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/.

Dental Board of California Meeting Agenda
August 23-24, 2018
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 Offers 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
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

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<tr>
<th>DATE</th>
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<tr>
<td>TO</td>
<td>Members of the Dental Board of California</td>
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<tr>
<td>FROM</td>
<td>Jeri Westerfeld, Executive Assistant Dental Board of California</td>
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<tr>
<td>SUBJECT</td>
<td><strong>Agenda Item 14A: 2018 Tentative Legislative Calendar—Information Only</strong></td>
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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

### JANUARY

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**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)).

### FEBRUARY

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Feb. 16  Last day for bills to be introduced (J.R. 61(b)(4), J.R. 54(a)).

Feb. 19  Presidents’ Day.

### MARCH

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Mar. 22  Spring Recess begins upon adjournment of this day’s session (J.R. 51(b)(1)).

Mar. 30  Cesar Chavez Day observed.

### APRIL

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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

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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*
### JUNE

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- **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

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- **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

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- **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)).
### JANUARY

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#### DEADLINES

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<td>Statutes take effect (Art. IV, Sec. 8(c)).</td>
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<td>Jan. 3</td>
<td>Legislature reconvenes (J.R. 51(a)(4)).</td>
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<td>Jan. 10</td>
<td>Budget must be submitted by Governor (Art. IV, Sec. 12(a)).</td>
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<td>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)).</td>
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<td>Jan. 15</td>
<td>Martin Luther King, Jr. Day.</td>
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<td>Jan. 19</td>
<td>Last day for any committee to hear and report to the Floor bills introduced in that house in the odd-numbered year. Last day to submit bill requests to the Office of Legislative Counsel.</td>
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<td>Jan. 31</td>
<td>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)).</td>
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#### FEBRUARY

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<tr>
<th>Date</th>
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<tbody>
<tr>
<td>Feb. 16</td>
<td>Last day for bills to be introduced (J.R. 61(b)(4), J.R. 54(a)).</td>
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<tr>
<td>Feb. 19</td>
<td>Presidents' Day.</td>
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<tr>
<td>Mar. 22</td>
<td>Spring Recess begins upon adjournment (J.R. 51(b)(1)).</td>
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<tr>
<td>Mar. 30</td>
<td>Cesar Chavez Day observed.</td>
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#### MARCH

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<tr>
<td>Apr. 2</td>
<td>Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).</td>
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<tr>
<td>Apr. 27</td>
<td>Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house (J.R. 61(b)(5)).</td>
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<tr>
<td>May 11</td>
<td>Last day for policy committees to hear and report to the Floor nonfiscal bills introduced in their house (J.R. 61(b)(6)).</td>
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<tr>
<td>May 18</td>
<td>Last day for policy committees to meet prior to June 4 (J.R. 61(b)(7)).</td>
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<tr>
<td>May 25</td>
<td>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)).</td>
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<tr>
<td>May 28</td>
<td>Memorial Day.</td>
</tr>
<tr>
<td>May 29 – June 1</td>
<td>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)).</td>
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*Holiday schedule subject to final approval by Rules Committee.*
JUNE

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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

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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

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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)).

*Holiday schedule subject to final approval by Rules Committee.
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 addresses 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/OPPPOSITION

Support

Oppose
STAFF RECOMMENDATION
Watch.

BOARD POSITION:

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


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
dresses 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.

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.
Physicians from Mexico eligible to participate in this program shall comply with the following:

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

2. Prior to leaving Mexico, each physician shall have completed the following requirements:
   (A) Passed the board review course with a score equivalent to that registered by United States applicants when passing a board review course for the United States certification examination in each of his or her specialty areas and passed an interview examination developed by the National Autonomous University of Mexico (UNAM) for each specialty area. Family practitioners who shall include obstetrics and gynecology in their practice shall also be required to have appropriately documented, as specified by United States standards, 50 live births. Mexican obstetricians and gynecologists shall be fellows in good standing of the American College of Obstetricians and Gynecologists.
   (B) (i) Satisfactorily completed a six-month orientation program that addressed medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, and pharmacology differences. This orientation program shall be approved by the Medical Board of California to ensure that it contains the requisite subject matter and meets appropriate California law and medical standards where applicable.
   (ii) Additionally, Mexican physicians participating in the program shall be required to be enrolled in adult English-as-a-second-language (ESL) classes that focus on both verbal and written subject matter. Each physician participating in the program shall have transcripts sent to the Medical Board of California from the appropriate Mexican university showing enrollment and satisfactory completion of these classes.
   (C) Representatives from the UNAM in Mexico and a medical school in good standing or a facility conducting an approved
medical residency training program in California shall confer to
develop a mutually agreed upon distant learning program for the
six-month orientation program required pursuant to subparagraph
(B).
(3) Upon satisfactory completion of the requirements in
paragraphs (1) and (2), and after having received their three-year
nonrenewable medical license, the Mexican physicians shall be
required to obtain continuing education pursuant to Section 2190.
Each physician shall obtain an average of 25 continuing education
units per year for a total of 75 units for a full three years of program
participation.
(4) Upon satisfactory completion of the requirements in
paragraphs (1) and (2), the applicant shall receive a three-year
nonrenewable license to work in nonprofit community health
centers and shall also be required to participate in a six-month
externship at his or her place of employment. This externship shall
be undertaken after the participant has received a license and is
able to practice medicine. The externship shall ensure that the
participant is complying with the established standards for quality
assurance of nonprofit community health centers and medical
practices. The externship shall be affiliated with a medical school
in good standing in California. Complaints against program
participants shall follow the same procedures contained in the
Medical Practice Act (Chapter 5 (commencing with Section 2000)).
(5) After arriving in California, Mexican physicians participating
in the program shall be required to be enrolled in adult ESL classes
at institutions approved by the Bureau of Private Post Secondary
and Vocational Education or accredited by the Western Association
of Schools and Colleges. These classes shall focus on verbal and
written subject matter to assist a physician in obtaining a level of
proficiency in English that is commensurate with the level of
English spoken at community clinics where he or she will practice.
The community clinic employing a physician shall submit
documentation confirming approval of an ESL program to the
board for verification. Transcripts of satisfactory completion of
the ESL classes shall be submitted to the Medical Board of
California as proof of compliance with this provision.
(6) (A) Nonprofit community health centers employing Mexican
physicians in the program shall be required to have medical quality
assurance protocols and either be accredited by the Joint
Commission on Accreditation of Health Care Organizations or have protocols similar to those required by the Joint Commission on Accreditation of Health Care Organizations. These protocols shall be submitted to the Medical Board of California prior to the hiring of Mexican physicians.

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

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

(8) The Medical Board of California shall provide oversight review of both the implementation of this program and the evaluation required pursuant to subdivision (j). The board shall consult with the medical schools applying for funding to implement and evaluate this program, executive and medical directors of nonprofit community health centers wanting to employ program participants, and hospital administrators who will have these participants practicing in their hospital, as it conducts its oversight responsibilities of this program and evaluation. Any funding necessary for the implementation of this program, including the evaluation and oversight functions, shall be secured from nonprofit philanthropic entities. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The board shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities. The board
shall, upon appropriation in the annual Budget Act, expend funds received from nonprofit philanthropic entities for this program.

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

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

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

(i) A minimum grade point average.

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

(iii) Passage of a general examination.

(iv) Passage of an oral interview.

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

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

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

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

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

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

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

(vii) Sedation techniques that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.
Infection control guidelines which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

Introduction to health care systems in California.

Introduction to community clinic operations.

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

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

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

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

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

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

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

(B) As used in this subdivision, “extramural dental facility” includes, but is not limited to, any clinical facility linked to an approved dental school for the purposes of monitoring or overseeing the work of a dentist licensed in Mexico participating...
in this program and that is employed by an approved dental school
for instruction in dentistry that exists outside or beyond the walls,
boundaries, or precincts of the primary campus of the approved
dental school, and in which dental services are rendered. These
facilities shall include nonprofit community health centers.

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

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

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

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

(e) Nonprofit community health centers that employ participants
shall be responsible for ensuring that participants are enrolled in
local English-language instruction programs and that the
participants attain English-language fluency at a level that would
allow the participants to serve the English-speaking patient
population when necessary and have the literacy level to
communicate with appropriate hospital staff when necessary.

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

(g) Nonprofit community health centers in the counties listed
in subdivision (f) shall apply to the Medical Board of California
and the Dental Board of California to hire eligible applicants who
shall then be required to complete a six-month externship that
includes working in the nonprofit community health center and a
corresponding hospital. Once enrolled in this externship, and upon
payment of the required fees, the Medical Board of California shall
issue a three-year nonrenewable license to practice medicine and
the Dental Board of California shall issue a three-year
nonrenewable dental special permit to practice dentistry. For
purposes of this program, the fee for a three-year nonrenewable
license to practice medicine shall be nine hundred dollars ($900)
and the fee for a three-year nonrenewable dental permit shall be
five hundred forty-eight dollars ($548). A licensee or permitholder
shall practice only in the nonprofit community health center that
offered him or her employment and the corresponding hospital.
This three-year nonrenewable license or permit shall be deemed
to be a license or permit in good standing pursuant to the provisions
of this chapter for the purpose of participation and reimbursement
in all federal, state, and local health programs, including managed
care organizations and health maintenance organizations.
(h) The three-year nonrenewable license or permit shall terminate upon notice by certified mail, return receipt requested, to the licensee’s or permitholder’s address of record, if, in the Medical Board of California or Dental Board of California’s sole discretion, it has determined that either:

(1) The license or permit was issued by mistake.
(2) A complaint has been received by either board against the licensee or permitholder that warrants terminating the license or permit pending an investigation and resolution of the complaint.

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

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

(1) Quality of care provided by doctors and dentists licensed under this pilot program.
(2) Adaptability of these licensed practitioners to California medical and dental standards.
(3) Impact on working and administrative environment in nonprofit community health centers and impact on interpersonal relations with medical licensed counterparts in health centers.
(4) Response and approval by patients.
(5) Impact on cultural and linguistic services.
(6) Increases in medical encounters provided by participating practitioners to limited-English-speaking patient populations and increases in the number of limited-English-speaking patients.
seeking health care services from nonprofit community health centers.

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

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

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

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

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

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

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 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:_____
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, 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 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 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.


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

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

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

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

Article 2.7. Use of Deep Sedation and General Anesthesia

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

1646. As used in this article, the following definitions shall 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) (1) (A) “General anesthesia” means as used in this article, means a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

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

(2) On and after January 1, 2019, “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.

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

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

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

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

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

This article does not apply to the administration of local anesthesia, minimal sedation, or moderate sedation.

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

1646.2. (a) A dentist who desires to administer or order the administration of deep sedation or general anesthesia, or, on and after January 1, 2019, 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.

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

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

(2) On and after January 1, 2019, a physical evaluation and medical history shall be taken before the administration of deep sedation or general anesthesia. On and after January 1, 2019, any dentist holding a permit shall, in addition to the requirements in paragraph (1), maintain deep sedation records as required by board regulations.
(b) For On and after January 1, 2019, for patients 7 to 13 years of age, inclusive, the dentist and at least two support staff shall be present, unless there is a dedicated general anesthesia provider present. The On and after January 1, 2019, the dentist and at least one support staff member shall be trained in Pediatric Advanced Life Support (PALS) and airway management, equivalent to the American Academy of Pediatrics and American Academy of Pediatric Dentistry (AAP-AAPD) Guidelines or as determined by the board. That On and after January 1, 2019, that staff member shall be dedicated to monitoring the patient throughout the procedure.

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

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

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

1646.4. (a) (1) 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 licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. This subdivision shall not be construed to require, as a condition of issuance or renewal of a permit, an onsite inspection and evaluation by the board. 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.
(2) On and after January 1, 2019, paragraph (1) shall also apply to the issuance or renewal of a permit for the use of deep sedation.

(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.

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

1646.5. (a) (1) 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 any continuing education required by the board pursuant to Section 1645.

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

(b) On and after January 1, 2019, 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. On and after January 1, 2019, those courses of study shall be credited toward any continuing education required by the board pursuant to Section 1645.

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

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.

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

1646.9. (a) (1) Notwithstanding any other law, including, but not limited to, Section 1646.1, 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 both of the following conditions are met:

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

(2)

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

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

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

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

(B) 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.

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

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

(2) Prior to issuance or renewal of a permit pursuant to this section, the Dental Board of California 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. This subdivision shall not be construed to require, as a condition of issuance or renewal of a permit, an onsite inspection and evaluation by the board. 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 Dental Board of California for this purpose.

(3) 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 six years. Refusal to submit to an inspection shall result
in automatic denial or revocation of the permit.

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

(c) On and after January 1, 2019, notwithstanding any other
law, including, but not limited to, Section 1646.1, 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 both 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 (d).

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

(A) The payment of an application fee prescribed by this article.
(B) 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.
(C) Documentation demonstrating that all equipment and drugs
required by the Dental Board of California are possessed by the
applicant and shall be available for use in any dental office in
which he or she administers deep sedation or general anesthesia.
(D) Information relative to the current membership of the
applicant on hospital medical staffs.

(2) On and after January 1, 2019, prior to issuance or renewal
of a permit pursuant to this section, the Dental Board of California
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. This subdivision shall not be construed to require, as a condition of issuance or renewal of a permit, an onsite inspection and evaluation by the board. On and after January 1, 2019, 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 Dental Board of California for this purpose.

(3) On and after January 1, 2019, 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. On and after January 1, 2019, every physician and surgeon issued a permit under this article shall have an onsite inspection and evaluation at least once every six years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

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

Article 2.8. Use of Moderate Sedation

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

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.
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, previously referred to as “conscious 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.

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

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

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

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

(2) On and after January 1, 2020, as used in this article, “moderate sedation” means a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, no interventions are required to maintain a patient’s
airway, spontaneous ventilation is adequate, and cardiovascular function is usually maintained.

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

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

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

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

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

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

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

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

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

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

1647.3. (a) A dentist who desires to administer or to order the administration of moderate sedation shall apply to the board on an application form prescribed by the board. The dentist shall submit an application fee and produce evidence showing that he or she has successfully completed training in moderate sedation.
that meets the requirements of subdivision (e), (c) or (d), as applicable.

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

(c) (1) Training in the administration of moderate sedation for patients 13 years of age or older shall be acceptable if it meets all of the following as approved by the board:
   (A) Consists of at least 60 hours of instruction.
   (2) Requires satisfactory completion of at least 20 cases of administration of moderate sedation for a variety of dental procedures.
   (3) Complies with the requirements of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students of the American Dental Association, including, but not limited to, certification of competence in rescuing patients from a deeper level of sedation than intended, and managing the airway, intravascular or intraosseous access, and reversal medications.

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

(d) On and after January 1, 2020, training in the administration of moderate sedation for patients 13 years of age or older shall be acceptable if it meets all of the following as approved by the board:
   (1) Consists of at least 60 hours of instruction.
   (2) Requires satisfactory completion of at least 20 cases of administration of moderate sedation for a variety of dental procedures.
   (3) Complies with the requirements of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students of the American Dental Association, including, but not limited to, certification of competence in rescuing patients from a deeper level of sedation than intended, and managing the airway, intravascular or intraosseous access, and reversal medications.

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

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

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

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

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

(for) For

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

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

1647.5. A permittee shall be required to complete 15 hours of approved courses of study related to moderate sedation as a condition of renewal of a permit. Those courses of study shall be
credited toward any continuing education required by the board pursuant to Section 1645.

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

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

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

1647.7. (a) Prior to the issuance or renewal of a permit to administer moderate sedation, the board may, at its discretion, require an onsite inspection and evaluation of the licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. This subdivision shall not be construed to require, as a condition of issuance or renewal of a permit, an onsite inspection and evaluation by the board. 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 in every six years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

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

(c) The board may contract with public or private organizations or individuals expert in dental outpatient moderate sedation 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.

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

1647.11. (a) Notwithstanding subdivision (a) of Section 1647.2, a dentist may not administer oral conscious sedation on
an outpatient basis to a minor patient unless one of the following conditions is met:

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

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

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

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

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

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

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

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

(c) Satisfactory completion of a board-approved educational program on oral medications and sedation.
SEC. 21. Section 1647.19 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

Article 2.87. Use of Pediatric Minimal Sedation

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

(b) The drugs and techniques used in minimal sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is
reflex withdrawal from painful stimuli shall not be considered to
be in a state of minimal sedation.
(c) For the very young or developmentally delayed individual,
incapable of the usually expected verbal response, a minimally
depressed level of consciousness should be maintained.
1647.31. (a) A dentist shall not administer or order the
administration of minimal sedation on an outpatient basis for
pediatric dental patients, defined as under 13 years of age, unless
one of the following conditions is met:
(1) The dentist possesses a current license in good standing to
practice dentistry in California and either holds a valid pediatric
minimal sedation permit or obtains a permit issued by the board
authorizing the dentist to administer minimal sedation.
(2) The dentist possesses a current permit under Section 1638
or 1640 and either holds a valid anesthesia permit or obtains a
permit issued by the board authorizing the dentist to administer
moderate sedation, deep sedation, or general anesthesia.
(b) A dentist who orders the administration of minimal sedation
shall be physically present in the treatment facility while the patient
is sedated.
(c) This article does not apply to the administration of local
anesthesia, moderate sedation, deep sedation, or general anesthesia.
1647.32. (a) A dentist who desires to administer or order the
administration of pediatric minimal sedation shall apply to the
board on an application form prescribed by the board. The dentist
shall submit an application fee and produce evidence showing that
he or she has successfully completed training in minimal sedation
that meets the requirements of subdivision (c).
(b) The application for a permit shall include documentation
that equipment and drugs required by the board are on the premises.
(c) Training in the administration of minimal sedation shall be
acceptable if it meets both of the following as approved by the
board:
(1) Consists of at least 24 hours of pediatric sedation instruction
in addition to one clinical case. The pediatric sedation instruction
shall include training in airway management and patient rescue
from moderate sedation.
(2) Includes completion of an accredited residency in pediatric
dentistry.
(d) A dentist is limited to administering a single dose of a single
drug via the oral route, plus a mix of nitrous oxide and oxygen
that is unlikely to produce a state of unintended moderate sedation.
(e) A minimum of one staff member, in addition to the dentist,
trained in the monitoring and resuscitation of pediatric patients
shall be present.
1647.33. (a) The application fee for a pediatric minimal
sedation permit or renewal under this article shall not exceed the
amount prescribed in Section 1724.
(b) 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.
1647.34. A violation of any provision of this article constitutes
unprofessional conduct and is grounds for the revocation or
suspension of the dentist’s permit or license, or both, or the dentist
may be reprimanded or placed on probation. The proceedings
under this section shall be conducted in accordance with Chapter
5 (commencing with Section 11500) of Part 1 of Division 3 of
Title 2 of the Government Code, and the board shall have all the
powers granted therein.
1647.35. This article shall become operative on January 1,
2020.
SEC. 23. Section 1682 of the Business and Professions Code
is amended to read:
1682. In addition to other acts constituting unprofessional
conduct under this chapter, it is unprofessional conduct for:
(a) Any dentist performing dental procedures to have more than
one patient undergoing moderate sedation or general anesthesia
on an outpatient basis at any given time unless each patient is being
continuously monitored on a one-to-one ratio while sedated by
either the dentist or another licensed health professional authorized
by law to administer moderate sedation or general anesthesia.
(b) Any dentist with patients recovering from moderate sedation
or general anesthesia to fail to have the patients closely monitored
by licensed health professionals experienced in the care and
resuscitation of patients recovering from moderate sedation or
general anesthesia. If one licensed professional is responsible for
the recovery care of more than one patient at a time, all of the
patients shall be physically in the same room to allow continuous
visual contact with all patients and the patient to recovery staff ratio should not exceed three to one.

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

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

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

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

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

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

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

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

(a) The fee for an application for licensure qualifying pursuant to paragraph (1) of subdivision (c) of Section 1632 shall not exceed one thousand five hundred dollars ($1,500). The fee for an application for licensure qualifying pursuant to paragraph (2) of subdivision (c) of Section 1632 shall not exceed one thousand dollars ($1,000).
(b) The fee for an application for licensure qualifying pursuant to Section 1634.1 shall not exceed one thousand dollars ($1,000).

(c) The fee for an application for licensure qualifying pursuant to Section 1635.5 shall not exceed one thousand dollars ($1,000).

(d) The fee for an initial license and for the renewal of a license is five hundred twenty-five dollars ($525). On and after January 1, 2016, the fee for an initial license shall not exceed six hundred fifty dollars ($650), and the fee for the renewal of a license shall not exceed six hundred fifty dollars ($650). On and after January 1, 2018, the fee for an initial license shall not exceed eight hundred dollars ($800), and the fee for the renewal of a license shall not exceed eight hundred dollars ($800).

