 4999.100 of the Business and Professions
14 Code is amended to read:

15 4999.100. (a) An associate registration shall expire one year
16 from the last day of the month in which it was issued.

17 (b) To renew a registration, the registrant on or before the
18 expiration date of the registration, shall do the following:

19 (1) Apply for a renewal on a form prescribed by the board.

20 (2) Pay a renewal fee prescribed by the board.

21 (3) Notify the board whether he or she has been convicted, as
22 defined in Section 490, of a misdemeanor or felony, or whether
23 any disciplinary action has been taken by any regulatory or
24 licensing board in this or any other state, subsequent to the
25 registrant's last renewal.

26 (4) Participate in the California law and ethics examination
27 pursuant to Section 4999.53 each year until successful completion
28 of this examination.

29 (c) The associate registration may be renewed a maximum of
30 five times. Registration shall not be renewed or reinstated beyond
31 six years from the last day of the month during which it was issued,
32 regardless of whether it has been revoked. When no further
33 renewals are possible, an applicant may apply for and obtain a
34 subsequent associate registration number if the applicant meets
35 the educational requirements for registration in effect at the time
36 of the application for a subsequent associate registration number
37 and has passed the California law and ethics examination described
38 in Section 4999.53. An applicant who is issued a subsequent
39 associate registration number pursuant to this subdivision shall
40 not be employed or volunteer in a private practice.

1 ~~SEC. 42.~~

2 *SEC. 46.* Section 6924 of the Family Code is amended to read:

3 6924. (a) As used in this section:

4 (1) “Mental health treatment or counseling services” means the
5 provision of mental health treatment or counseling on an outpatient
6 basis by any of the following:

7 (A) A governmental agency.

8 (B) A person or agency having a contract with a governmental
9 agency to provide the services.

10 (C) An agency that receives funding from community united
11 funds.

12 (D) A runaway house or crisis resolution center.

13 (E) A professional person, as defined in paragraph (2).

14 (2) “Professional person” means any of the following:

15 (A) A person designated as a mental health professional in
16 Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of
17 Chapter 1 of Title 9 of the California Code of Regulations.

18 (B) A marriage and family therapist as defined in Chapter 13
19 (commencing with Section 4980) of Division 2 of the Business
20 and Professions Code.

21 (C) A licensed educational psychologist as defined in Article 5
22 (commencing with Section 4986) of Chapter 13 of Division 2 of
23 the Business and Professions Code.

24 (D) A credentialed school psychologist as described in Section
25 49424 of the Education Code.

26 (E) A clinical psychologist as defined in Section 1316.5 of the
27 Health and Safety Code.

28 (F) The chief administrator of an agency referred to in paragraph
29 (1) or (3).

30 (G) A person registered as an associate marriage and family
31 therapist, as defined in Chapter 13 (commencing with Section
32 4980) of Division 2 of the Business and Professions Code, while
33 working under the supervision of a licensed professional specified
34 in subdivision (g) of Section 4980.03 of the Business and
35 Professions Code.

36 (H) A licensed professional clinical counselor, as defined in
37 Chapter 16 (commencing with Section 4999.10) of Division 2 of
38 the Business and Professions Code.

39 (I) A person registered as an associate professional clinical
40 counselor, as defined in Chapter 16 (commencing with Section

1 4999.10) of Division 2 of the Business and Professions Code, while
2 working under the supervision of a licensed professional specified
3 in subdivision (h) of Section 4999.12 of the Business and
4 Professions Code.

5 (3) “Residential shelter services” means any of the following:

6 (A) The provision of residential and other support services to
7 minors on a temporary or emergency basis in a facility that services
8 only minors by a governmental agency, a person or agency having
9 a contract with a governmental agency to provide these services,
10 an agency that receives funding from community funds, or a
11 licensed community care facility or crisis resolution center.

12 (B) The provision of other support services on a temporary or
13 emergency basis by any professional person as defined in paragraph
14 (2).

15 (b) A minor who is 12 years of age or older may consent to
16 mental health treatment or counseling on an outpatient basis, or
17 to residential shelter services, if both of the following requirements
18 are satisfied:

19 (1) The minor, in the opinion of the attending professional
20 person, is mature enough to participate intelligently in the
21 outpatient services or residential shelter services.

22 (2) The minor (A) would present a danger of serious physical
23 or mental harm to self or to others without the mental health
24 treatment or counseling or residential shelter services, or (B) is
25 the alleged victim of incest or child abuse.

26 (c) A professional person offering residential shelter services,
27 whether as an individual or as a representative of an entity specified
28 in paragraph (3) of subdivision (a), shall make his or her best
29 efforts to notify the parent or guardian of the provision of services.

30 (d) The mental health treatment or counseling of a minor
31 authorized by this section shall include involvement of the minor’s
32 parent or guardian unless, in the opinion of the professional person
33 who is treating or counseling the minor, the involvement would
34 be inappropriate. The professional person who is treating or
35 counseling the minor shall state in the client record whether and
36 when the person attempted to contact the minor’s parent or
37 guardian, and whether the attempt to contact was successful or
38 unsuccessful, or the reason why, in the professional person’s
39 opinion, it would be inappropriate to contact the minor’s parent
40 or guardian.

1 (e) The minor's parents or guardian are not liable for payment
2 for mental health treatment or counseling services provided
3 pursuant to this section unless the parent or guardian participates
4 in the mental health treatment or counseling, and then only for
5 services rendered with the participation of the parent or guardian.
6 The minor's parents or guardian are not liable for payment for any
7 residential shelter services provided pursuant to this section unless
8 the parent or guardian consented to the provision of those services.
9 (f) This section does not authorize a minor to receive convulsive
10 therapy or psychosurgery as defined in subdivisions (f) and (g) of
11 Section 5325 of the Welfare and Institutions Code, or psychotropic
12 drugs without the consent of the minor's parent or guardian.

13 ~~SEC. 43.~~

14 *SEC. 47.* No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.



MEMORANDUM

DATE	August 1, 2018
TO	Members of the Dental Board of California
FROM	Jeri Westerfeld, Executive Assistant Dental Board of California
SUBJECT	Agenda Item 14C: Discussion of Prospective Legislative Proposals

Stakeholders are encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future Board meeting.