(e) The fee for an application for a special permit shall not exceed one thousand dollars ($1,000), and the renewal fee for a special permit shall not exceed six hundred dollars ($600).

(f) The delinquency fee shall be 50 percent of the renewal fee for such a license or permit in effect on the date of the renewal of the license or permit.

(g) The penalty for late registration of change of place of practice shall not exceed seventy-five dollars ($75).

(h) The fee for an application for an additional office permit shall not exceed seven hundred fifty dollars ($750), and the fee for the renewal of an additional office permit shall not exceed three hundred seventy-five dollars ($375).

(i) The fee for issuance of a replacement pocket license, replacement wallet certificate, or replacement engraved certificate shall not exceed one hundred twenty-five dollars ($125).

(j) The fee for a provider of continuing education shall not exceed five hundred dollars ($500) per year.

(k) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars ($25).

(l) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars ($25).

(m) The fee for an application for an elective facial cosmetic surgery permit shall not exceed four thousand dollars ($4,000), and the fee for the renewal of an elective facial cosmetic surgery permit shall not exceed eight hundred dollars ($800).

(n) The fee for an application for an oral and maxillofacial surgery permit shall not exceed one thousand dollars ($1,000), and
the fee for the renewal of an oral and maxillofacial surgery permit shall not exceed one thousand two hundred dollars ($1,200).

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

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

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

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

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

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

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

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

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

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

(b) Monitor patients undergoing moderate sedation or general anesthesia utilizing data from noninvasive instrumentation such as pulse oximeters, electrocardiograms, capnography, blood pressure, pulse, and respiration rate monitoring devices. Evaluation of the condition of a sedated patient shall remain the responsibility of the dentist or other licensed health care professional authorized to administer conscious sedation or general anesthesia, who shall
be at the patient’s chairside while conscious sedation or general anesthesia is being administered.

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

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

(e) Removal of intravenous lines.

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

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

SEC. 26. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY
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
ab 2078

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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.


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

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

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

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).
(c) (1) Any 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.

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

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

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

(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars ($2,000)
which is collected from a defendant for a violation of this
subdivision shall be transmitted to the State Treasury and, upon
appropriation by the Legislature, distributed to the Department of
Fair Employment and Housing for the purpose of enforcement of
the California Fair Employment and Housing Act (Part 2.8
(commencing with Section 12900) of Division 3 of Title 2 of the
Government Code), including, but not limited to, laws that
proscribe sexual harassment in places of employment. However,
in no event shall an amount over two thousand dollars ($2,000)
be transmitted to the State Treasury until all fines, including any
restitution fines that may have been imposed upon the defendant,
have been paid in full.

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

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

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

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

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

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

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

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

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

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

(i) In the case of a felony conviction for a violation of this
section, the fact that the defendant was an employer and the victim
was an employee of the defendant shall be a factor in aggravation in sentencing.

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

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

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

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

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

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

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

(A) Was unconscious or asleep.

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

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

(D) 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 served a professional purpose when it served no professional purpose.

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

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

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

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

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

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

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

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.
(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

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

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

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

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

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

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

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

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim’s will by means of force or fear
of immediate and unlawful bodily injury on the victim or another 
person or where the act is accomplished against the victim’s will 
by threatening to retaliate in the future against the victim or any 
other person, and there is a reasonable possibility that the 
perpetrator will execute the threat, shall be punished by 
imprisonment in the state prison for five, seven, or nine years. 
(2) Any person who, while voluntarily acting in concert with 
another person, either personally or aiding and abetting that other 
person, commits an act of sodomy upon a victim who is under 14 
years of age, when the act is accomplished against the victim’s 
will by means of force or fear of immediate and unlawful bodily 
injury on the victim or another person, shall be punished by 
imprisonment in the state prison for 10, 12, or 14 years. 
(3) Any person who, while voluntarily acting in concert with 
another person, either personally or aiding and abetting that other 
person, commits an act of sodomy upon a victim who is a minor 
14 years of age or older, when the act is accomplished against the 
victim’s will by means of force or fear of immediate and unlawful 
bodily injury on the victim or another person, shall be punished 
by imprisonment in the state prison for 7, 9, or 11 years. 
(4) This subdivision does not preclude prosecution under Section 
269, Section 288.7, or any other provision of law. 
(e) Any person who participates in an act of sodomy with any 
person of any age while confined in any state prison, as defined 
in Section 4504, or in any local detention facility, as defined in 
Section 6031.4, shall be punished by imprisonment in the state 
prison, or in a county jail for not more than one year. 
(f) (1) Any person who commits an act of sodomy, and the 
victim is at the time unconscious of the nature of the act and this 
is known to the person committing the act, shall be punished by 
imprisonment in the state prison for three, six, or eight years. As 
used in this subdivision, “unconscious of the nature of the act” 
means incapable of resisting because the victim meets one of the 
following conditions: 
(A) Was unconscious or asleep. 
(B) Was not aware, knowing, perceiving, or cognizant that the 
act occurred. 
(C) Was not aware, knowing, perceiving, or cognizant of the 
essential characteristics of the act due to the perpetrator’s fraud in 
fact.
(D) 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 served a professional purpose when it served no professional purpose.

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

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.

Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part I (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part I (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

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

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

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

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

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

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

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

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

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

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.
(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

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

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

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

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

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

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

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

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

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

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

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

(A) Was unconscious or asleep.
(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.
(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.
(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

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

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

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare
(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

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

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

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

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

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

SEC. 4.5. Section 288a of the Penal Code is amended and renumbered to read:
287. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Was unconscious or asleep.
2. Was not aware, knowing, perceiving, or cognizant that the act occurred.
3. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.
4. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

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

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

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

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

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

(k) Any person who commits an act of oral copulation, where
the act is accomplished against the victim’s will by threatening to
use the authority of a public official to incarcerate, arrest, or deport
the victim or another, and the victim has a reasonable belief that
the perpetrator is a public official, shall be punished by
As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

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

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

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

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

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

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

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

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by threatening to
retaliate in the future against the victim or any other person, and
there is a reasonable possibility that the perpetrator will execute
the threat, shall be punished by imprisonment in the state prison
for three, six, or eight years.

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

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

(d) (1) Any person who commits an act of sexual penetration,
and the victim is at the time unconscious of the nature of the act
and this is known to the person committing the act or causing the
act to be committed, shall be punished by imprisonment in the
state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.
(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.
(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.
(D) 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 served a professional purpose when it served no professional purpose.

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

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

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

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.
As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

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

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

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

(k) As used in this section:

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

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

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

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

(m) As used in this section, “victim” includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.
SEC. 6. Section 4.5 of this bill incorporates amendments to Section 288a of the Penal Code proposed by both this bill and Senate Bill 1494. Section 4.5 shall only become operative if (1) both bills are enacted, without regard to the order of enactment, and become effective on or before January 1, 2019, and (2) each bill amends Section 288a of the Penal Code, in which case Section 4 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY
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 cries 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
California Health+ 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: _____
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.

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

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

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

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

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

(2) (A) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party, unless authorized by, or pursuant to, state and
federal privacy and security laws and regulations. The Department
of Justice shall establish policies, procedures, and regulations
regarding the use, access, evaluation, management, implementation,
operation, storage, disclosure, and security of the information
within CURES, consistent with this subdivision.

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

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

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

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

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

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

(3) Pharmacy prescription number, license number, NPI number,
and federal controlled substance registration number.
(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) The Department of Justice may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber and dispenser invitees shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The Department of Justice shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

(g) The Department of Justice may establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.
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-Healing 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
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 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, after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license. 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.


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

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

(a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may
be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting
probation is made suspending the imposition of sentence. However,
a board may not deny a license to an applicant who is otherwise
qualified pursuant to subdivision (b) or (c) of Section 480.
(b) (1) Nothing in this section shall apply to the licensure of
persons pursuant to Chapter 4 (commencing with Section 6000)
of Division 3.
(2) The changes made to this section by the act adding this
paragraph do not in any way modify or otherwise affect the existing
authority of the following entities in regard to licensure:
(A) The State Athletic Commission.
(B) The Bureau for Private Postsecondary Education.
(c) Except as provided in subdivision (b), this section controls
over and supersedes the definition of conviction contained within
individual practice acts under this code.
SEC. 2. Section 480 of the Business and Professions Code is
amended to read:
480. (a) (1) Notwithstanding any other provision of this code,
a board may deny a license regulated by this code on the grounds
that the applicant has been convicted of a crime or has been subject
to formal discipline only if either of the following conditions are
met:
(A)
(1) The applicant has been convicted of a crime for which the
applicant is presently incarcerated or for which the conviction
occurred within the preceding five seven years. However, the
preceding five year seven-year limitation shall not apply to a
conviction for a 
violent serious 
felony, as defined in Section 667.5 of the Penal Code.
The board may deny a license pursuant to this subparagraph only
if the crime is directly and adversely substantially related to the
qualifications, functions, or duties of the business or profession
for which application is made.
(B)
(2) The applicant has been subjected to formal discipline by a
licensing board within the preceding five years based on
professional misconduct that would have been cause for discipline
before the board for which the present application is made and that
is directly and adversely substantially related to the qualifications,
functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding five seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable dismissal or expungement.

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

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

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

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

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny 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 it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant’s criminal history information:
A board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant’s criminal history.

(2) If a board decides to deny an application based solely or in part on the applicant’s conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.
(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.
(C) That the applicant has the right to appeal the board’s decision.
(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.
(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.
(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.
(D) The final disposition and demographic information, including, but not limited to, voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board’s Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to
this subdivision. Each board shall ensure confidentiality of the individual applicants.

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

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

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

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

1. The State Athletic Commission.
2. The Bureau for Private Postsecondary Education.

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

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

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

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.
4. A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be directly and adversely substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.
(e) The changes made to this section by the act adding this subdivision do not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

1. The State Athletic Commission.
2. The Bureau for Private Postsecondary Education.

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

481.5. (a) Probationary terms or restrictions placed on a license by a board shall be limited to two years or less. Any additional conditions may 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.

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

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

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

SEC. 5.

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

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

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.
(b) Each board shall find consider that an applicant or licensee has made a showing of rehabilitation if any either of the following are met:

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

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

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

(C) “Related field,” for purposes of this paragraph, means a field of employment whose duties are substantially similar to the field regulated by the board.

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

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

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

SEC. 6. Sec. 5. Section 488 of the Business and Professions Code is amended to read:

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

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

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

(e) (b) Deny the license.
(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

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

1. The State Athletic Commission.
2. The Bureau for Private Postsecondary Education.

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

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

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

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

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

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

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

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

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

(1) A board shall not require a licensee to disclose any information or documentation regarding the licensee’s criminal history.

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

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

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

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

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

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

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

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

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.
(g) (1) This section supersedes any contradictory provision in a licensing act under this code or initiative act referred to in Division 2 (commencing with Section 500) that authorizes action based on a criminal conviction, arrest, or the acts underlying an arrest or conviction.

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

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

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

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

SEC. 9.

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

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime—directly and adversely—substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.
(b) (1) Criteria for determining whether a crime is directly and adversely substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.
(B) The number of years elapsed since the date of the offense.
(C) The nature and duties of the profession.

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

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

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

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

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

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

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

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

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

LEGISLATIVE COUNSEL’S DIGEST


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.


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

SECTION 1. Section 825 of the Government Code is amended to read:

825. (a) Except as otherwise provided in this section, if an employee or former employee of a public entity 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 and 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, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.

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

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

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

1. The judgment is based on an act or omission of an employee or former employee acting within the course and scope of his or her employment as an employee of the public entity.
2. At the time of the act giving rise to the liability, the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent best interests of the public entity.
3. Payment of the claim or judgment would be in the best interests of the public entity.

As used in this subdivision with respect to an entity of state government, “a decision of the governing body” means the
approval of the Legislature for payment of that part of a judgment that is for punitive damages or exemplary damages, upon recommendation of the appointing power of the employee or former employee, based upon the finding by the Legislature and the appointing authority of the existence of the three conditions for payment of a punitive or exemplary damages claim. The provisions of subdivision (a) of Section 965.6 shall apply to the payment of any claim pursuant to this subdivision.

The discovery of the assets of a public entity and the introduction of evidence of the assets of a public entity shall not be permitted in an action in which it is alleged that a public employee is liable for punitive or exemplary damages. The possibility that a public entity may pay that part of a judgment that is for punitive damages shall not be disclosed in any trial in which it is alleged that a public employee is liable for punitive or exemplary damages, and that disclosure shall be grounds for a mistrial.

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

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

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

(f) (1) Except as provided in paragraph (2), a public entity shall not pay a judgment, compromise, or settlement arising from a claim or action against an elected official, if the claim or action is based on conduct by the elected official by way of tortiously
intervening or attempting to intervene in, or by way of tortiously
influencing or attempting to influence the outcome of, any judicial
action or proceeding for the benefit of a particular party by
contacting the trial judge or any commissioner, court-appointed
arbitrator, court-appointed mediator, or court-appointed special
referee assigned to the matter, or the court clerk, bailiff, or marshal
after an action has been filed, unless he or she was counsel of
record acting lawfully within the scope of his or her employment
on behalf of that party. Notwithstanding Section 825.6, if a public
entity conducted the defense of an elected official against such a
claim or action and the elected official is found liable by the trier
of fact, the court shall order the elected official to pay to the public
entity the cost of that defense.

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

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

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

(g) Notwithstanding subdivision (a), a public entity shall pay
for 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.

(h) For purposes of this section, treble damages awarded
pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,
of Title 15 of, and Sections 52 and 53 of Title 29 of, the United
States Code) for a violation of the federal Sherman Act (Sections
1 to 7, inclusive, of Title 15 of the United States Code) are not
punitive or exemplary damages under this division.
SECTION 1. Chapter 10 (commencing with Section 473) is added to Division 1 of the Business and Professions Code, to read:

CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL BOARDS

473. The following are policies of the state:
(a) Occupational licensing laws should be construed and applied to increase economic opportunity, promote competition, and encourage innovation.
(b) Regulators should displace competition through occupational licensing only where less restrictive regulation will not suffice to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare.
(c) An occupational licensing restriction should be enforced against an individual only to the extent the individual sells goods and services that are included explicitly in the statute or regulation that defines the occupation’s scope of practice.

473.1. As used in this chapter:
(a) “Covered board” means any entity listed in Section 101.
(b) “Office” means the Office of Supervision of Occupational Boards established in Section 473.2.

473.2. (a) There is hereby established an Office of Supervision of Occupational Boards within the department.
(b) (1) Notwithstanding Section 109, the office shall be responsible for exercising active supervision over each covered board to ensure compliance with the policies in Section 473.

(C) Exercise control over each covered board by reviewing and affirmatively approving only rules, policies, and enforcement actions that are consistent with Section 473.
(D) Analyze existing and proposed rules and policies and conduct investigations to gain additional information to promote compliance with Section 473, including, but not limited to, less restrictive regulatory approaches.

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

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

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

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

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

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

(2) Any appeal authorized under paragraph (1) shall be to the superior court.
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 BreEZer 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:_____
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


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, 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.


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

SECTION 1. Section 1682 of the Business and Professions Code is amended to read:

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

(b) Any dentist with patients recovering from conscious sedation or general anesthesia to fail to have the patients closely monitored
by licensed health professionals experienced in the care and
resuscitation of patients recovering from conscious sedation or
general anesthesia. If one licensed professional is responsible for
the recovery care of more than one patient at a time, all of the
patients shall be physically in the same room to allow continuous
visual contact with all patients and the patient to recovery staff
ratio should not exceed three to one.

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

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

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

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

“The administration and monitoring of general anesthesia may
vary depending on the type of procedure, the type of practitioner,
the age and health of the patient, and the setting in which anesthesia
is provided. Risks may vary with each specific situation. You are
encouraged to explore all the options available for your child’s
anesthesia for his or her dental treatment, including nonsurgical
treatment options, treatment and consult with your dentist or
pediatrician as needed. You are further encouraged to
consult with your dentist on all of the nonsurgical dental treatment
options available that may reduce, delay, or eliminate the need
for anesthesia for surgical dental treatment prior to granting this
consent.”

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

SEC. 2. Section 1367.71 of the Health and Safety Code is
amended to read:
Every health care service plan contract, other than a specialized health care service plan contract, that is issued, amended, renewed, or delivered on or after January 1, 2019, shall be deemed to cover general anesthesia and associated facility charges for dental procedures when the clinical status or underlying medical condition of the patient requires dental procedures that ordinarily would not require general anesthesia. The health care service plan may require prior authorization of general anesthesia and associated charges required for dental care procedures in the same manner that prior authorization is required for other covered diseases or conditions.

This section shall apply only to general anesthesia and associated facility charges for only the following enrollees, and only if the enrollees meet the criteria in subdivision (a):

1. Enrollees who are under seven years of age.
2. Enrollees who are developmentally disabled, regardless of age.
3. Enrollees whose health is compromised and for whom general anesthesia is medically necessary, regardless of age.

Nothing in this section shall require the health care service plan to cover any charges for the dental procedure itself, including, but not limited to, the professional fee of the dentist. Coverage for anesthesia and associated facility charges pursuant to this section shall be subject to all other terms and conditions of the plan that apply generally to other benefits.

Nothing in this section shall be construed to allow a health care service plan to deny coverage for basic health care services, as defined in Section 1345.

A health care service plan may include coverage specified in subdivision (a) at any time prior to January 1, 2019.

Section 10119.9 of the Insurance Code is amended to read:

(a) A disability insurance policy or certificate covering hospital, surgical, or medical expenses, that meets the definition of “health benefit plan” in subdivision (a) of Section 10198.6, that is issued, amended, renewed, or delivered on or after January 1, 2019, shall be deemed to cover general anesthesia and associated facility charges for dental procedures when the clinical status or underlying medical condition of the insured requires dental procedures that ordinarily would not require general anesthesia.
anesthesia. The disability insurance policy or certificate may require prior authorization of general anesthesia and associated charges required for dental care procedures in the same manner that prior authorization is required for other covered diseases or conditions.

(b) This section shall apply only to general anesthesia and associated facility charges for only the following insureds, and only if the insureds meet the criteria in subdivision (a):

(1) Insureds who are under seven years of age.

(2) Insureds who are developmentally disabled, regardless of age.

(3) Insureds whose health is compromised and for whom general anesthesia is medically necessary, regardless of age.

(c) Nothing in this section shall require insurers to cover any charges for the dental procedure itself, including the professional fee of the dentist. Coverage for anesthesia and associated facility charges pursuant to this section shall be subject to all other terms and conditions of the policy or certificate that apply generally to other benefits.

(d) Nothing in this section shall require insurers to cover anesthesia or related facility charges for dental procedures that ordinarily would require general anesthesia and that do not meet the requirements of subdivision (a), (b), or (c).

(e) A disability insurance policy may include coverage specified in subdivision (a) at any time prior to January 1, 2019.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SUMMARY
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:_____
An act to add Section 688 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST


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 require the pharmacy to transmit 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.


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

SECTION 1. Section 688 is added to the Business and Professions Code, to read:

688. (a) On and after January 1, 2022, a health care practitioner authorized to issue a prescription pursuant to Section 4040 shall have the capability to issue an electronic data transmission prescription, as defined under Section 4040, on behalf of a patient and to transmit that electronic data transmission prescription to a pharmacy selected by the patient.

(b) On and after January 1, 2022, a pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall have the capability to receive an electronic data transmission prescription on behalf of a patient.

(c) For a prescription for a controlled substance, as defined by Section 4021, generation and transmission of the electronic data transmission prescription shall comply with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(d) On and after January 1, 2022, a prescription prescribed by a health care practitioner shall be issued as an electronic data transmission prescription. This subdivision shall not apply to prescriptions issued pursuant to subdivisions (e) and (f): subdivision (e).

(e) Subdivision (d) shall not apply to any of the following:
(1) The prescription is issued pursuant to Section 11159.2 of the Health and Safety Code.

(2) An electronic data transmission prescription is not available due to a temporary technological or electrical failure. For purposes of this paragraph, “temporary technological or electrical failure” means failure of a computer system, application, or device, or the loss of electrical power to that system, application, or device, or any other service interruption affecting the certified electronic data transmission prescription application used to transmit the prescription.

(3) The prescribing health care practitioner is issuing a prescription to be dispensed by a pharmacy located outside California.

(4) (A) The prescription is issued in a hospital emergency department or urgent care clinic and one or more of the following conditions are present:
   (i) The patient resides outside California.
   (ii) The patient resides outside the geographic area of the hospital.
   (iii) The patient is homeless or indigent and does not have a preferred pharmacy.
   (iv) The prescription is issued at a time when a patient’s regular or preferred pharmacy is likely to be closed.

   (B) Under any of the conditions described in subparagraph (A), a prescription shall be electronically issued but does not require electronic transmission and may be provided directly to the patient.

(5) The prescription is issued by a veterinarian.

(6) The prescription is for eyeglasses or contact lenses.

(7) The prescribing health care practitioner and the dispenser are the same entity.

(8) The prescription is issued by a prescribing health care practitioner under circumstances whereby the practitioner reasonably determines that it would be impractical for the patient to obtain controlled substances prescribed by an electronic data transmission prescription in a timely manner, and the delay would adversely impact the patient’s medical condition.
(8) The prescription that is issued includes elements not covered by the latest version of the National Council for Prescription Drug Programs’ SCRIPT standard, as amended from time to time.

(f) Subdivision (d) shall not apply when the prescription is issued in a hospital emergency department or urgent care clinic and one or more of the following conditions are present:

(A) The patient resides outside California.

(B) The patient resides outside the geographic service area of the hospital.

(C) The patient is homeless or indigent and does not have a regular or preferred pharmacy.

(D) The prescription is issued at a time when a patient’s regular or preferred pharmacy is likely to be closed.

(2) A prescription issued pursuant to paragraph (1) does not require electronic transmission and may be provided directly to the patient.

(g) A health care practitioner who issues a prescription for a controlled substance but does not transmit the prescription as an electronic data transmission prescription shall document the reason in the patient’s medical record as soon as practicable and within 72 hours of the end of the technological or electrical failure that prevented the electronic data transmission of the prescription.

(h) A pharmacy that receives an electronic data transmission prescription from a prescribing health care practitioner who has issued the prescription but has not dispensed the medication to the patient—may, shall, at the request of the patient or a person authorized to make a request on behalf of the patient, immediately transfer or forward the electronic data transmission prescription to an alternative pharmacy designated by the requester.

(i) If a pharmacy, or its staff, is aware that an attempted transmission of an electronic data transmission prescription failed, is incomplete, or is otherwise not appropriately received, the pharmacy shall immediately notify the prescribing health care practitioner.
(i) A pharmacist who receives a written, oral, or faxed prescription shall not be required to verify that the prescription properly falls under one of the exceptions in subdivision (e) or (f).

(e). Pharmacists may continue to dispense medications from legally valid written, oral, or fax prescriptions pursuant to this division.

(j) A health care practitioner, pharmacist, or pharmacy who fails to meet the electronic capability standards of subdivisions (a) and (b) and who fails to electronically transmit prescriptions as required by subdivision (d) applicable requirements of this section shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. This section does not create a private right of action against a health care practitioner. This section does not limit a health care practitioner’s liability for the negligent failure to diagnose or treat a patient.
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:_____


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 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 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 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.


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

1 SECTION 1. Section 11123.5 is added to the Government Code, to read:
2 11123.5. (a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123,
multimember advisory body may hold a meeting by teleconference as described in this section, provided the meeting complies with all of the section’s requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section’s requirements shall be listed in the minutes of the meeting. The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its Internet Web site and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body participating remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. This section does not affect the requirement prescribed by this article that the state body post an agenda at least 10 days in advance of the meeting.

(c) A state body described in subdivision (a) shall designate the primary physical meeting location where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote.

(d) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section’s requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. The applicable teleconference phone number or Internet Web site, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(e) Upon discovering that a means of remote access required by subdivision (c) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting’s end or adjournment on its Internet Web site and
by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body’s agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

SECTION 1. Section 11123.5 is added to the Government Code, to read:

11123.5. Notwithstanding any other law, all of the following shall apply to a meeting held by teleconference under this article by an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body that does not have rulemaking authority, as described in subdivision (c) of Section 11121:

(a) A member of a state body described in this section participating by teleconference shall be listed in the minutes of the meeting and shall provide notice of his or her participation by teleconference at least 24 hours before the meeting.

(b) A state body described in this section shall designate a primary physical meeting location where participants may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location.

(c) The teleconference phone number and, if applicable, the Internet Web site or other information indicating how the public can access the meeting remotely, shall be included in the agenda, which shall be available to the public.

(d) (1) Nothing in this section shall exempt a state body described in this section from providing information regarding the physical location of a state body meeting or any teleconference participation information, including the identity of a state body member who might be participating by teleconference.

(2) On and after January 1, 2019, prior to holding a meeting by teleconference pursuant to this section, a state body described in this section shall adopt teleconferencing guidelines consistent with this section to address issues that include, but are not limited to,
cancellations as a result of technical difficulties, ensuring transparency, and public participation.
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.

Agenda Item 14 B x: SB 501
August 23, 2018
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


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 permit holder 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 permitholders 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 require 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 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 permitholders 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:_____
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


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.

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. 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.


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

SECTION 1. Section 1601.4 of the Business and Professions Code is amended to read:

1601.4. The board shall provide a report on pediatric deaths related to general anesthesia and deep sedation in dentistry at the time of its sunset review pursuant to subdivision (d) of Section 1601.1.

SEC. 2. Section 1601.7 is added to the Business and Professions Code, to read:

1601.7. (a) On or before January 1, 2019, the board shall provide to the Legislature a report and analysis of the effects on access to care for pediatric dental patients specifically as it relates to requiring the addition of a second general anesthesia permit holder to be present during the administration of general anesthesia on a patient seven years of age or younger, if the provider is currently a general anesthesia permit holder. The analysis should include costs of sedation and anesthesia, resource constraints of the health care system, including Denti-Cal compared to private insurance, and feasibility issues that include, but are not limited to, time, skills, staff availability, and equipment availability for the provider to carry out necessary dental procedures. The board shall make the report publicly available on the board’s Internet Web site.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023.

SEC. 3. Section 1616.1 is added to the Business and Professions Code, to read:
1616.1. On or before January 1, 2019, the board shall conduct a review of pediatric morbidity and mortality data beginning January 1, 2017, for the purpose of obtaining high-quality data about outcomes and complications related to pediatric dental sedation and anesthesia. It is the intent of this section that the collection of data shall lead to further quality improvement and safety.

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

Article 2.7. Use of Deep Sedation and General Anesthesia

SEC. 5. Section 1646 of the Business and Professions Code is amended to read:

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.

SEC. 6. Section 1646.1 of the Business and Professions Code is amended to read:

1646.1. (a) A dentist must possess either 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 must possess a pediatric endorsement for the 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 must be physically within the dental office at the time of ordering, and during the administration of, general anesthesia or deep sedation.

(d) For patients seven to 13 years of age, inclusive, the dentist and at least two support staff shall be present for the procedure involving general anesthesia or deep sedation. The dentist shall be currently certified in Pediatric Advanced Life Support (PALS) and at least one support staff member shall be trained in pediatric life support and airway management, equivalent to the American Academy of Pediatrics and American Academy of Pediatric Dentistry (AAP-AAPD) Guidelines or as determined by the board. That staff member shall be dedicated to monitoring the patient throughout the procedure.

(e) For children under seven years of age, there shall be at least three people present during the procedure involving general anesthesia or deep sedation, including the dentist. One person present shall be solely dedicated to monitoring the patient and shall be trained in pediatric life support and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the board. The second person shall also be trained in pediatric life support and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the board, and may assist in the procedure as needed. If a dedicated anesthesia provider is utilized, that person shall be a general anesthesia permit holder with a current pediatric endorsement and shall be certified in ACLS and PALS.

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

SEC. 7. Section 1646.2 of the Business and Professions Code is amended to read:

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) Beginning January 1, 2019, a dentist may apply for a pediatric endorsement for the general anesthesia permit by:

1. Providing proof of successful completion of 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 children under seven years of age.

2. Providing proof of successful completion of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency, both at the time of initial application and at renewal.

3. Providing evidence of current and continuous certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) for the duration of holding the permit.

(d) Initial applicants for a pediatric endorsement who otherwise qualify for the pediatric endorsement but lack sufficient cases of pediatric sedation to patients under age seven years of age shall be allowed to provide deep sedation and general anesthesia on patients under seven years of age under the direct supervision of a general anesthesia permitholder with a pediatric endorsement. The applicant may count these cases toward the 20 necessary in order to qualify for the applicant’s pediatric endorsement.

SEC. 8. Section 1646.3 of the Business and Professions Code is amended to read:

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.

SEC. 9. Section 1646.4 of the Business and Professions Code is amended to read:

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 licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. 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.

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

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 any continuing education required
by the board pursuant to Section 1645.

SEC. 11. Section 1646.6.5 is added to the Business and
Professions Code, to read:

1646.6.5. 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.

SEC. 12. Section 1646.8 of the Business and Professions Code
is amended to read:

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.

SEC. 13. Section 1646.9 of the Business and Professions Code
is amended to read:

1646.9. (a) Notwithstanding any other provision of law,
including, but not limited to, Section 1646.1, 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 both of the following conditions are met:
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).

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

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

(B) 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, and provides competency in the administration of deep sedation and general anesthesia on children under seven years of age. The applicant shall show proof of successful completion of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency, both at the time of initial application and at renewal.

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

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

(E) Evidence of current and continuous certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) for the duration of holding the permit.

(2) Prior to issuance or renewal of a permit pursuant to this section, the Dental Board of California 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 Dental Board of California for this purpose.

(3) 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.

SEC. 14. Section 1647 of the Business and Professions Code is amended to read:

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.
SEC. 15. Section 1647.1 of the Business and Professions Code is amended to read:

1647.1. (a) As used in this article, “moderate sedation” means a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, no interventions are required to maintain a patient’s airway, spontaneous ventilation is adequate, and cardiovascular function is usually maintained.

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

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

SEC. 16. Section 1647.2 of the Business and Professions Code is amended to read:

1647.2. (a) A dentist may administer or order the administration of moderate sedation on an outpatient basis for a dental patient if one of the following conditions is met:

(1) The dentist either holds a valid general anesthesia permit or obtains a moderate sedation permit.

(2) The dentist possesses a current permit under Section 1638 or 1640 and either holds a valid general anesthesia permit or obtains a moderate sedation permit.

(b) A dentist must obtain a pediatric endorsement on the moderate sedation permit prior to performing moderate sedation on a patient under 13 years of age.

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

(d) For patients seven to 13 years of age, inclusive, there shall be at least one support staff in addition to the dentist present at all times during the procedure involving moderate sedation. That staff member shall be trained in pediatric life support and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the board.
For a patient under seven years of age, there shall be at least two support staff persons, in addition to the dentist, present at all times during the procedure involving moderate sedation. One staff member shall be solely dedicated to monitoring the patient, and shall be trained in pediatric life support and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the board.

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

SEC. 17. Section 1647.3 of the Business and Professions Code is amended to read:

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

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

(c) Training in the administration of moderate sedation shall be acceptable if it meets all of the following as approved by the board:

1. Consists of at least 60 hours of instruction.

2. Requires satisfactory completion of at least 20 cases of administration of moderate sedation for a variety of dental procedures.

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

(d) A pediatric endorsement requires the dentist to be trained in Pediatric Advanced Life Support (PALS) and airway management, equivalent to the American Academy of Pediatrics and the American Academy of Pediatric Dentistry (AAP-AAPD) Guidelines, or as determined by the board, and successful completion of any of the following:

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

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

(3) A moderate sedation course that is directed at treating patients 13 years of age or older, as described in subdivision (c), in addition to completion of an accredited pediatric dental residency program. The pediatric moderate sedation permitholder shall provide proof of completion of at least 20 cases to establish competency, both at the time of the initial application and at renewal.

SEC. 18. Section 1647.5 of the Business and Professions Code is amended to read:

1647.5. A permittee shall be required to complete 15 hours of approved courses of study related to moderate sedation as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the board pursuant to Section 1645.

SEC. 19. Section 1647.6 of the Business and Professions Code is amended to read:

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

SEC. 20. Section 1647.7 of the Business and Professions Code is amended to read:

1647.7. (a) Prior to the issuance or renewal of a permit to administer moderate sedation, the board may, at its discretion, require an onsite inspection and evaluation of the licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. 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 in every six years. Refusal to submit to an
inspection shall result in automatic denial or revocation of the
permit.
(b) An applicant who has successfully completed the course
required by Section 1647.3 may be granted a one-year temporary
permit by the board prior to the onsite inspection and evaluation.
Failure to pass the inspection and evaluation shall result in the
immediate and automatic termination of the temporary permit.
(c) The board may contract with public or private organizations
or individuals expert in dental outpatient moderate sedation 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.
SEC. 21. Section 1647.8.5 is added to the Business and
Professions Code, to read:
1647.8.5. A moderate sedation permit shall expire on the date
specified in Section 1715 that next occurs after its issuance, unless
it is renewed as provided in this article.
SEC. 22. Article 2.85 (commencing with Section 1647.10) of
Chapter 4 of Division 2 of the Business and Professions Code is
repealed.
SEC. 23. Article 2.86 (commencing with Section 1647.18) of
Chapter 4 of Division 2 of the Business and Professions Code is
repealed.
SEC. 24. Article 2.87 (commencing with Section 1647.30) is
added to Chapter 4 of Division 2 of the Business and Professions
Code, to read:

Article 2.87. Use of Pediatric Minimal Sedation

As used in this article, “minimal sedation” means
a drug-induced state during which patients respond normally to
verbal commands. Cognitive function and physical coordination
may be impaired, but airway reflexes, ventilatory functions, and
cardiovascular functions are unaffected.
(b) The drugs and techniques used in minimal sedation shall
have a margin of safety wide enough to render unintended loss of
consciousness unlikely. Further, patients whose only response is
reflex withdrawal from painful stimuli shall not be considered to
be in a state of minimal sedation.
For the very young or developmentally delayed individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness should be maintained.

1647.31. (a) A dentist may administer or order the administration of minimal sedation on an outpatient basis for pediatric dental patients under 13 years of age, if one of the following conditions is met:

1. The dentist holds a valid pediatric minimal sedation permit.
2. The dentist possesses a current permit under Section 1638 or 1640 and either holds a valid general anesthesia permit or obtains a permit issued by the board authorizing the dentist to administer moderate sedation, deep sedation, or general anesthesia.

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

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

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

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

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

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

2. Includes completion of an accredited residency in pediatric dentistry.

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

(e) A minimum of one staff member, in addition to the dentist, trained in the monitoring and resuscitation of pediatric patients shall be present.
1647.33. (a) The application fee for a pediatric minimal
sedation permit or renewal under this article shall not exceed the
amount prescribed in Section 1724.
(b) 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.

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

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

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.

LEGISLATIVE COUNSEL'S DIGEST

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 these 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 and 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 or 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
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maintain certification in pediatric life support and airway management, as specified, and that one staff member serving as a dedicated patient monitor to monitoring the patient during the procedure.

The 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 possesses 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 permit holder 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 permit holder.

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

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

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

SECTION 1. Section 1601.4 of the Business and Professions Code is amended to read:

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.

(b) The board shall provide a report on pediatric deaths related to general anesthesia and deep sedation in dentistry at the time of 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.

SEC. 2. Section 1601.7 is added to the Business and Professions Code, to read:

1601.7. (a) On or before January 1, 2019, 2020, the board shall provide to the Legislature a report and analysis of the effects on access to care for pediatric dental patients specifically as it relates to requiring the addition of a second general anesthesia permit holder to be present during the administration of general anesthesia on a patient seven years of age or younger, if the provider is currently a general anesthesia permit holder. The analysis should include costs of sedation and anesthesia, resource constraints of the health care system, including Denti-Cal compared to private insurance, and feasibility issues that include, but are not limited to, time, skills, staff availability, and equipment availability for the provider to carry out necessary dental procedures. The board shall make the report publicly available on the board's
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.
6. 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.

(c) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
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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:
30
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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
15 SEC. 5. Section 1646 of the Business and Professions Code is
16 amended to read:
17 1646. As used in this article, the following definitions apply:
18 (a) "Deep sedation" means a drug-induced depression of
19 consciousness during which patients cannot be easily aroused but
20 respond purposefully following repeated or painful stimulation.
21 The ability to independently maintain ventilatory function may be
22 impaired. Patients may require assistance in maintaining a patent
23 airway, and spontaneous ventilation may be inadequate.
24 Cardiovascular function is usually maintained.
25 (b) "General anesthesia" means a drug-induced loss of
26 consciousness during which patients are not arousable, even by
27 painful stimulation. The ability to independently maintain
28 ventilatory function is often impaired. Patients often require
29 assistance in maintaining a patent airway, and positive
30 pressure ventilation may be required because of depressed
31 spontaneous ventilation or drug-induced depression of
32 neuromuscular function. Cardiovascular function may be impaired.
33 SEC. 6. Section 1646.1 of the Business and Professions Code
34 is amended to read:
35 1646.1. (a) A dentist must possess either a general anesthesia
36 permit issued by the board or a permit under Section 1638 or 1640
37 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 must possess a pediatric endorsement for the
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 must be physically within the dental office at the
time of ordering, and during the administration of, general
anesthesia or deep sedation.
(d) For patients seven to 13 years of age, inclusive, the dentist
and at least two support staff shall be present for the procedure
involving general anesthesia or deep sedation. The dentist shall
be currently certified in Pediatric Advanced Life Support (PALS)
and at least one support staff member shall be trained in pediatric
life support and airway management, equivalent to the American
Academy of Pediatrics and American Academy of Pediatric
Dentistry (AAP-AAPD) Guidelines or as determined by the board.
That staff member shall be dedicated to monitoring the patient
throughout the procedure.
(e) For children under seven years of age, there shall be at least
three people present during the procedure involving general
anesthesia or deep sedation, including the dentist. One person
present shall be solely dedicated to monitoring the patient and shall
be trained in pediatric life support and airway management,
equivalent to the AAP-AAPD Guidelines or as determined by the
board. The second person shall also be trained in pediatric life
support and airway management, equivalent to the AAP-AAPD
Guidelines or as determined by the board, and may assist in the
procedure as needed. If a dedicated anesthesia provider is utilized,
that person shall be a general anesthesia permit holder with a current
pediatric endorsement and shall be certified in ACLS and PALS.
(f) This article does not apply to the administration of local
anesthesia, minimal sedation, or moderate sedation.
SEC. 7. Section 1646.2 of the Business and Professions Code
is amended to read:
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
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1. The application for a permit shall include documentation that equipment and drugs required by the board are on the premises.
2. Beginning January 1, 2019, a dentist may apply for a pediatric endorsement for the general anesthesia permit by:
   1. Providing proof of successful completion of 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 children under seven years of age;
   2. Providing proof of successful completion of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency, both at the time of initial application and at renewal;
   3. Providing evidence of current and continuous certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) for the duration of holding the permit;
3. Initial applicants for a pediatric endorsement who otherwise qualify for the pediatric endorsement but lack sufficient cases of pediatric sedation to patients under age seven years of age shall be allowed to provide deep sedation and general anesthesia on 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 necessary in order to qualify for the applicant's pediatric endorsement.

SEC. 8. Section 1646.3 of the Business and Professions Code is amended to read:

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.

SEC. 9. Section 1646.4 of the Business and Professions Code is amended to read:

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
licentiate and the facility, equipment, personnel, and procedures
utilized by the licentiate. 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.

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

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 any continuing education required
by the board pursuant to Section 1645.

SEC. 11. Section 1646.6.5 is added to the Business and
Professions Code, to read:

1646.6.5. 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.

SEC. 12. Section 1646.8 of the Business and Professions Code
is amended to read:

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.

SEC. 13. Section 1646.9 of the Business and Professions Code
is amended to read:

1646.9. (a) Notwithstanding any other provision of law,
including, but not limited to, Section 1646.1, a physician and
surgeon licensed pursuant to Chapter 5 (commencing with Section
2000) may administer deep sedation or general anesthesia in the
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).

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

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

(B) 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, and provides competency in the administration of deep sedation and general anesthesia on children under seven years of age. The applicant shall show proof of successful completion of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency, both at the time of initial application and at renewal.

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

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

(E) Evidence of current and continuous certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) for the duration of holding the permit.

(2) Prior to issuance or renewal of a permit pursuant to this section, the Dental Board of California 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.
sedation or general anesthesia who has been authorized or retained under contract by the Dental Board of California for this purpose.

(3) 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.

SEC. 14. Section 1647 of the Business and Professions Code is amended to read:

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 anesthetics 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;
SEC. 15. Section 1647.1 of the Business and Professions Code is amended to read:
1647.1. (a) As used in this article, "moderate sedation" means a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, no interventions are required to maintain a patient's airway, spontaneous ventilation is adequate, and cardiovascular function is usually maintained.
(b) The drugs and techniques used in moderate sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of moderate sedation.
(c) For very young patients or patients with intellectual disabilities, incapable of the usually expected verbal response, a minimally depressed level of consciousness for that patient should be maintained.

SEC. 16. Section 1647.2 of the Business and Professions Code is amended to read:
1647.2. (a) A dentist may administer or order the administration of moderate sedation on an outpatient basis for a dental patient if one of the following conditions is met:
(1) The dentist either holds a valid general anesthesia permit or obtains a moderate sedation permit.
(2) The dentist possesses a current permit under Section 1638 or 1640 and either holds a valid general anesthesia permit or obtains a moderate sedation permit.
(b) A dentist must obtain a pediatric endorsement on the moderate sedation permit prior to performing moderate sedation on a patient under 13 years of age.
(c) A dentist who orders the administration of moderate sedation shall be physically present in the treatment facility while the patient is sedated.
(d) For patients seven to 13 years of age, inclusive, there shall be at least one support staff in addition to the dentist present at all times during the procedure involving moderate sedation. That staff
PROPOSED AMENDMENTS

(c) For a patient under seven years of age, there shall be at least two support staff persons, in addition to the dentist, present at all times during the procedure involving moderate sedation. One staff member shall be solely dedicated to monitoring the patient, and shall be trained in pediatric life support and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the board.

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

SEC. 17. Section 1647.3 of the Business and Professions Code is amended to read:

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

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

(e) Training in the administration of moderate sedation shall be acceptable if it meets all of the following as approved by the board:

(1) Consists of at least 60 hours of instruction;

(2) Requires satisfactory completion of at least 20 cases of administration of moderate sedation for a variety of dental procedures;

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

(d) A pediatric endorsement requires the dentist to be trained in Pediatric Advanced Life Support (PALS) and airway management, equivalent to the American Academy of Pediatrics and the American Academy of Pediatric Dentistry (AAP-AAPD) Guidelines, or as determined by the board, and successful completion of any of the following:
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Page 12 38 (1) A moderate sedation course consisting of at least 60 hours of didactic instruction and at least 20 clinical cases, as described in subdivision (e), but that is directed at treating pediatric patients under 13 years of age.

Page 13 1 (2) A moderate sedation course, as described in subdivision (e), that is directed at treating patients 13 years of age or older, in addition to at least 24 hours of didactic instruction in pediatric moderate sedation and at least 10 clinical cases in pediatric moderate sedation.

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

SEC. 18. Section 1647.5 of the Business and Professions Code is amended to read:

1647.5. A permittee shall be required to complete 15 hours of approved courses of study related to moderate sedation as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the board pursuant to Section 1645.

SEC. 19. Section 1647.6 of the Business and Professions Code is amended to read:

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

SEC. 20. Section 1647.7 of the Business and Professions Code is amended to read:

1647.7. (a) Prior to the issuance or renewal of a permit to administer moderate sedation, the board may, at its discretion, require an onsite inspection and evaluation of the licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. 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
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(b) An applicant who has successfully completed the course required by Section 1647.3 may be granted a one-year temporary permit by the board prior to the onsite inspection and evaluation. Failure to pass the inspection and evaluation shall result in the immediate and automatic termination of the temporary permit.

c) The board may contract with public or private organizations or individuals expert in dental outpatient moderate sedation 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.

SEC. 21. Section 1647.8.5 is added to the Business and Professions Code, to read:

1647.8.5. A moderate sedation permit shall expire on the date specified in Section 1715 that next occurs after its issuance, unless it is renewed as provided in this article.

SEC. 22. Article 2.85 (commencing with Section 1647.10) of Chapter 4 of Division 2 of the Business and Professions Code is repealed:

SEC. 23. Article 2.86 (commencing with Section 1647.18) of Chapter 4 of Division 2 of the Business and Professions Code is 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 arousalable, 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.
(b) 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 anesthesiologist
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
licentiate and the facility, equipment, personnel, and procedures
utilized by the licentiate. 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.
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(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
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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 permit holder 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 permit holder 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:

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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.
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:_____
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.


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

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

(a) Addiction, misuse, and overdose of prescription opioids is a public health crisis affecting both adults and children.

(b) Urgent measures are needed to better inform the public of the risks associated with both the long-term and short-term use of opioids in an effort to address this problem.

(c) Both short-term and long-term prescriptions of opioids to minors fall within situations that require counseling of patients and their parents or guardians by their prescribers.

(d) It is the intent of the Legislature to ensure that health care providers and young athletes receive necessary education on this topic.

SEC. 2. Section 1645 of the Business and Professions Code is amended to read:

1645. (a) Effective with the 1974 license renewal period, if the board determines that the public health and safety would be served by requiring all holders of licenses under this chapter to continue their education after receiving a license, it may require, as a condition to the renewal thereof, that they submit assurances satisfactory to the board that they will, during the succeeding two-year period, inform themselves of the developments in the practice of dentistry occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the board or by other means deemed equivalent by the board.
The board shall adopt regulations providing for the suspension of the licenses at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

(b) The board may also, as a condition of license renewal, require licentiates to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the board. The board may prescribe this mandatory coursework within the general areas of patient care, health and safety, law and ethics, and the risks of addiction associated with the use of Schedule II drugs. The mandatory coursework prescribed by the board shall not exceed fifteen 15 hours per renewal period for dentists, and seven and one-half 7.5 hours per renewal period for dental auxiliaries. Any mandatory coursework required by the board shall be credited toward the continuing education requirements established by the board pursuant to subdivision (a).

(c) For a retired dentist who provides only uncompensated care, the board shall not require more than 60 percent of the hours of continuing education that are required of other licensed dentists. Notwithstanding subdivision (b), all of the hours of continuing education as described in this subdivision shall be gained through courses related to the actual delivery of dental services to the patient or the community, as determined by the board. Nothing in this subdivision shall be construed to reduce any requirements imposed by the board pursuant to subdivision (b).

(d) The board shall report on the outcome of subdivision (c) pursuant to, and at the time of, its regular sunset review process, as provided in Section 1601.1.

SEC. 3. Section 2190.5 of the Business and Professions Code is amended to read:

2190.5. (a) (1) All physicians and surgeons shall complete a mandatory continuing education course in the subjects of pain management and the treatment of terminally ill and dying patients. For the purposes of this section, this course shall be a one-time requirement of 12 credit hours within the required minimum established by regulation, to be completed by December 31, 2006. All physicians and surgeons licensed on and after January 1, 2002, shall complete this requirement within four years of their initial license or by their second renewal date, whichever occurs first. The board may verify completion of this requirement on the renewal application form.
(2) For physicians and surgeons licensed on or after January 1, 2019, the course described in paragraph (1) shall also include the subject of the risks of addiction associated with the use of Schedule II drugs.

(b) By regulatory action, the board may exempt physicians and surgeons by practice status category from the requirement in subdivision (a) if the physician and surgeon does not engage in direct patient care, does not provide patient consultations, or does not reside in the State of California.

(c) This section shall not apply to physicians and surgeons practicing in pathology or radiology specialty areas.

SEC. 4. Section 2191 of the Business and Professions Code is amended to read:

2191. (a) In determining its continuing education requirements, the board shall consider including a course in human sexuality, defined as the study of a human being as a sexual being and how he or she functions with respect thereto, and nutrition to be taken by those licensees whose practices may require knowledge in those areas.

(b) The board shall consider including a course in child abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected children.

(c) The board shall consider including a course in acupuncture to be taken by those licensees whose practices may require knowledge in the area of acupuncture and whose education has not included instruction in acupuncture.

(d) The board shall encourage every physician and surgeon to take nutrition as part of his or her continuing education, particularly a physician and surgeon involved in primary care.

(e) The board shall consider including a course in elder abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected persons 65 years of age and older.

(f) In determining its continuing education requirements, the board shall consider including a course in the early detection and treatment of substance abusing pregnant women to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these women.
(g) In determining its continuing education requirements, the board shall consider including a course in the special care needs of drug addicted infants to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these infants.

(h) In determining its continuing education requirements, the board shall consider including a course providing training and guidelines on how to routinely screen for signs exhibited by abused women, particularly for physicians and surgeons in emergency, surgical, primary care, pediatric, prenatal, and mental health settings. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(i) In determining its continuing education requirements, the board shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

1. Pain and symptom management.
2. The psycho-social dynamics of death.
3. Dying and bereavement.
4. Hospice care.

(j) In determining its continuing education requirements, the board shall give its highest priority to considering a course on pain management and the risks of addiction associated with the use of Schedule II drugs.

(k) In determining its continuing education requirements, the board shall consider including a course in geriatric care for emergency room physicians and surgeons.

SEC. 5. Section 2196.2 of the Business and Professions Code is amended to read:

2196.2. The board shall periodically develop and disseminate information and educational material regarding pain management techniques and procedures, including the risks of addiction associated with the use of Schedule II drugs, to each licensed physician and surgeon and to each general acute care hospital in this state. The board shall consult with the State Department of Public Health in developing the materials to be distributed pursuant to this section.
SEC. 6. Section 2454.5 of the Business and Professions Code is amended to read:

2454.5. In order to ensure the continuing competence of licensed osteopathic physicians and surgeons, the board shall adopt and administer standards for the continuing education of those licensees. The board shall require each licensed osteopathic physician and surgeon to demonstrate satisfaction of the continuing education requirements as a condition for the renewal of a license at intervals of not less than one year nor more than two years. Commencing January 1, 2018, the board shall require each licensed osteopathic physician and surgeon to complete a minimum of 100 hours of American Osteopathic Association continuing education hours during each two-year cycle, of which 40 hours shall be completed in American Osteopathic Association Category 1 continuing education hours and the remaining 60 hours shall be either American Osteopathic Association or American Medical Association accredited as a condition for renewal of an active license. Licensed osteopathic physicians and surgeons shall complete a course on the risks of addiction associated with the use of Schedule II drugs.

For purposes of this section, “American Osteopathic Association Category 1” means continuing education activities and programs approved for Category 1 credit by the Committee on Continuing Medical Education of the American Osteopathic Association.

SEC. 7. Section 2746.51 of the Business and Professions Code is amended to read:

2746.51. (a) Neither this chapter nor any other provision of law shall be construed to prohibit a certified nurse-midwife from furnishing or ordering drugs or devices, including controlled substances classified in Schedule II, III, IV, or V under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), when all of the following apply:

(1) The drugs or devices are furnished or ordered incidentally to the provision of any of the following:

(A) Family planning services, as defined in Section 14503 of the Welfare and Institutions Code.
(B) Routine health care or perinatal care, as defined in subdivision (d) of Section 123485 of the Health and Safety Code.
(C) Care rendered, consistent with the certified nurse-midwife’s educational preparation or for which clinical competency has been established and maintained, to persons within a facility specified in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the Health and Safety Code, a clinic as specified in Section 1204 of the Health and Safety Code, a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code, a licensed birth center as defined in Section 1204.3 of the Health and Safety Code, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of the Health and Safety Code.

(2) The drugs or devices are furnished or ordered by a certified nurse-midwife in accordance with standardized procedures or protocols. For purposes of this section, standardized procedure means a document, including protocols, developed and approved by the supervising physician and surgeon, the certified nurse-midwife, and the facility administrator or his or her designee. The standardized procedure covering the furnishing or ordering of drugs or devices shall specify all of the following:

(A) Which certified nurse-midwife may furnish or order drugs or devices.

(B) Which drugs or devices may be furnished or ordered and under what circumstances.

(C) The extent of physician and surgeon supervision.

(D) The method of periodic review of the certified nurse-midwife’s competence, including peer review, and review of the provisions of the standardized procedure.

(3) If Schedule II or III controlled substances, as defined in Sections 11055 and 11056 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon. For Schedule II controlled substance protocols, the provision for furnishing the Schedule II controlled substance shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.

(4) The furnishing or ordering of drugs or devices by a certified nurse-midwife occurs under physician and surgeon supervision. For purposes of this section, no physician and surgeon shall
supervise more than four certified nurse-midwives at one time. 

Physician and surgeon supervision shall not be construed to require 
the physical presence of the physician, but does include all of the 
following:

(A) Collaboration on the development of the standardized 
procedure or protocol.

(B) Approval of the standardized procedure or protocol.

(C) Availability by telephonic contact at the time of patient 
examination by the certified nurse-midwife.

(b) (1) The furnishing or ordering of drugs or devices by a 
certified nurse-midwife is conditional on the issuance by the board 
of a number to the applicant who has successfully completed the 
requirements of paragraph (2). The number shall be included on 
all transmittals of orders for drugs or devices by the certified 
nurse-midwife. The board shall maintain a list of the certified 
nurse-midwives that it has certified pursuant to this paragraph and 
the number it has issued to each one. The board shall make the list 
available to the California State Board of Pharmacy upon its 
request. Every certified nurse-midwife who is authorized pursuant 
to this section to furnish or issue a drug order for a controlled 
substance shall register with the United States Drug Enforcement 
Administration.

(2) The board has certified in accordance with paragraph (1) 
that the certified nurse-midwife has satisfactorily completed a 
course in pharmacology covering the drugs or devices to be 
furnished or ordered under this section, including the risks of 
addiction and neonatal abstinence syndrome associated with the 
use of opioids. The board shall establish the requirements for 
satisfactory completion of this paragraph.

(3) A physician and surgeon may determine the extent of 
supervision necessary pursuant to this section in the furnishing or 
ordering of drugs and devices.

(4) A copy of the standardized procedure or protocol relating 
to the furnishing or ordering of controlled substances by a certified 
nurse-midwife shall be provided upon request to any licensed 
pharmacist who is uncertain of the authority of the certified 
nurse-midwife to perform these functions.

(5) Certified nurse-midwives who are certified by the board and 
hold an active furnishing number, who are currently authorized 
through standardized procedures or protocols to furnish Schedule
II controlled substances, and who are registered with the United States Drug Enforcement Administration shall provide documentation of continuing education specific to the use of Schedule II controlled substances in settings other than a hospital based on standards developed by the board.

(c) Drugs or devices furnished or ordered by a certified nurse-midwife may include Schedule II controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) under the following conditions:

(1) The drugs and devices are furnished or ordered in accordance with requirements referenced in paragraphs (2) to (4), inclusive, of subdivision (a) and in paragraphs (1) to (3), inclusive, of subdivision (b).

(2) When Schedule II controlled substances, as defined in Section 11055 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon.

(d) Furnishing of drugs or devices by a certified nurse-midwife means the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure or protocol. Use of the term “furnishing” in this section shall include the following:

(1) The ordering of a drug or device in accordance with the standardized procedure or protocol.

(2) Transmitting an order of a supervising physician and surgeon.

(e) “Drug order” or “order” for purposes of this section means an order for medication or for a drug or device that is dispensed to or for an ultimate user, issued by a certified nurse-midwife as an individual practitioner, within the meaning of Section 1306.03 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to “prescription” in this code and the Health and Safety Code shall include drug orders issued by certified nurse-midwives; and (3) the signature of a certified nurse-midwife on a drug order issued in accordance with
this section shall be deemed to be the signature of a prescriber for
purposes of this code and the Health and Safety Code.

SEC. 8. Section 2836.1 of the Business and Professions Code
is amended to read:

2836.1. Neither this chapter nor any other provision of law
shall be construed to prohibit a nurse practitioner from furnishing
or ordering drugs or devices when all of the following apply:
(a) The drugs or devices are furnished or ordered by a nurse
practitioner in accordance with standardized procedures or
protocols developed by the nurse practitioner and the supervising
physician and surgeon when the drugs or devices furnished or
ordered are consistent with the practitioner’s educational
preparation or for which clinical competency has been established
and maintained.
(b) The nurse practitioner is functioning pursuant to standardized
procedure, as defined by Section 2725, or protocol. The
standardized procedure or protocol shall be developed and
approved by the supervising physician and surgeon, the nurse
practitioner, and the facility administrator or the designee.
(c) (1) The standardized procedure or protocol covering the
furnishing of drugs or devices shall specify which nurse
practitioners may furnish or order drugs or devices, which drugs
or devices may be furnished or ordered, under what circumstances,
the extent of physician and surgeon supervision, the method of
periodic review of the nurse practitioner’s competence, including
peer review, and review of the provisions of the standardized
procedure.
(2) In addition to the requirements in paragraph (1), for Schedule
II controlled substance protocols, the provision for furnishing
Schedule II controlled substances shall address the diagnosis of
the illness, injury, or condition for which the Schedule II controlled
substance is to be furnished.
(d) The furnishing or ordering of drugs or devices by a nurse
practitioner occurs under physician and surgeon supervision.
Physician and surgeon supervision shall not be construed to require
the physical presence of the physician, but does include (1)
collaboration on the development of the standardized procedure,
(2) approval of the standardized procedure, and (3) availability by
telephonic contact at the time of patient examination by the nurse
practitioner.
(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) (1) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure.

(2) When Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner’s standardized procedure relating to controlled substances shall be provided, upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) (1) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section.

(2) A physician and surgeon may determine the extent of supervision necessary pursuant to this section in the furnishing or ordering of drugs and devices.

(3) Nurse practitioners who are certified by the board and hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete, as part of their continuing education requirements, a course including Schedule II controlled substances, and the risks of addiction associated with their use, based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term “furnishing” in this section, in health facilities defined in Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug or device in accordance
with the standardized procedure and (2) transmitting an order of
a supervising physician and surgeon.

(i) “Drug order” or “order” for purposes of this section means
an order for medication which is dispensed to or for an ultimate
user, issued by a nurse practitioner as an individual practitioner,
within the meaning of Section 1306.02 of Title 21 of the Code of
Federal Regulations. Notwithstanding any other provision of law,
(1) a drug order issued pursuant to this section shall be treated in
the same manner as a prescription of the supervising physician;
(2) all references to “prescription” in this code and the Health and
Safety Code shall include drug orders issued by nurse practitioners;
and (3) the signature of a nurse practitioner on a drug order issued
in accordance with this section shall be deemed to be the signature
of a prescriber for purposes of this code and the Health and Safety
Code.

SEC. 9. Section 3059 of the Business and Professions Code is
amended to read:

3059. (a) It is the intent of the Legislature that the public health
and safety would be served by requiring all holders of licenses to
practice optometry granted under this chapter to continue their
education after receiving their licenses. The board shall adopt
regulations that require, as a condition to the renewal thereof, that
all holders of licenses submit proof satisfactory to the board that
they have informed themselves of the developments in the practice
of optometry occurring since the original issuance of their licenses
by pursuing one or more courses of study satisfactory to the board
or by other means deemed equivalent by the board.

(b) The board may, in accordance with the intent of this section,
make exceptions from continuing education requirements for
reasons of health, military service, or other good cause.

(c) If for good cause compliance cannot be met for the current
year, the board may grant exemption of compliance for that year,
provided that a plan of future compliance that includes current
requirements as well as makeup of previous requirements is
approved by the board.

(d) The board may require that proof of compliance with this
section be submitted on an annual or biennial basis as determined
by the board.

(e) An optometrist certified to use therapeutic pharmaceutical
agents pursuant to Section 3041.3 shall complete a total of 50 hours
of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis, treatment, and management of ocular disease in any combination of the following areas:

(1) Glaucoma.
(2) Ocular infection.
(3) Ocular inflammation.
(4) Topical steroids.
(5) Systemic medication.
(6) Pain medication, including the risks of addiction associated with the use of Schedule II drugs.

(f) The board shall encourage every optometrist to take a course or courses in pharmacology and pharmaceuticals as part of his or her continuing education.

(g) The board shall consider requiring courses in child abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(h) The board shall consider requiring courses in elder abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected elder persons.

SEC. 10. Section 3502.1 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

(c) The supervising physician and surgeon shall use either of 
the following mechanisms to ensure adequate supervision of the 
administration, provision, or issuance by a physician assistant of 
a drug order to a patient for Schedule II controlled substances:

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

(2) If the physician assistant has documentation evidencing the 
successful completion of an education course that covers controlled 
substances, and that controlled substance education course (A) 
meets the standards, including pharmacological content, established 
in Sections 1399.610 and 1399.612 of Title 16 of the California 
Code of Regulations, and (B) is provided either by an accredited 
continuing education provider or by an approved physician assistant 
training program, the supervising physician and surgeon shall 
review, countersign, and date, within seven days, a sample 
consisting of the medical records of at least 20 percent of the 
patients cared for by the physician assistant for whom the physician 
assistant’s Schedule II drug order has been issued or carried out. 
Completion of the requirements set forth in this paragraph shall 
be verified and documented in the manner established in Section 
1399.612 of Title 16 of the California Code of Regulations. 
Physician assistants who have a certificate of completion of the 
course described in paragraph (2) of subdivision (c) shall be 
deemed to have met the education course requirement of this 
subdivision.

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

(g) The board shall consult with the Medical Board of California 
and report during its sunset review required by Article 7.5 
(commencing with Section 9147.7) of Chapter 1.5 of Part 1 of 
Division 2 of Title 2 of the Government Code the impacts of
exempting Schedule III and Schedule IV drug orders from the
requirement for a physician and surgeon to review and countersign
the affected medical record of a patient.

SEC. 11. Section 4076.7 is added to the Business and
Professions Code, to read:

4076.7. In addition to the requirements of Sections 4076 and
4076.5, whenever a prescription drug containing an opioid is
dispensed to a patient for outpatient use, the pharmacy or
practitioner dispensing the drug shall prominently display on the
label or container, by means of a flag or other notification
mechanism attached to the container, a notice that states “Caution:
Opioid. Risk of overdose and addiction.”

SEC. 12. Section 49476 is added to the Education Code, to
read:

49476. (a) If a school district, charter school, or private school
elects to offer an athletic program, the school district, charter
school, or private school shall annually give the Opioid Factsheet
for Patients published by the Centers for Disease Control and
Prevention to each athlete. The athlete and, if the athlete is 17 years
of age or younger, the athlete’s parent or guardian shall sign a
document acknowledging receipt of the Opioid Factsheet for
Patients and return that document to the school district, charter
school, or private school before the athlete initiates practice or
competition. The Opioid Factsheet for Patients may be sent and
returned through an electronic medium, including, but not limited
to, fax or email.

(b) This section does not apply to an athlete engaging in an
athletic activity during the regular schoolday or as part of a physical
education course required pursuant to subdivision (d) of Section
51220.

SEC. 13. Section 11158.1 is added to the Health and Safety
Code, to read:

11158.1. (a) Except when a patient is being treated as set forth
in Sections 11159, 11159.2, and 11167.5, and Article 2
(commencing with Section 11215) of Chapter 5, pertaining to the
treatment of addicts, or for a diagnosis of chronic intractable pain
as used in Section 124960 of this code and Section 2241.5 of the
Business and Professions Code, a prescriber shall 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 directly 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 the 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.
(b) This section does not apply in any of the following
circumstances:
(1) If the minor’s treatment includes emergency services and
care as defined in Section 1317.1.
(2) If the minor’s treatment is associated with or incident to an
emergency surgery, regardless of whether the surgery is performed
on an inpatient or outpatient basis.
(3) If, in the prescriber’s professional judgment, fulfilling the
requirements of subdivision (a) would be detrimental to the minor’s
health or safety, or in violation of the minor’s legal rights
regarding confidentiality.
(c) Notwithstanding any other law, including Section 11374,
failure to comply with this section shall not constitute a criminal
offense.
SEC. 14. Section 124236 is added to the Health and Safety
Code, to read:
124236. (a) A youth sports organization, as defined in
paragraph (3) of subdivision (b) of Section 124235, that elects to
offer an athletic program shall annually give the Opioid Factsheet
for Patients published by the Centers for Disease Control and
Prevention to each athlete. The athlete and, if the athlete is 17 years
of age or younger, the athlete’s parent or guardian shall sign a
document acknowledging receipt of the Opioid Factsheet for
Patients and return that document to the youth sports organization
before the athlete initiates practice or competition. The Opioid
Factsheet for Patients may be sent and returned through an
electronic medium, including, but not limited to, fax or email.
(b) This section shall apply to all athletes participating in the
activities of a youth sports organization, irrespective of their ages.
This section shall not be construed to prohibit a youth sports
organization, or any other appropriate entity, from adopting and
enforcing rules intended to provide a higher standard of safety for
athletes than the standard established under this section.

SEC. 15. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
SUMMARY
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:_____
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.


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

SECTION 1. Section 714 is added to the Military and Veterans Code, to read:

714. (a) The Department of Veterans Affairs and the Department of Consumer Affairs shall both, in consultation with
each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans: veterans and their spouses.

(b) The awareness efforts in subdivision (a) shall include, but not be limited to, all both of the following:

1. Proactive information dissemination to veteran groups in the state.

2. (1) Posting information and resources on each department’s respective Internet Web site.

3. (2) Including information about these benefits in any communications that these agencies have with veterans when it is appropriate.
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:_____
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 authorization 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, 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.

State-mandated local program: no.

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

SECTION 1. Section 14132.225 is added to the Welfare and Institutions Code, immediately following Section 14132.22, to read:

14132.225. (a) (1) The application of silver diamine fluoride when used as a caries arresting agent is a covered benefit under this chapter. A provider of services for the treatment of dental caries may provide, and receive reimbursement for, the application of silver diamine fluoride, on a per-tooth basis, when used to arrest an active, nonsymptomatic carious lesion, and without mechanical removal of sound tooth structure, if all of the following conditions are met:

(1) There is a consultation with the beneficiary, or his or her designee.

(2) The beneficiary, or his or her designee, signs a written informed consent form that is approved by the department.

(3) The treatment is part of a comprehensive treatment plan.
(2) For purposes of this subdivision, a “provider of services for
the treatment of dental caries” includes a registered dental hygienist
in alternative practice.
(b) This section does not preclude the use of silver diamine
fluoride for preventive services, when appropriate.
(c) The department may establish appropriate utilization controls
as set forth under Section 14133 for patients eligible to receive
services under this section.
(c) Nothing shall prohibit a registered dental hygienist in
alternative practice from billing for this benefit when all the
requirements of paragraphs (1) to (3), inclusive, of subdivision
(a) are met.
(d) (1) This benefit shall be limited to the following Medi-Cal
populations:
(A) Children six years of age and under.
(B) Persons with disabilities or other underlying conditions
such that nonrestorative caries treatment may be optimal.
(C) Adults who live in a licensed skilled nursing facility or
licensed intermediate care facility.
(2) The limitation described in this subdivision shall be
implemented only until January 1, 2023.
(e) This section shall only be implemented to the extent that
both of the following occur:
(1) The department obtains any federal approvals necessary to
implement this section.
(2) The department obtains federal matching funds to the extent
permitted by federal law.
(f) Notwithstanding Chapter 3.5 (commencing with Section
11340) of Part 1 of Division 3 of Title 2 of the Government Code,
the department may implement the provisions of this section by
means of all-county letters, provider bulletins, or similar
instructions, without taking further regulatory action.
(g) This section shall become operative on January 1, 2019.
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 their 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 28).
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 opposition 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:_____
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, 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.


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

SECTION 1. Section 123106 is added to the Health and Safety Code, to read:

123106. (a) A health care provider described in paragraphs (4), (5), (6), (8), and (9) of subdivision (a) of Section 123105, who
creates patient records, as defined in subdivision (d) of Section
123105, shall, at the time the initial patient record is created, no later than the date of the first service delivery, or as soon as
reasonably practicable after an emergency treatment situation,
provide a statement to be signed by the patient, or the patient’s
representative, that sets forth both of the following:

1. The patient’s rights under this chapter to inspect his or her
medical records, obtain copies of his or her medical records, and
to provide a written addendum, pursuant to Section 123111, with
respect to any item or statement in the patient’s records that the
patient believes to be incomplete or incorrect.

2. The intended retention period for the records, as specified
in applicable law or by the health care provider’s retention policy.

(b) A copy of the signed statement required pursuant to
subdivision (a) shall be provided to the patient.

(c) If a patient, or the patient’s representative, is provided a
statement at the time that the initial patient record is created,
pursuant to subdivision (a), and the patient refuses to sign the
statement, the patient’s record shall indicate that the patient refused
to sign the statement.
(d) The statement required by subdivision (a) may be included in another form or statement provided to the patient, or the patient’s representative, at the time the initial patient record is created, if the form or statement is provided no later than the date of the first service delivery, or as soon as reasonably practicable after an emergency treatment situation.

(e) If a health care provider to whom subdivision (a) applies plans to destroy patient records, the health care provider shall, no fewer than 60 days before a patient’s records are to be destroyed, notify the patient, via first-class mail, electronic mail, or both, to the patient’s last known mailing or electronic mail address, or both. The notification shall inform the patient that his or her records are scheduled to be destroyed and the date of the proposed destruction of records. The notification shall also inform the patient of his or her rights under this chapter to inspect his or her medical records. A health care provider to whom subdivision (a) applies shall provide a patient with his or her original medical records that the provider plans to destroy earlier than the period specified in the signed statement if the patient makes a request for the records to the health care provider before the date of the proposed destruction of the records. The patient or the patient’s authorized representative may designate delivery of patient records either by personal pickup, mail, overnight delivery, or other delivery means. This section does not reduce the length of record retention as otherwise required by law.

(f) A health care provider may charge a patient for the actual costs incurred by the health care provider for copying, mailing, or shipping the patient’s records under this section in accordance with subdivision (k) of Section 123110. This section does not authorize a health care provider to charge a patient for maintenance of any patient records that the health care provider is obligated by law to maintain.

(g) A health care provider to whom subdivision (a) applies shall not be subject to this section for medical records that are created for a patient who is referred to the provider solely for a diagnostic evaluation, if the provider does not provide treatment to the patient and reports the results of the diagnostic evaluation to the patient’s referring provider.
(h) A health care provider to whom subdivision (a) applies shall not be subject to this section if the health care provider utilizes electronic health records and those records are stored in perpetuity.

(i) A health care provider who violates this section may be cited and assessed an administrative penalty in accordance with Section 125.9 of the Business and Professions Code. A citation shall not be issued and a penalty shall not be assessed upon the first violation by a licensee of this section. Upon the second and each subsequent violation by a health care provider of this section, a citation may be issued and an administrative penalty may be assessed after appropriate notice and opportunity for hearings. Notwithstanding any other law, the remedy described in this subdivision constitutes the exclusive remedy for a violation of this section. This section does not affect other existing rights, duties, or remedies provided by law.

(j) The patient records created by a psychiatrist, including psychotherapy notes, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations, are not subject to this section.

For the purposes of this subdivision, “psychiatrist” means a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Initiative Act, who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

SEC. 2. Section 123107 is added to the Health and Safety Code, to read:

123107. (a) Notwithstanding Section 123106, if a group practice or clinic comprised of health care providers described in paragraph (4), (5), (6), (8), or (9) of subdivision (a) of Section 123105 is the custodian of patient records for those health care providers, the group practice or clinic, rather than the individual health care provider, shall be required to comply with the requirements of Section 123106.

(b) This section does not apply to a clinic described in paragraph (2) of subdivision (a) of Section 123105.
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


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:_____
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


(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.


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

1. SECTION 1. (a) This act shall be known, and may be cited, as the Increasing Access to Employment Act.
2. (b) It is the intent of the Legislature that criminal conviction records not operate as an automatic bar to employment, licensure, and certification. It is the intent of the Legislature not to change
or impact in any way the role or authority of a licensing board or
state agency to assess the fitness of applicants seeking licensure,
certification, and employment pursuant to provisions of the
Business and Professions Code, Health and Safety Code, Insurance
Code, and Welfare and Institutions Code, as applicable. This act
supersedes any statute, regulation, rule, or decision directing a
licensing board, state agency, employer, or any other applicable
person or entity, to obtain criminal history records in a manner
that conflicts with the intent of this act.

(c) It is the intent of the Legislature to create the Increasing
Access to Employment Fund for rehabilitation and reentry services
to improve prospects for licensing, certification, and professional
employment for people with criminal conviction records.
Recidivism is reduced when people with criminal convictions are
given the opportunity to secure employment and engage in a trade,
occupation, or profession. It is in the interest of public safety to
assist in the rehabilitation of criminal offenders by removing
impediments and restrictions on an offenders’ ability to obtain
employment or engage in a trade, occupation, or profession when
those impediments and restrictions are based solely upon the
existence of a criminal record. Increasing opportunities for people
with criminal records improves the economic well-being of families
and communities and is a path to full employment in California.

SEC. 2. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state
summary criminal history information.

(2) As used in this section:

(A) “State summary criminal history information” means the
master record of information compiled by the Attorney General
pertaining to the identification and criminal history of a person,
such as including name, date of birth, physical description,
fingerprints, photographs, dates of arrests, arresting agencies and
booking numbers, charges, dispositions, sentencing information,
and similar data about the person.

(B) “State summary criminal history information” does not refer
to records and data compiled by criminal justice agencies other
than the Attorney General, nor does it refer to records of complaints
to or to, investigations conducted by, or records of intelligence
information or security procedures of, the office of the Attorney
General and the Department of Justice.
(b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

1. The courts of the state.
2. Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.
3. District attorneys of the state.
4. Prosecuting city attorneys or city prosecutors of a city within the state.
5. City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.
6. Probation officers of the state.
7. Parole officers of the state.
8. A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08, 4852.01.
9. A public defender or attorney of record when representing a person in a criminal case, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.
10. An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related...
information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) A city or city, county, city and county, district, or an officer or official thereof, if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or city, county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) A person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) A managing or supervising correctional officer of a county jail or other county correctional facility.

(16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file
and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent’s having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.
(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

(B) For purposes of this paragraph, “federal tax information,” “state entity” and “designee” are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data,
he or she shall furnish a copy of the data to the person to whom
the data relates.

(2) To a peace officer of the state other than those included in
subdivision (b).

(3) To an illegal dumping enforcement officer as defined in
subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To a public officers, officer, other than a peace officers,
officer, of the United States, other states, or possessions or
territories another state, or a possession or territory of the United
States, provided that access to records similar to state summary
criminal history information is expressly authorized by a statute
of the United States, other states, or possessions or territories the
other state, or the possession or territory of the United States if
the information is needed for the performance of their official
duties.

(6) To a person when if disclosure is requested by a probation,
parole, or peace officer with the consent of the subject of the state
summary criminal history information and for purposes of
furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories
or possessions of the United States.

(8) Peace officers of the United States, other states, or territories
or possessions of the United States.

(9) To an individual who is the subject of the record requested
if needed in conjunction with an application to enter the United
States or a foreign nation.

(10) (A) (i) A public utility, as defined in Section 216 of the
Public Utilities Code, or a cable corporation as defined in
subparagraph (B), if receipt of state summary criminal history
information is needed in order to assist in employing current or
prospective employees, contract employees, or subcontract
employees who, in the course of their employment, may be seeking
entrance to private residences or adjacent grounds. The information
provided shall be limited to the record of convictions and arrests
for which the person is released on bail or on his or her own
recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this
paragraph, the Attorney General shall furnish a copy of the data
to the current or prospective employee to whom the data relates.
(iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility’s or cable corporation’s request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a “compelling need” as required to be shown in this subdivision.

(v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

(B) For purposes of this paragraph, “cable corporation” means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(11) To a campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon.
to a special education program for convicted felons, including, but
not limited to, university alternatives and halfway houses. Only
conviction information shall be furnished. The college or university
may require the convicted felon to be fingerprinted, and any inquiry
to the department under this section shall include the convicted
felon’s fingerprints and any other information specified by the
department.

(12) To a foreign government, if requested by the individual
who is the subject of the record requested, if needed in conjunction
with the individual’s application to adopt a minor child who is a
citizen of that foreign nation. Requests for information pursuant
to this paragraph shall be in accordance with the process described
in Sections 11122 to 11124, inclusive. The response shall be
provided to the foreign government or its designee and to the
individual who requested the information.

(d) Whenever an authorized request for state summary
criminal history information pertains to a person whose fingerprints
are on file with the Department of Justice and the department has
no criminal history of that person, and the information is to be
used for employment, licensing, or certification purposes, the
fingerprint card accompanying the request for information, if any,
may be stamped “no criminal record” and returned to the person
or entity making the request.

(e) Whenever state summary criminal history information
is furnished as the result of an application and is to be used for
employment, licensing, or certification purposes, the Department
of Justice may charge the person or entity making the request a
fee that it determines to be sufficient to reimburse the department
for the cost of furnishing the information. In addition, the
Department of Justice may add a surcharge to the fee to fund
maintenance and improvements to the systems from which the
information is obtained. Notwithstanding any other law, a person
or entity required to pay a fee to the department for information
received under this section may charge the applicant a fee sufficient
to reimburse the person or entity for this expense. All moneys
received by the department pursuant to this section, Sections
11105.3 and 26190, and former Section 13588 of the Education
Code shall be deposited in a special account in the General Fund
to be available for expenditure by the department to offset costs
incurred pursuant to those sections and for maintenance and
improvements to the systems from which the information is
gained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal
fingerprints and fingerprints of applicants for security guard or
alarm agent registrations or firearms qualification permits
submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
of the Business and Professions Code shall take priority over the
processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical
or research information obtained from a record, provided that the
identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information
obtained from a record in (1) a transcript or record of a judicial or
administrative proceeding or (2) any other public record if the
inclusion of the information in the public record is authorized by
a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice
or a state or local law enforcement agency may require the
submission of fingerprints for the purpose of conducting state
summary criminal history information checks that are authorized
by law.

(j) The state summary criminal history information shall include
any finding of mental incompetence pursuant to Chapter 6
(commencing with Section 1367) of Title 10 of Part 2 arising out
of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal
summary criminal history information is furnished by the
Department of Justice as the result of an application by an
authorized agency or organization and the information is to be
used for peace officer employment or certification purposes. As
used in this subdivision, a peace officer is defined in Chapter 4.5
(commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, whenever state summary
criminal history information is initially furnished pursuant to
paragraph (1), the Department of Justice shall disseminate the
following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is
presently awaiting trial, whether the applicant is incarcerated or
Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

Every successful diversion.

Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

Sex offender registration status of the applicant.

Sentencing information, if present in the department’s records at the time of the response.

This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

Every conviction rendered against the applicant.

Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate, or if the genuine effort reveals, that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.
(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(F) Sentencing information, if present in the department’s records at the time of the response.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.49, or 1170.9.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(D) Sex offender registration status of the applicant.

(E) Sentencing information, if present in the department’s records at the time of the response.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, (1), the Department of Justice shall not disseminate information about an arrest subsequently
deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction, except a conviction for which relief has been granted pursuant to Section—1203.49, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.49, or 1170.9, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within seven years of the date of the agency’s request for information or the conviction is over seven years old but the subject of the request was incarcerated or on probation or parole within seven years of the agency’s request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Sex offender registration status of the applicant.
(D) Sentencing information, if present in the department’s records at the time of the response.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.49, or 1170.9.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Sentencing information, if present in the department’s records at the time of the response.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a 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
Section 11126 prior to furnishing the information to the requesting agency, organization, or individual.

All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 16, 2018. (JR11)
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:_____
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,” as 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 her 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.

(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 National Practitioner Data Bank fee $4 for both licensure and renewal applicants.

(7) 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.

(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.

(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)
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.

(12) 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.

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.

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


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

SECTION 1. Section 101 of the Business and Professions Code, as added by Section 4 of Chapter 828 of the Statutes of 2017, is amended to read:

101. The department is comprised of the following:
(a) The Dental Board of California.
(b) The Medical Board of California.
(c) The State Board of Optometry.
(d) The California State Board of Pharmacy.
(e) The Veterinary Medical Board.
(f) The California Board of Accountancy.
(g) The California Architects Board.
(h) The State Board of Barbering and Cosmetology.
(i) The Board for Professional Engineers, Land Surveyors, and Geologists.
(j) The Contractors’ State License Board.
(k) The Bureau for Private Postsecondary Education.
(l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
(m) The Board of Registered Nursing.
(n) The Board of Behavioral Sciences.
(o) The State Athletic Commission.
(p) The Cemetery and Funeral Bureau.
(q) The Bureau of Security and Investigative Services.
(r) The Court Reporters Board of California.
(s) The Board of Vocational Nursing and Psychiatric Technicians.
(t) The Landscape Architects Technical Committee.
(u) The Division of Investigation.
(v) The Bureau of Automotive Repair.
(w) The Respiratory Care Board of California.
(x) The Acupuncture Board.
(y) The Board of Psychology.
(z) The California Board of Podiatric Medicine.
(aa) The Physical Therapy Board of California.
(ab) The Arbitration Review Program.
(ac) The Physician Assistant Committee.
(ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(ae) The California Board of Occupational Therapy.
(af) The Osteopathic Medical Board of California.
(ag) The Naturopathic Medicine Committee.
(ah) The Dental Hygiene Committee of California.
(ai) The Professional Fiduciaries Bureau.
(aj) The State Board of Chiropractic Examiners.
(ak) The Bureau of Real Estate Appraisers.
(al) The Structural Pest Control Board.
(am) The Bureau of Cannabis Control.
(an) Any other boards, offices, or officers subject to its jurisdiction by law.
(ao) This section shall become operative on July 1, 2018.

SEC. 2. Section 101.7 of the Business and Professions Code is amended to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least two times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least two times in a calendar year.
(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester’s chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board’s intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

SEC. 3. Section 109.5 is added to the Business and Professions Code, to read:

109.5. Each board comprising the department shall 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.

SEC. 4. Section 328 of the Business and Professions Code is amended to read:

328. (a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement “Complaint Prioritization Guidelines” for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

(b) Neither the Medical Board of California nor the California Board of Podiatric Medicine shall be required to utilize the guidelines implemented pursuant to subdivision (a).

(c) On or before July 1, 2019, the director shall amend the guidelines implemented pursuant to subdivision (a) to include the category of “allegations of serious harm to a minor” under the “urgent” or “highest priority” level.

SEC. 5. Section 1007 is added to the Business and Professions Code, to read:

1007. Notwithstanding any other law, the amount of regulatory fees necessary to carry out the responsibilities required by the
Chiropractic Initiative Act and this chapter are fixed in the following schedule:

(a) Fee to apply for a license to practice chiropractic: three hundred seventy-one dollars ($371).

(b) Fee for initial license to practice chiropractic: one hundred eighty-six dollars ($186).

(c) Fee to renew an active or inactive license to practice chiropractic: three hundred thirteen dollars ($313).

(d) Fee to apply for approval as a continuing education provider: eighty-four dollars ($84).

(e) Biennial continuing education provider renewal fee: fifty-six dollars ($56).

(f) Fee to apply for approval of a continuing education course: fifty-six dollars ($56) per course.

(g) Fee to apply for a satellite office certificate: sixty-two dollars ($62).

(h) Fee to renew a satellite office certificate: thirty-one dollars ($31).

(i) Fee to apply for a license to practice chiropractic pursuant to Section 9 of the Chiropractic Initiative Act: three hundred seventy-one dollars ($371).

(j) Fee to apply for a certificate of registration of a chiropractic corporation: one hundred eighty-six dollars ($186).

(k) Fee to renew a certificate of registration of a chiropractic corporation: thirty-one dollars ($31).

(l) Fee to file a chiropractic corporation special report: thirty-one dollars ($31).

(m) Fee to apply for approval as a referral service: five hundred fifty-seven dollars ($557).

(n) Fee for an endorsed verification of licensure: one hundred twenty-four dollars ($124).

(o) Fee for replacement of a lost or destroyed license: fifty dollars ($50).

(p) Fee for replacement of a satellite office certificate: fifty dollars ($50).

(q) Fee for replacement of a certificate of registration of a chiropractic corporation: fifty dollars ($50).

(r) Fee to restore a forfeited or canceled license to practice chiropractic: double the annual renewal fee specified in subdivision (c).
(s) Fee to apply for approval to serve as a preceptor: thirty-one dollars ($31).
(t) Fee to petition for reinstatement of a revoked license: three hundred seventy-one dollars ($371).
(u) Fee to petition for early termination of probation: three hundred seventy-one dollars ($371).
(v) Fee to petition for reduction of penalty: three hundred seventy-one dollars ($371).

SEC. 6. Section 2064.5 of the Business and Professions Code is amended to read:

2064.5. (a) Within 180 days after enrollment in a board-approved postgraduate training program pursuant to Section 2065, medical school graduates shall obtain a physician’s and surgeon’s postgraduate training license. To be considered for a postgraduate training license, the applicant shall submit the application forms and primary source documents required by the board, shall successfully pass all required licensing examinations, shall pay the reduced licensing fee, shall pay a nonrefundable application and processing fee, and shall not have committed any act that would be grounds for denial.

(1) Each application submitted pursuant to this section shall be made upon a form provided by the board, and each application form shall contain a legal verification to be signed by the applicant verifying under penalty of perjury that the information provided by the applicant is true and correct and that any information in supporting documents provided by the applicant is true and correct.

(2) Each application shall include the following:

(A) A diploma issued by a board-approved medical school. The requirements of the school shall not have been less than those required under this chapter at the time the diploma was granted or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the board of having possessed the same.

(B) An official transcript or other official evidence satisfactory to the board showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.
(C) Other information concerning the professional instruction and preliminary education of the applicant as the board may require.

(D) An affidavit showing to the satisfaction of the board that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

(E) Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221 of this code.

(F) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, an official Educational Commission for Foreign Medical Graduates (ECFMG) Certification Status Report confirming the graduate is ECFMG certified.

(b) The physician’s and surgeon’s postgraduate training license shall be valid until 90 days after the holder has successfully completed 36 months of board-approved postgraduate training. The physician’s and surgeon’s postgraduate training licensee may engage in the practice of medicine only in connection with his or her duties as an intern or resident physician in a board-approved program, including its affiliated sites, or under those conditions as are approved in writing and maintained in the postgraduate training licensee’s file by the director of his or her program.

(c) The postgraduate training licensee may engage in the practice of medicine in locations authorized by subdivision (b), and as permitted by the Medical Practice Act and other applicable statutes and regulations, including, but not limited to, the following:

(1) Diagnose and treat patients.

(2) Prescribe medications without a cosigner, including prescriptions for controlled substances, if the training licensee has
the appropriate Drug Enforcement Agency registration/permit and
is registered with the Department of Justice CURES program.

(3) Sign birth certificates without a cosigner.
(4) Sign death certificates without a cosigner.
(d) The postgraduate training licensee may be disciplined by
the board at any time for any of the grounds that would subject
the holder of a physician’s and surgeon’s certificate to discipline.
(e) If the medical school graduate fails to obtain a postgraduate
training license within 180 days after enrollment in a
board-approved postgraduate training program or if the board
denies his or her application for a postgraduate training license,
all privileges and exemptions under this section shall automatically
cease.
(f) Each medical school graduate enrolled in a board-approved
postgraduate training program on January 1, 2020, shall apply for
and obtain a postgraduate training license by June 30, 2020, in
order to continue in postgraduate training pursuant to Section 2065.
(g) Each medical school graduate who was issued a postgraduate
training authorization letter by the board prior to January 1, 2020,
and is enrolled in a board-approved postgraduate training program
by April 30, 2025, will be issued a postgraduate training license
automatically by June 30, 2020, or by June 30 of the year following
initial enrollment into a board-approved postgraduate training
program, whichever is earlier, upon proof of enrollment in the
postgraduate training program.
(h) The board shall confidentially destroy the file of each
medical school graduate who was issued a postgraduate training
authorization letter by the board prior to January 1, 2020, who did
not enroll in a postgraduate training program by April 30, 2025.
(i) This section shall become operative on January 1, 2020.
SEC. 7. Section 2065 of the Business and Professions Code,
as added by Section 29 of Chapter 775 of the Statutes of 2017, is
amended to read:
2065. (a) Unless otherwise provided by law, no postgraduate
trainee, intern, resident, postdoctoral fellow, or instructor may
engage in the practice of medicine, or receive compensation
therefor, or offer to engage 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. However, a graduate of
an approved medical school may engage in the practice of medicine
whenever and wherever required as a part of a postgraduate training program under the following conditions:

(1) The medical school graduate has taken and passed the board-approved medical licensing examinations required to qualify the applicant to participate in an approved postgraduate training program.

(2) If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, the Educational Commission for Foreign Medical Graduates (ECFMG) has submitted an official ECFMG Certification Status Report directly to the board confirming the graduate is ECFMG certified.

(3) The medical school graduate is enrolled in a postgraduate training program approved by the board.

(4) The board-approved postgraduate training program has submitted the required board-approved form to the board documenting the medical school graduate is enrolled in an approved postgraduate training program.

(5) The medical school graduate obtains a physician’s and surgeon’s postgraduate training license in accordance with Section 2064.5.

(b) A medical school graduate enrolled in an approved first-year postgraduate training program in accordance with this section may engage in the practice of medicine whenever and wherever required as a part of the training program, and may receive compensation for that practice not to exceed 12 months. A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of that residency or fellowship, and may receive compensation for that practice not to exceed 27 months. The resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure. If the resident or fellow fails to receive a license to practice medicine under this chapter within 27 months from the commencement of the residency or fellowship, except as otherwise allowed under subdivisions (g) or (h), or if the board denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

(d) All approved postgraduate training the medical school graduate has successfully completed in the United States or Canada
shall count toward the 39-month license exemption, except as otherwise allowed under subdivision (h).

(e) A medical school graduate from a medical school approved by the board shall have successfully completed a minimum of 36 months of approved postgraduate training with at least 24 consecutive training, which includes successful progression through 24 months in the same program, to be eligible for a California physician’s and surgeon’s certificate.

(f) The program director for an approved postgraduate training program in California shall report to the board, on a form approved by the board, and provide any supporting documents as required by the board, the following actions within 30 days of the action:

(1) A postgraduate trainee is notified that he or she has received partial or no credit for a period of postgraduate training, and his or her postgraduate training period is extended.
(2) A postgraduate trainee takes a leave of absence or any break from his or her postgraduate training, and he or she is notified that his or her postgraduate training period is extended.
(3) A postgraduate trainee is terminated from the postgraduate training program.
(4) A postgraduate trainee resigns, dies, or otherwise leaves the postgraduate training program.
(5) A postgraduate trainee has completed a one-year contract approved by the postgraduate training program.

(g) Upon review of supporting documentation, the board, in its discretion, may grant an extension beyond 39 months to a postgraduate training licensee to successfully complete the 36 months of required approved postgraduate training.

(h) An applicant for a physician’s and surgeon’s license 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 in another state or in Canada and who is accepted into an approved postgraduate training program in California shall obtain his or her physician’s and surgeon’s license within 90 days after beginning that postgraduate training program or all privileges and exemptions under this section shall automatically cease.

(i) This section shall become operative on January 1, 2020.
SEC. 8. Section 2135 of the Business and Professions Code, as added by Section 64 of Chapter 775 of the Statutes of 2017, is amended to read:

2135. The board shall issue a physician and surgeon’s certificate to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and surgeon in another state or states, or in a Canadian province or Canadian provinces, which was issued upon:

(1) Successful completion of a resident course of professional instruction leading to a degree of medical doctor from a board-approved medical school pursuant to Section 2084.

(2) Taking and passing a written examination that is recognized by the board to be equivalent in content to that administered in California.

(b) The applicant has held an unrestricted license to practice medicine, in a state or states, in a Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period.

(c) The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant (1) has satisfactorily completed at least one year of approved postgraduate training and is certified by a specialty board approved by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 654, (2) has satisfactorily completed at least two years of approved postgraduate training, or (3) has satisfactorily completed at least one year of approved postgraduate training and takes and passes the clinical competency written examination.

(e) The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5
(commencing with Section 475) or Article 12 (commencing with
Section 2220).

(f) Any application received from an applicant who has held an
unrestricted license to practice medicine, in a state or states, or
Canadian province or Canadian provinces, or as a member of the
active military, United States Public Health Services, or other
federal program for four or more years shall be reviewed and
processed pursuant to this section. Any time spent by the applicant
in an approved postgraduate training program or clinical fellowship
acceptable to the board shall not be included in the calculation of
this four-year period. This subdivision does not apply to
applications that may be reviewed and processed pursuant to
Section 2151.

(g) This section shall become operative on January 1, 2020.

SEC. 6.

SEC. 9. Section 2499.5 of the Business and Professions Code
is amended to read:

2499.5. The following fees apply to certificates to practice
podiatric medicine. The amount of fees prescribed for doctors of
podiatric medicine shall be determined by the board and shall be
as described below. Fees collected pursuant to this section shall
be fixed by the board in amounts not to exceed the actual costs of
providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine
shall pay an application fee of one hundred dollars ($100) at the
time the application is filed. If the applicant qualifies for a
certificate, he or she shall pay a fee of one hundred dollars ($100).

(b) Each applicant who qualifies for a certificate, as a condition
precedent to its issuance, in addition to other fees required by this
section, shall pay an initial license fee. The initial license fee shall
be eight hundred dollars ($800). The initial license shall expire
the second year after its issuance on the last day of the month of
birth of the licensee. The board may reduce the initial license fee
by up to 50 percent of the amount of the fee for any applicant who
is enrolled in a postgraduate training program approved by the
board or who has completed a postgraduate training program
approved by the board within six months prior to the payment of
the initial license fee.

(c) Before January 1, 2021, the biennial renewal fee shall be
one thousand one hundred dollars ($1,100). Any licensee enrolled
in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(d) On and after January 1, 2021, the biennial renewal fee shall be nine hundred dollars ($900). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee shall be one hundred fifty dollars ($150).

(f) The duplicate wall certificate fee shall be one hundred dollars ($100).

(g) The duplicate renewal receipt fee shall be fifty dollars ($50).

(h) The endorsement fee shall be thirty dollars ($30).

(i) The letter of good standing fee or for loan deferment shall be one hundred dollars ($100).

(j) There shall be a fee of one hundred dollars ($100) for the issuance of a resident’s license under Section 2475.

(k) The fee for approval of a continuing education course or program shall be two hundred fifty dollars ($250).

SEC. 10. Section 2529.6 of the Business and Professions Code is amended to read:

2529.6. (a) Except as provided in subdivisions (b) and (c), the board shall revoke the registration of any person who has been required to register as a sex offender pursuant to Section 290 of the Penal Code for conduct that occurred on or after January 1, 2017.

(b) This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(c) This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

(d) A proceeding to revoke a registration pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
(e) This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 7.
SEC. 11. Section 2708 of the Business and Professions Code is amended to read:
2708. (a) The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.
(b) The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.
(c) The executive officer shall not be a member of the board.
(d) The executive director is authorized to adopt a decision entered by default and a stipulation for surrender of a license.
(e) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 8.
SEC. 12. Section 2715 of the Business and Professions Code is amended to read:
2715. (a) The board shall prosecute all persons guilty of violating this chapter.
(b) Except as provided by Section 159.5, the board, in accordance with the Civil Service Law, may employ personnel as it deems necessary to carry into effect this chapter. The board shall directly employ legal counsel, who shall work exclusively for, and report directly to, the board upon a finding by the board that directly employing legal counsel will further the board’s mission.
(c) The board shall have and use a seal bearing the name “Board of Registered Nursing.” The board may adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the rules and regulations that may be reasonably necessary to enable it to carry into effect this chapter.

SEC. 9.
SEC. 13. Section 2816 of the Business and Professions Code is amended to read:
2816. The nonrefundable fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title “public
health nurse” shall not be less than three hundred dollars ($300) or more than one thousand dollars ($1,000). The fee to be paid upon the application for renewal of the certificate to practice as a public health nurse shall not be less than one hundred twenty-five dollars ($125) and not more than five hundred dollars ($500). The penalty fee for failure to renew a certificate to practice as a public health nurse within the prescribed time shall be 50 percent of the renewal fee in effect on the date of renewal of the certificate, but not less than sixty-two dollars and fifty cents ($62.50), and not more than two hundred fifty dollars ($250). All fees payable under this section shall be collected by and paid to the Board of Registered Nursing Fund. It is the intention of the Legislature that the costs of carrying out the purposes of this article shall be covered by the revenue collected pursuant to this section. The board shall refund any registered nurse who paid more than three hundred dollars ($300) for an evaluation of his or her qualifications to use the title “public health nurse” between April 5, 2018, and December 31, 2018.

SEC. 10.

SEC. 14. Section 2892.6 of the Business and Professions Code is amended to read:

2892.6. The board shall collect an initial approval fee and a biennial renewal fee of one hundred fifty dollars ($150) unless a higher fee, not to exceed two hundred fifty dollars ($250), is established by the board, from any provider of a course in continuing education who requests approval by the board of such course for purposes of continuing education requirements under this chapter. That fee, however, shall in no event exceed that cost required for the board to administer the approval of continuing education courses by continuing education providers.

SEC. 15. Section 2892.7 is added to the Business and Professions Code, to read:

2892.7. The board shall collect an initial approval and a biennial renewal fee in the amount of one hundred fifty dollars ($150) unless a higher fee, not to exceed two hundred fifty dollars ($250), is established by the board, from any provider of a course in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal, who requests approval by the board of such a course for purposes of intravenous therapy, blood
withdrawal, or intravenous therapy with blood withdrawal requirements under this chapter. That fee, however, shall not exceed the regulatory cost required for the board to administer the approval of intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal courses by intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal providers.

SEC. 12.

SEC. 16. Section 2895 of the Business and Professions Code is amended to read:

2895. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed a prescribed course of study in a California-approved vocational nursing program shall be two hundred twenty dollars ($220) unless a higher fee, not to exceed three hundred dollars ($300), is established by the board.

(b) The fee to be paid upon the filing of an application for licensure by examination by applicants who are qualified to take the examination by methods other than as specified in subdivision (a) shall be two hundred fifty dollars ($250) unless a higher fee, not to exceed three hundred thirty dollars ($330), is established by the board.

(c) The fee to be paid upon the filing of an application for licensure by endorsement shall be two hundred twenty dollars ($220) unless a higher fee, not to exceed three hundred dollars ($300), is established by the board.

(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase the examination from a vendor approved by the board.

(e) The fee to be paid for any examination for licensure after the first shall be two hundred twenty dollars ($220) unless a higher fee, not to exceed three hundred dollars ($300), is established by the board.

(f) The biennial renewal fee to be paid upon the filing of an application for renewal shall be two hundred twenty dollars ($220) unless a higher fee, not to exceed three hundred dollars ($300), is established by the board. In addition, an assessment of five dollars
($5) shall be collected and credited to the Vocational Nurse Education Fund, pursuant to Section 2895.5.

(g) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be one hundred ten dollars ($110) unless a higher fee, not to exceed 50 percent of the regular renewal fee and in no case no more than one hundred fifty dollars ($150), is established by the board.

(h) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(i) The fee to be paid for an interim permit shall be twenty dollars ($20) unless a higher fee, not to exceed fifty dollars ($50), is established by the board.

(j) The fee to be paid for a duplicate license or wall certificate shall be in an amount not less than twenty-five dollars ($25) and may be fixed by the board at an amount no more than fifty dollars ($50).

(k) The fee to be paid for verification of licensure papers to other states shall be one hundred dollars ($100) unless a higher fee, not to exceed one hundred fifty dollars ($150), is established by the board.

(l) The fee to be paid for postlicensure certification in intravenous therapy, blood withdrawal, or intravenous therapy with blood withdrawal shall be twenty dollars ($20) unless a higher fee, not to exceed fifty dollars ($50), is established by the board.

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 17. Section 3047 of the Business and Professions Code is amended to read:

3047. (a) The board shall develop an interface with the National Practitioner Data Bank for the purpose of conducting inquiries on applicants for licensure, applicants for renewal of licensure, and current licensees.

(b) The board shall limit its inquiries to both of the following:

(1) Whether an applicant or current licensee has been subject to discipline.
(2) Whether an applicant or current licensee has been the subject of an action required to be reported to the National Practitioner Data Bank by federal law.

(c) On and after July 1, 2018, the board shall charge, in addition to the fees in Section 3152, an applicant for licensure and an applicant for renewal of licensure four dollars ($4) for the purposes of this section.

SEC. 14.  
SEC. 18. Section 3147 of the Business and Professions Code is amended to read:

3147. (a) Except as otherwise provided by Section 114, an expired optometrist license may be renewed at any time within three years after its expiration, and a retired license issued for less than three years may be reactivated to active status, by filing an application for renewal or reactivation on a form prescribed by the board, paying all accrued and unpaid renewal fees or reactivation fees determined by the board, paying any delinquency fees prescribed by the board, and submitting proof of completion of the required number of hours of continuing education for the last two years, as prescribed by the board pursuant to Section 3059. Renewal or reactivation to active status under this section shall be effective on the date on which all of those requirements are satisfied. If so renewed or reactivated to active status, the license shall continue as provided in Sections 3146 and 3147.5.

(b) Expired statements of licensure, branch office licenses, and fictitious name permits issued pursuant to Sections 3070, 3077, and 3078, respectively, may be renewed at any time by filing an application for renewal, paying all accrued and unpaid renewal fees, and paying any delinquency fees prescribed by the board.

SEC. 15.  
SEC. 19. Section 3680 of the Business and Professions Code is amended to read:

3680. (a) The application fee for a doctor of naturopathic medicine shall be no more than five hundred dollars ($500) and may be increased to not more than six hundred dollars ($600).

(b) The initial license fee shall be one thousand dollars ($1,000) and may be increased to not more than one thousand two hundred dollars ($1,200).
(c) The renewal fee for a license shall be one thousand dollars ($1,000) and may be increased to not more than one thousand two hundred dollars ($1,200).
(d) The late renewal fee for a license shall be two hundred twenty-five dollars ($225).
(e) The fee for processing fingerprint cards shall be the current fee charged by the Department of Justice.
(f) The fee for a duplicate or replacement license shall be thirty-eight dollars ($38).
(g) The fee for a certified license verification shall be thirty dollars ($30).

SEC. 20. Section 4008 of the Business and Professions Code is amended to read:

4008. (a) (1) Except as provided by Section 159.5, the board may employ inspectors of pharmacy. The inspectors, whether the inspectors are employed by the board or the department’s Division of Investigation, may inspect during business hours all pharmacies, wholesalers, dispensaries, stores, or places where drugs or devices are compounded, prepared, furnished, dispensed, or stored.
(2) The board shall directly employ legal counsel, who shall work exclusively for, and report directly to, the board, upon a finding by the board that directly employing legal counsel will further the board’s mission.
(b) Notwithstanding subdivision (a), a pharmacy inspector may inspect or examine a physician’s office or clinic that does not have a permit under Section 4180 or 4190 only to the extent necessary to determine compliance with and to enforce either Section 4080 or 4081.
(c) (1) (A) A pharmacy inspector employed by the board or in the department’s Division of Investigation shall have the authority, as a public officer, to arrest, without warrant, any person whenever the officer has reasonable cause to believe that the person to be arrested has, in his or her presence, violated a provision of this chapter or of Division 10 (commencing with Section 11000) of the Health and Safety Code.
(B) If the violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated any provision that is declared to be a felony, although no felony has in fact been committed, he or she may make an arrest...
although the violation or suspected violation did not occur in his or her presence.

(2) In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking the person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. That chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(d) There shall be no civil liability on the part of, and no cause of action shall arise against, a person, acting pursuant to subdivision (a) within the scope of his or her authority, for false arrest or false imprisonment arising out of an arrest that is lawful, or that the arresting officer, at the time of the arrest, had reasonable cause to believe was lawful. An inspector shall not be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

(e) Any inspector may serve all processes and notices throughout the state.

(f) A pharmacy inspector employed by the board may enter a facility licensed pursuant to subdivision (c) or (d) of Section 1250 of the Health and Safety Code to inspect an automated drug delivery system operated pursuant to Section 4119 or 4119.1.

SEC. 21. Section 4518 of the Business and Professions Code is amended to read:

4518. In the event the board adopts a continuing education or blood withdrawal program, the board shall collect an initial approval and a biennial renewal fee as prescribed under Sections 4548 and 4518.1 from any provider of a course in continuing education or blood withdrawal who requests approval by the board of the course for purposes of continuing education or blood withdrawal requirements adopted by the board. The fee, however, shall in no event exceed the cost required for the board to administer the approval of continuing education or blood withdrawal courses by continuing education or blood withdrawal providers.
SEC. 18. Section 4518.1 is added to the Business and Professions Code, to read:

4518.1. The board shall collect an initial approval and a biennial renewal fee in the amount of one hundred fifty dollars ($150) unless a higher fee, not to exceed two hundred fifty dollars ($250), is established by the board, from any provider of continuing education or a course to meet the certification requirements for blood withdrawal who requests approval by the board of the course for purposes of continuing education or blood withdrawal requirements under this chapter. That fee, however, shall not exceed the regulatory cost required for the board to administer the approval of continuing education or blood withdrawal by continuing education or blood withdrawal providers.

SEC. 19. Section 4548 of the Business and Professions Code is amended to read:

4548. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed a prescribed course of study in a California-approved school for preparation of psychiatric technicians shall be two hundred sixty-five dollars ($265) unless a higher fee, not to exceed three hundred forty-five dollars ($345), is established by the board.

(b) The fee to be paid upon the filing of an application for licensure by examination by applicants who are qualified to take the examination by methods other than as described in subdivision (a) shall be two hundred ninety-five dollars ($295) unless a higher fee, not to exceed three hundred seventy-five dollars ($375), is established by the board.

(c) The fee to be paid upon the filing of an application for licensure by endorsement shall be two hundred twenty dollars ($220) unless a higher fee, not to exceed three hundred dollars ($300), is established by the board.

(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase an examination from a vendor approved by the board.
(e) The fee to be paid for any examination for licensure after
the first shall be two hundred sixty-five dollars ($265) unless a
higher fee, not to exceed three hundred forty-five dollars ($345),
is established by the board.

(f) The biennial renewal fee to be paid upon the filing of an
application for renewal shall be two hundred twenty dollars ($220)
unless a higher fee, not to exceed three hundred dollars ($300), is
established by the board.

(g) Notwithstanding Section 163.5, the delinquency fee for
failure to pay the biennial renewal fee within the prescribed time
shall be one hundred ten dollars ($110) unless a higher fee, not to
exceed 50 percent of the regular renewal fee and in no case more
than one hundred fifty dollars ($150), is established by the board.

(h) The initial license fee is an amount equal to the biennial
renewal fee in effect on the date the application for the license is
filed.

(i) The fee to be paid for an interim permit shall be twenty
dollars ($20) unless a higher fee, not to exceed fifty dollars ($50),
is established by the board.

(j) The fee to be paid for a duplicate license or wall certificate
shall be in an amount not less than twenty-five dollars ($25) and
may be fixed by the board at an amount no more than fifty dollars
($50).

(k) The fee to be paid for processing verification of licensure
papers to other states shall be twenty dollars ($20) unless a higher
fee, not to exceed fifty dollars ($50), is established by the board.

(l) The fee to be paid for postlicensure certification in blood
withdrawal shall be twenty dollars ($20) unless a higher fee, not
to exceed fifty dollars ($50), is established by the board.

SEC. 20. Section 4604 of the Business and Professions Code
is amended to read:

4604. (a) In order to obtain certification as a massage therapist,
an applicant shall submit a written application and provide the
council with satisfactory evidence that he or she meets all of the
following requirements:

(1) The applicant is 18 years of age or older.
(2) The applicant has successfully completed the curricula in
massage and related subjects totaling a minimum of 500 hours, or
the credit unit equivalent, that incorporates appropriate school
assessment of student knowledge and skills.

(A) Of the 500 hours, a minimum of 100 hours of instruction
shall address anatomy and physiology, contraindications, health
and hygiene, and business and ethics.

(B) All of the 500 hours shall be from approved schools. The
council shall accept the 500 hours if, at the time all of the hours
were completed, the school or schools were approved. The 500
hours may be completed at more than one approved school.
Notwithstanding any other law, pursuant to its policies and
procedures for approval of schools, the council shall accept hours
earned by an applicant for certification as a massage therapist if
those hours were completed before July 1, 2016, and were earned
from a school providing education in this state that was unapproved
by the council after July 1, 2016, based solely on the fact that the
National Certification Board for Therapeutic Massage and
Bodywork took denial or disciplinary action against the school.
For purposes of this section, “unapproved” means that the council
determined that it will not accept hours from a school toward
certification.

(3) The applicant has passed a massage and bodywork
competency assessment examination that meets generally
recognized psychometric principles and standards and that is
approved by the council. The successful completion of this
examination may have been accomplished before the date the
council is authorized by this chapter to begin issuing certificates.
This paragraph shall be inoperative commencing on January 1,
2019, and shall become operative on January 1, 2021.

(4) The applicant has successfully passed a background
investigation pursuant to Section 4606, and has not violated any
of the provisions of this chapter.

(5) All fees required by the council have been paid.

(6) The council may issue a certificate to an applicant who meets
the qualifications of this chapter if he or she holds a current and
valid registration, certification, or license from any other state
whose licensure requirements meet or exceed those defined within
this chapter. If an applicant has received education at a school that
is not approved by the council, the council shall have the discretion
to give credit for comparable academic work completed by an applicant in a program outside of California.

(b) A certificate issued pursuant to this chapter and any identification card issued by the council shall be surrendered to the council by any certificate holder whose certificate is suspended or revoked.

SEC. 24.
SEC. 25. Section 4809.7 of the Business and Professions Code is amended to read:

4809.7. The board shall establish a regular inspection program that will provide for random, unannounced inspections and the board shall inspect at least 20 percent of veterinary premises on an annual basis.

SEC. 26.
SEC. 26. Section 4826.4 is added to the Business and Professions Code, to read:

4826.4. (a) A California-licensed veterinarian at premises registered in accordance with Section 4853 that is located within a 25-mile radius of any condition of emergency specified in Section 8558 of the Government Code may, in good faith, do both of the following in addition to any other acts authorized by law:

(1) Render necessary and prompt care and treatment to an animal patient without establishing a veterinarian-client-patient relationship if conditions are such that one cannot be established in a timely manner.

(2) Dispense or prescribe a dangerous drug or device, as defined in Section 4022, in reasonable quantities where failure to provide services or medications, including controlled substances, may result in loss of life or intense suffering of the animal patient. Prior to refilling a prescription pursuant to this paragraph, the veterinarian shall make a reasonable effort to contact the originally prescribing veterinarian.

(b) A veterinarian acting under this section shall make an appropriate record that includes the basis for proceeding under this section.

(c) A veterinarian who performs services pursuant to this section shall have immunity from liability pursuant to subdivision (b) of Section 8659 of the Government Code.
SEC. 23.  
SEC. 27. Section 4829.5 is added to the Business and Professions Code, to read:
4829.5. (a) Each time a veterinarian initially prescribes, dispenses, or furnishes a dangerous drug, as defined in Section 4022, to an animal patient in an outpatient setting, the veterinarian shall offer to provide, in person or through electronic means, to the client responsible for the animal, or his or her agent, a consultation that includes the following information:
(1) The name and description of the dangerous drug.
(2) Route of administration, dosage form, dosage, duration of drug therapy, the duration of the effect of the drug, and the common severe adverse effects associated with the use of a short-acting or long-acting drug.
(3) Any special directions for proper use and storage.
(4) Actions to be taken in the event of a missed dose.
(5) If available, precautions and relevant warnings provided by the drug’s manufacturer, including common severe adverse effects of the drug.
(b) If requested, a veterinarian shall provide drug documentation, if available.
(c) A veterinarian may delegate to a registered veterinary technician or veterinary assistant the task of providing the consultation and drug documentation required by this section.
(d) It shall be noted in the medical record of the animal patient if the consultation described in this section is provided or declined by the client or his or her agent.

SEC. 24.  
SEC. 28. Section 4830 of the Business and Professions Code is amended to read:
4830. (a) This chapter does not apply to:
(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.
(2) Veterinarians holding a current, valid license in good standing in another state or country who provide assistance to a California-licensed veterinarian and attend on a specific case. The California-licensed veterinarian shall maintain a valid veterinarian-client-patient relationship. The veterinarian providing...
the assistance shall not establish a veterinarian-client-patient relationship with the client by attending the case or at a future time and shall not practice veterinary medicine, open an office, appoint a place to meet patients, communicate with clients who reside within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient that is located within this state.

(3) Veterinarians called into the state by a law enforcement agency or animal control agency pursuant to subdivision (b).

(4) A student of a veterinary medical program accredited by the American Veterinary Medical Association Council on Education who participates as part of his or her formal curriculum in the diagnosis and treatment with direct supervision, or in surgery with immediate supervision, provided all of the following requirements are met:

(A) The clinical training site has been approved by the university where the student is enrolled.

(B) The student has prior training in diagnosis, treatment, and surgery as part of the formal curriculum.

(C) The student is being supervised by a California-licensed veterinarian in good standing, as that term is defined in paragraph (1) of subdivision (b) of Section 4848.

(5) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(6) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) (1) For purposes of paragraph (3) of subdivision (a), a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency, as defined in Section 31606 of the Food and Agricultural Code, to attend to cases that are a part of an investigation of an
alleged violation of federal or state animal fighting or animal
cruelty laws within a single geographic location shall be exempt
from the licensing requirements of this chapter if the law
enforcement agency or animal control agency determines that it
is necessary to call the veterinarian in order for the agency or
officer to conduct the investigation in a timely, efficient, and
effective manner. In determining whether it is necessary to call a
veterinarian from another state, consideration shall be given to the
availability of veterinarians in this state to attend to these cases.
An agency, department, or officer that calls a veterinarian pursuant
to this subdivision shall notify the board of the investigation.

(2) Notwithstanding any other provision of this chapter, a
regularly licensed veterinarian in good standing who is called from
another state to attend to cases that are a part of an investigation
described in paragraph (1) may provide veterinary medical care
for animals that are affected by the investigation with a temporary
shelter facility, and the temporary shelter facility shall be exempt
from the registration requirement of Section 4853 if all of the
following conditions are met:

(A) The temporary shelter facility is established only for the
purpose of the investigation.

(B) The temporary shelter facility provides veterinary medical
care, shelter, food, and water only to animals that are affected by
the investigation.

(C) The temporary shelter facility complies with Section 4854.

(D) The temporary shelter facility exists for not more than 60
days, unless the law enforcement agency or animal control agency
determines that a longer period of time is necessary to complete
the investigation.

(E) Within 30 calendar days upon completion of the provision
of veterinary health care services at a temporary shelter facility
established pursuant to this section, the veterinarian called from
another state by a law enforcement agency or animal control agency
to attend to a case shall file a report with the board. The report
shall contain the date, place, type, and general description of the
care provided, along with a listing of the veterinary health care
practitioners who participated in providing that care.

(c) For purposes of paragraph (3) of subdivision (a), the board
may inspect temporary facilities established pursuant to this
section.
SEC. 25.

SEC. 29. Section 4836.2 of the Business and Professions Code is amended to read:

4836.2. (a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars ($100).

(c) The board may suspend or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may deny, revoke, or suspend a veterinary assistant controlled substance permit, or, subject to terms and conditions deemed appropriate by the board, issue a probationary veterinary assistant controlled substance permit, for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) The applicant or permitholder has been convicted of a state or federal felony controlled substance violation.

(4) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(5) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, veterinary surgery, or veterinary dentistry, in which case the record of the conviction shall be conclusive evidence.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information,
as required by the Department of Justice for all veterinary assistant
applicants, for the purposes of obtaining information as to the
existence and content of a record of state or federal convictions
and state or federal arrests and information as to the existence and
content of a record of state or federal arrests for which the
Department of Justice establishes that the person is free on bail or
on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to
the Federal Bureau of Investigation requests for federal summary
criminal history information that it receives pursuant to this section.
The Department of Justice shall review any information returned
to it from the Federal Bureau of Investigation and compile and
disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal
level response to the board pursuant to paragraph (1) of subdivision
(p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee
sufficient to cover the cost of processing the request described in
this subdivision.

(f) The board shall request from the Department of Justice
subsequent notification service, as provided pursuant to Section
11105.2 of the Penal Code, for persons described in paragraph (1)
of subdivision (e).

(g) This section shall become operative on July 1, 2015.

SEC. 26.

SEC. 30. Section 4841.2 is added to the Business and
Professions Code, to read:

4841.2. (a) Except as provided in subdivision (b), a graduate
of a recognized veterinary college shall not perform animal health
care tasks otherwise performed by a registered veterinary technician
unless the graduate has obtained licensure or registration as
otherwise required under this chapter.

(b) If, on or before January 1, 2020, a graduate of a recognized
veterinary college has performed animal health care tasks otherwise
performed by a registered veterinary technician, the graduate shall
discontinue performing such duties on or after January 1, 2020,
unless the graduate is issued a license or registration as otherwise
required under this chapter.

SEC. 27. Section 4990.06 of the Business and Professions
Code is amended to read:
4990.06. Subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and except as provided by Sections 155, 156, and 159.5, the board may employ any clerical, technical, and other personnel as it deems necessary to carry out the provisions of this chapter and the other chapters it administers and enforces, within budget limitations. The board shall directly employ legal counsel, who shall work exclusively for, and report directly to, the board, upon a finding by the board that directly employing legal counsel will further the board’s mission.

SEC. 28.

SEC. 29.

SEC. 30.

SEC. 31. Section 11506 of the Business and Professions Code is amended to read:

11506. This part shall be subject to review by the appropriate policy committees of the Legislature.

SEC. 32.

SEC. 33. Section 7000 of the Health and Safety Code is amended to read:

7000. The definitions in this chapter apply to this division, Division 8 (commencing with Section 8100) and Division 102 (commencing with Section 102100) of this code and Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code.

SEC. 34.

SEC. 35. Section 7103 of the Health and Safety Code is amended to read:

7103. (a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or both that imprisonment and fine.
(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

SEC. 34. Section 8731 of the Health and Safety Code is amended to read:

8731. (a) The cemetery authority may appoint a board of trustees of not less than three in number as trustees of its endowment care fund. The members of the board of trustees shall hold office subject to the direction of the cemetery authority.

(b) If within 30 days after notice of nonreceipt by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, the cemetery authority fails to file the report required by Section 7612.6 of the Business and Professions Code, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with law, the cemetery authority may be required to appoint as sole trustee of its endowment care fund under Section 8733.5, any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. That requirement may be imposed by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, provided that the cemetery authority has received written notice of the alleged violation and has been given the opportunity to correct the alleged violation, and there has been a finding of a material violation in an administrative hearing.

(c) (1) Each member of the board of trustees shall provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in the following areas:

(A) Trustee duties, powers, and liabilities as contained in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

(B) Reporting and regulatory requirements contained in Article 1.5 (commencing with Section 7611) of Chapter 12 of Division 3 of the Business and Professions Code.

(C) Provisions related to the care of active cemeteries contained in Chapter 5 (commencing with Section 8700) of Part 3 of Division 8.
(2) The signatory acknowledgment shall be retained by the cemetery authority during the duration of the trustee’s term of office.

SEC. 32. 
SEC. 35. Section 8778.5 of the Health and Safety Code is amended to read:

8778.5. Each special care trust fund established pursuant to this article shall be administered in compliance with the following requirements:

(a) (1) The board of trustees shall honor a written request of revocation by the trustor within 30 days upon receipt of the written request.

(2) Except as provided in paragraph (3), the board of trustees upon revocation of a special care trust may assess a revocation fee on the earned income of the trust only, the amount of which shall not exceed 10 percent of the trust corpus, as set forth in subdivision (c) of Section 2370 of Title 16 of the California Code of Regulations.

(3) If, prior to or upon the death of the beneficiary of a revocable special care trust, the cemetery authority is unable to perform the services of the special care trust fund agreement, the board of trustees shall pay the entire trust corpus and all earned income to the beneficiary or trustor, or the legal representative of either the beneficiary or trustor, without the imposition of a revocation fee.

(b) Notwithstanding subdivision (d) of Section 2370 of Title 16 of the California Code of Regulations, the board of trustees may charge an annual fee for administering a revocable special care trust fund, which may be recovered by administrative withdrawals from current trust income, but the total administrative withdrawals in any year shall not exceed 4 percent of the trust balance.

(c) Notwithstanding Section 8785, any person, partnership, or corporation who violates this section shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code, or by a civil fine not exceeding five hundred dollars ($500), or by both, as determined by the Cemetery and Funeral Bureau and shall not be guilty of a crime.

SEC. 33.
SEC. 36. Section 8785 of the Health and Safety Code is amended to read:
8785. Any person, partnership, or corporation administering, managing, or having responsibility for endowment care or special care funds who violates the provisions of this chapter relating to the collection, investment, or use of those funds shall be punished either by imprisonment in a county jail for a period not exceeding six months or by fine not exceeding five hundred dollars ($500), or by both such imprisonment and fine, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or two or three years. If the violator is a cemetery licensee or the holder of a certificate of authority, he, she, or it shall be subject to disciplinary action as provided in Article 6 (commencing with Section 7686) of Chapter 12 of Division 3 of the Business and Professions Code.

SEC. 34.

SEC. 37. Section 103775 of the Health and Safety Code is amended to read:

103775. (a) Every person, except a parent informant for a certificate of live birth and as provided in subdivision (b), who is responsible for supplying information who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information affecting any certificate or record required by this part, is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who is responsible for supplying information and who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information with intent to defraud affecting a death certificate or record required by this part, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine.

SEC. 35.

SEC. 38. Section 103780 of the Health and Safety Code is amended to read:
Every person, except as provided in subdivision (b), who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of birth, fetal death, or death, or marriage license, or any record established by this part is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of death, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine.

SEC. 36.

SEC. 39. Section 5 of the Chiropractic Act, as amended by Section 1 of Chapter 533 of the Statutes of 1983, is amended to read:

Sec. 5.

Sec. 5. (a) It shall be unlawful for any person to practice chiropractic in this state without a license so to do.

(b) Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board.

(c) Proof of graduation from an approved chiropractic school or college, as defined in Section 4, must reach the board 15 days prior to any meeting thereof.

(d) On and after January 1, 2019, each application must be accompanied by the fee specified in subdivision (a) of Section 1007 of the Business and Professions Code.

(e) Except in the cases herein otherwise prescribed, each applicant shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.
(f) The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as herein otherwise provided:

Group 1

Anatomy, including embryology and histology...........14%

Group 2

Physiology.........................................................6%

Group 3

Biochemistry and clinical nutrition........................6%

Group 4

Pathology and bacteriology...............................10%

Group 5

Public health, hygiene and sanitation..................3%

Group 6

Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and interpretation........18%

Group 7

Obstetrics and gynecology and pediatrics.................3%

Group 8

Principles and practice of chiropractic, physical therapy, psychiatry, and office procedure..........................25%

Total...............................................................85%

Electives.............................................................15%
(g) Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1977–78 Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by said amendments.

SEC. 37.

SEC. 37. Section 12 of the Chiropractic Act, as amended by Section 78 of Chapter 429 of the Statutes of 2017, is amended to read:

Sec. 12. (a) Licenses issued under the provisions of this section expire at 12 midnight on the last day of the month of birth of licentiates of the board.

(b) The board shall establish regulations for the administration of a birth month renewal program.

(c) A person practicing chiropractic within this state shall, on or before the last day of the person’s month of birth of each year, after a license is issued to the person under this act, pay to the Board of Chiropractic Examiners the renewal fee specified under subdivision (d).

(d) On and after January 1, 2019, the renewal fee shall be the amount specified in subdivision (c) of Section 1007 of the Business and Professions Code.

(e) The secretary shall mail to a licensed chiropractor in this state, on or before 60 days prior to the last day of the month of the licensee’s birth each year, a notice that the renewal fee will be due on or before the last day of the next month following the licensee’s birth. Nothing in this act shall be construed to require the receipts to be recorded in like manner as original licenses.

(f) The failure, neglect or refusal of a person holding a license or certificate to practice under this act in the State of California to pay the annual fee during the time the license remains in force shall, after a period of 60 days from the last day of the month of the licensee’s birth, automatically work a forfeiture of the license or certificate, and it shall not be restored except upon the written application therefor and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed except that a licensee who fails, refuses, or neglects to pay the annual tax within a period of 60
days after the last day of the month of the licensee’s birth of each
year shall not be required to submit to an examination for the
reissuance of the certificate.

SEC. 38.

SEC. 41. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
SUMMARY
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:_____

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.

(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 $ of the current license renewal fee.

The bill would make other conforming changes.


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

SECTION 1. Section 101 of the Business and Professions Code, as added by Section 4 of Chapter 828 of the Statutes of 2017, is amended to read:

101. The department is comprised of the following:
(a) The Dental Board of California.
(b) The Medical Board of California.
(c) The State Board of Optometry.
(d) The California State Board of Pharmacy.
(e) The Veterinary Medical Board.
(f) The California Board of Accountancy.
(g) The California Architects Board.
(h) The Bureau of Barbering and Cosmetology.
(i) The Board for Professional Engineers, Land Surveyors, and Geologists.
(j) The Contractors’ State License Board.
(k) The Bureau for Private Postsecondary Education.
(l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
(m) The Board of Registered Nursing.
(n) The Board of Behavioral Sciences.
(o) The State Athletic Commission.
(p) The Cemetery and Funeral Bureau.
(q) The State Board of Guide Dogs for the Blind.
(r) The Bureau of Security and Investigative Services.
(s) The Court Reporters Board of California.
(t) The Board of Vocational Nursing and Psychiatric Technicians.
(u) The Landscape Architects Technical Committee.
(v) The Division of Investigation.
(w) The Bureau of Automotive Repair.
(x) The Respiratory Care Board of California.
(y) The Acupuncture Board.
(z) The Board of Psychology.
(aa) The California Board of Podiatric Medicine.
(ab) The Physical Therapy Board of California.
(ac) The Arbitration Review Program.
(ad) The Physician Assistant Committee.
(ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(af) The California Board of Occupational Therapy.
(ag) The Osteopathic Medical Board of California.
(ah) The Naturopathic Medicine Committee.
(ai) The Dental Hygiene Board of California.
(aj) The Professional Fiduciaries Bureau.
(ak) The State Board of Chiropractic Examiners.
(al) The Bureau of Real Estate Appraisers.
(am) The Structural Pest Control Board.
(an) The Bureau of Medical Cannabis Regulation.
(ao) Any other boards, offices, or officers subject to its jurisdiction by law.
(ap) This section shall become operative on July 1, 2018.

SEC. 2. Section 800 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

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

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

(c) (1) The contents of any central file that are not public
records under any other provision of law shall be confidential
except that the licensee involved, or his or her counsel or
representative, shall have the right to inspect and have copies made
of his or her complete file except for the provision that may
disclose the identity of an information source. For the purposes of
this section, a board may protect an information source by
providing a copy of the material with only those deletions necessary
to protect the identity of the source or by providing a
comprehensive summary of the substance of the material.
Whichever method is used, the board shall ensure that full
disclosure is made to the subject of any personal information that
could reasonably in any way reflect or convey anything detrimental,
unfair, or threatening to a licensee’s reputation, rights,
benefits, privileges, or qualifications, or be used by a board to
make a determination that would affect a licensee’s rights, benefits,
privileges, or qualifications. The information required to be
disclosed pursuant to Section 803.1 shall not be considered among
the contents of a central file for the purposes of this subdivision.

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

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

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

SEC. 3. Section 1601.3 of the Business and Professions Code
is amended to read:

1601.3. (a) All committees of the board have the authority to
evaluate all suggestions or requests for regulatory changes related
to their committee. Committees shall have the authority to hold
informational hearings in order to report and make appropriate recommendations to the board, after consultation with departmental legal counsel and the board’s chief executive officer. The committees shall include in any report regarding a proposed regulatory change, at a minimum, the specific language or the proposed change or changes and the reasons therefor and any facts supporting the need for the change.

(b) No part of this section shall restrict the Dental Hygiene Board of California from adopting, amending, or revoking regulations authorized by Article 9 (commencing with Section 1900).

SEC. 4. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

(f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.

(h) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.
(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Chapter 9 (commencing with Section 4000) or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee’s attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(s) The alteration of a patient’s record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued.
and before the patient has ample opportunity to secure the services
of another dentist, registered dental hygienist, registered dental
hygienist in alternative practice, or registered dental hygienist in
extended functions and provided the health of the patient is not
jeopardized.

(v) The willful misrepresentation of facts relating to a
disciplinary action to the patients of a disciplined licensee.

(w) Use of fraud in the procurement of any license issued
pursuant to this chapter.

(x) Any action or conduct that would have warranted the denial
of the license.

(y) The aiding or abetting of a licensed dentist, dental assistant,
registered dental assistant, registered dental assistant in extended
functions, dental sedation assistant permitholder, orthodontic
assistant permitholder, registered dental hygienist, registered dental
hygienist in alternative practice, or registered dental hygienist in
extended functions to practice dentistry in a negligent or
incompetent manner.

(z) (1) The failure to report to the board in writing within seven
days any of the following: (A) the death of his or her patient during
the performance of any dental or dental hygiene procedure; (B)
the discovery of the death of a patient whose death is related to a
dental or dental hygiene procedure performed by him or her; or
(C) except for a scheduled hospitalization, the removal to a hospital
or emergency center for medical treatment of any patient to whom
oral conscious sedation, conscious sedation, or general anesthesia
was administered, or any patient as a result of dental or dental
hygiene treatment. With the exception of patients to whom oral
conscious sedation, conscious sedation, or general anesthesia was
administered, removal to a hospital or emergency center that is
the normal or expected treatment for the underlying dental
condition is not required to be reported. Upon receipt of a report
pursuant to this subdivision the board may conduct an inspection
of the dental office if the board finds that it is necessary. A dentist
shall report to the board all deaths occurring in his or her practice
with a copy sent to the Dental Hygiene Board of California if the
death was the result of treatment by a registered dental hygienist,
registered dental hygienist in alternative practice, or registered
dental hygienist in extended functions. A registered dental
hygienist, registered dental hygienist in alternative practice, or
registered dental hygienist in extended functions shall report to
the Dental Hygiene Board of California all deaths occurring as the
result of dental hygiene treatment, and a copy of the notification
shall be sent to the board.

(2) The report required by this subdivision shall be on a form
or forms approved by the board. The form or forms approved by
the board shall require the licensee to include, but not be limited
to, the following information for cases in which patients received
anesthesia: the date of the procedure; the patient’s age in years
and months, weight, and sex; the patient’s American Society of
Anesthesiologists (ASA) physical status; the patient’s primary
diagnosis; the patient’s coexisting diagnoses; the procedures
performed; the sedation setting; the medications used; the
monitoring equipment used; the category of the provider
responsible for sedation oversight; the category of the provider
delivering sedation; the category of the provider monitoring the
patient during sedation; whether the person supervising the sedation
performed one or more of the procedures; the planned airway
management; the planned depth of sedation; the complications
that occurred; a description of what was unexpected about the
airway management; whether there was transportation of the patient
during sedation; the category of the provider conducting
resuscitation measures; and the resuscitation equipment utilized.
Disclosure of individually identifiable patient information shall
be consistent with applicable law. A report required by this
subdivision shall not be admissible in any action brought by a
patient of the licensee providing the report.

(3) For the purposes of paragraph (2), categories of provider
are: General Dentist, Pediatric Dentist, Oral Surgeon, Dentist
Anesthesiologist, Physician Anesthesiologist, Dental Assistant,
Registered Dental Assistant, Dental Sedation Assistant, Registered
Nurse, Certified Registered Nurse Anesthetist, or Other.

(4) The form shall state that this information shall not be
considered an admission of guilt, but is for educational, data, or
investigative purposes.

(5) The board may assess a penalty on any licensee who fails
to report an instance of an adverse event as required by this
subdivision. The licensee may dispute the failure to file within 10
days of receiving notice that the board had assessed a penalty
against the licensee.
(aa) Participating in or operating any group advertising and referral services that are in violation of Section 650.2.

(ab) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(ac) Engaging in the practice of dentistry with an expired license.

(ad) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to patient, from patient to patient, and from patient to dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. The board shall review infection control guidelines, if necessary, on an annual basis and proposed changes shall be reviewed by the Dental Hygiene Board of California to establish a consensus. The hygiene board shall submit any recommended changes to the infection control guidelines for review to establish a consensus. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that all appropriate dental personnel are informed of the responsibility to follow infection
control guidelines, and of the most recent scientifically recognized
safeguards for minimizing the risk of transmission of bloodborne
infectious diseases.
   (ae) The utilization by a licensed dentist of any person to
perform the functions of any registered dental assistant, registered
dental assistant in extended functions, dental sedation assistant
permitholder, orthodontic assistant permitholder, registered dental
hygienist, registered dental hygienist in alternative practice, or
registered dental hygienist in extended functions who, at the time
of initial employment, does not possess a current, valid license or
permit to perform those functions.
   (af) The prescribing, dispensing, or furnishing of dangerous
drugs or devices, as defined in Section 4022, in violation of Section
2242.1.
SEC. 5. Section 1901 of the Business and Professions Code is
amended to read:
   1901. (a) There is hereby created in the Department of
Consumer Affairs a Dental Hygiene Board of California in which
the administration of this article is vested.
   (b) Whenever the terms “Dental Hygiene Committee of
California” or “committee” are used in this article, they mean the
Dental Hygiene Board of California.
   (c) Whenever the term “Dental Hygiene Committee of
California” is used in any other law, it means the Dental Hygiene
Board of California.
   (d) This section shall remain in effect only until January 1, 2023,
and as of that date is repealed. Notwithstanding any other law, the
repeal of this section renders the hygiene board subject to review
by the appropriate policy committees of the Legislature.
SEC. 6. Section 1901.5 is added to the Business and Professions
Code, to read:
   1901.5. The board may appoint a person exempt from civil
service who shall be designated as an executive officer and shall
exercise the powers and perform the duties delegated by the board
and vested in him or her by this article.
SEC. 7.
SEC. 6. Section 1902 of the Business and Professions Code is
amended to read:
1902. For purposes of this article, the following definitions
apply:
(a) “Hygiene board” means the Dental Hygiene Board of California.

(b) “Dental board” means the Dental Board of California.

(c) “Direct supervision” means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

(d) “General supervision” means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to be physically present in the treatment facility during the performance of those procedures.

(e) “Oral prophylaxis” means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

SEC. 8. Section 1902.1 of the Business and Professions Code is amended to read:

1902.1. Protection of the public shall be the highest priority for the hygiene board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 9. Section 1902.2 of the Business and Professions Code is amended to read:

1902.2. (a) A licensee shall report, upon his or her initial licensure and any subsequent application for renewal or inactive license, the practice or employment status of the licensee, designated as one of the following:

1. Full-time practice or employment in a dental or dental hygiene practice of 32 hours per week or more in California.

2. Full-time practice or employment in a dental or dental hygiene practice of 32 hours or more outside of California.

3. Part-time practice or employment in a dental or dental hygiene practice for less than 32 hours per week in California.
(4) Part-time practice or employment in a dental or dental hygiene practice for less than 32 hours per week outside of California.

(5) Dental hygiene administrative employment that does not include direct patient care, as may be further defined by the hygiene board.

(6) Retired.

(7) Other practice or employment status, as may be further defined by the hygiene board.

(b) Information collected pursuant to subdivision (a) shall be posted on the Internet Web site of the hygiene board.

(c) (1) A licensee may report on his or her application for renewal, and the hygiene board, as appropriate, shall collect, information regarding the licensee’s cultural background and foreign language proficiency.

(2) Information collected pursuant to this subdivision shall be aggregated on an annual basis, based on categories utilized by the hygiene board in the collection of the data, into both statewide totals and ZIP Code of primary practice or employment location totals.

(3) Aggregated information under this subdivision shall be compiled annually, and reported on the Internet Web site of the hygiene board as appropriate, on or before July 1 of each year.

(d) It is the intent of the Legislature to utilize moneys in the State Dental Hygiene Fund to pay any cost incurred by the hygiene board in implementing this section.

SEC. 9. Section 1902.3 of the Business and Professions Code is amended to read:

1902.3. A registered dental hygienist licensed in another state may teach in a dental hygiene college without being licensed in this state if he or she has a special permit. The hygiene board may issue a special permit to practice dental hygiene in a discipline at a dental hygiene college in this state to any person who submits an application and satisfies all of the following eligibility requirements:

(a) Furnishing satisfactory evidence of having a pending contract with a California dental hygiene college approved by the hygiene board as a full-time or part-time professor, associate professor, assistant professor, faculty member, or instructor.
(b) Furnishing satisfactory evidence of having graduated from a dental hygiene college approved by the hygiene board.

(c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty committee or, in lieu thereof, establishing his or her qualifications to take a specialty committee examination or furnishing satisfactory evidence of having completed an advanced educational program in a discipline from a dental hygiene college approved by the hygiene board.

(d) Furnishing satisfactory evidence of having successfully completed an examination in California law and ethics developed and administered by the hygiene board.

(e) Paying an application fee, subject to a biennial renewal fee, as provided by Section 1944.

SEC. 11.

SEC. 10. Section 1903 of the Business and Professions Code is amended to read:

1903. (a) (1) The hygiene board shall consist of nine members as follows:

(A) Seven members appointed by the Governor as follows:

(i) Two members shall be public members.

(ii) One member shall be a practicing general or public health dentist who holds a current license in California.

(iii) Four members shall be registered dental hygienists who hold current licenses in California. Of the registered dental hygienist members, one shall be licensed either in alternative practice or in extended functions, one shall be a dental hygiene educator, and two shall be registered dental hygienists. No public member shall have been licensed under this chapter within five years of the date of his or her appointment or have any current financial interest in a dental-related business.

(B) One public member appointed by the Senate Committee on Rules.

(C) One public member appointed by the Speaker of the Assembly.

(2) (A) The first appointment by the Senate Committee on Rules or the Speaker of the Assembly pursuant to this subdivision shall be made upon the expiration of the term of a public member that is scheduled to occur, or otherwise occurs, on or after January 1, 2019.
It is the intent of the Legislature that committee members appointed prior to January 1, 2019, remain as hygiene board members until their term expires or except as otherwise provided in law, whichever occurs first.

(3) For purposes of this subdivision, a public health dentist is a dentist whose primary employer or place of employment is in any of the following:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.
(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.
(C) A clinic owned or operated by a public hospital or health system.
(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county’s role under Section 17000 of the Welfare and Institutions Code.

(b) (1) Except as specified in paragraph (2), members of the hygiene board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have lapsed since the expiration of the term for which he or she was appointed, whichever comes first.

(2) For the term commencing on January 1, 2012, two of the public members, the general or public health dentist member, and two of the registered dental hygienist members, other than the dental hygiene educator member or the registered dental hygienist member licensed in alternative practice or in extended functions, shall each serve a term of two years, expiring January 1, 2014.

(c) Notwithstanding any other provision of law and subject to subdivision (e), the Governor may appoint to the hygiene board a person who previously served as a member of the former committee or hygiene board even if his or her previous term expired.

(d) The hygiene board shall elect a president, a vice president, and a secretary from its membership.

(e) No person shall serve as a member of the hygiene board for more than two consecutive terms.

(f) A vacancy in the hygiene board shall be filled by appointment to the unexpired term.

(g) Each member of the hygiene board shall receive a per diem and expenses as provided in Section 103.
(h) The Governor shall have the power to remove any member from the hygiene board for neglect of a duty required by law, for incompetence, or for unprofessional or dishonorable conduct.

(i) The hygiene board, with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the hygiene board and vested in him or her by this article.

(j) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 11. Section 1904 of the Business and Professions Code is amended to read:

1904. The hygiene board shall meet at least two times each calendar year and shall conduct additional meetings in appropriate locations that are necessary to transact its business.

SEC. 12. Section 1905 of the Business and Professions Code is amended to read:

1905. (a) The hygiene board shall perform the following functions:

(1) Evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions educational programs that apply for approval and grant or deny approval of those applications in accordance with regulations adopted by the hygiene board. Any such educational programs approved by the dental board on or before June 30, 2009, shall be deemed approved by the hygiene board. Any dental hygiene program accredited by the Commission on Dental Accreditation may be approved.

(2) Withdraw or revoke its prior approval of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions educational program in accordance with regulations adopted by the hygiene board. The hygiene board may withdraw or revoke a dental hygiene program approval if the Commission on Dental Accreditation has indicated an intent to withdraw approval or has withdrawn approval.

(3) Review and evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered
dental hygienist in extended functions applications for licensure to ascertain whether the applicant meets the appropriate licensing requirements specified by statute and regulations, maintain application records, cashier application fees, issue and renew licenses, and perform any other tasks that are incidental to the application and licensure processes.

(4) Determine the appropriate type of license examination consistent with the provisions of this article, and develop or cause to be developed and administer examinations in accordance with regulations adopted by the hygiene board.

(5) Determine the amount of fees assessed under this article, not to exceed the actual cost.

(6) Determine and enforce the continuing education requirements specified in Section 1936.1.

(7) Deny, suspend, or revoke a license under this article, or otherwise enforce the provisions of this article. Any such proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the hygiene board shall have all of the powers granted therein.

(8) Make recommendations to the dental board regarding dental hygiene scope of practice issues.

(9) Adopt, amend, and revoke rules and regulations to implement the provisions of this article, including the amount of required supervision by a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions of a registered dental assistant.

(b) The hygiene board may employ employees and examiners that it deems necessary to carry out its functions and responsibilities under this article.

SEC. 14. SEC. 13. Section 1905.1 of the Business and Professions Code is amended to read:

SEC. 15. SEC. 14. Section 1905.2 of the Business and Professions Code 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.

SEC. 16. 
SEC. 15. Section 1906 of the Business and Professions Code
is amended to read:
1906. (a) The hygiene board shall adopt, amend, and revoke
1 regulations to implement the requirements of this article.
2 (b) All regulations adopted by the hygiene board shall comply
3 with the provisions of Chapter 3.5 (commencing with Section
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
5 (c) No regulation adopted by the hygiene board shall impose a
6 requirement or a prohibition directly upon a licensed dentist or on
7 the administration of a dental office, unless specifically authorized
8 by this article.
9 (d) Unless contrary to the provisions of this article, regulations
10 adopted by the dental board shall continue to apply to registered
11 dental hygienists, registered dental hygienists in alternative
12 practice, and registered dental hygienists in extended functions
13 until other regulations are adopted by the hygiene board. All
14 references in those regulations to “board” shall mean the hygiene
15 board, which shall solely enforce the regulations with respect to
16 registered dental hygienists, registered dental hygienists in
17 alternative practice, and registered dental hygienists in extended
18 functions.

SEC. 17. 
SEC. 16. Section 1909 of the Business and Professions Code
is amended to read:
1909. A registered dental hygienist is authorized to perform
1 the following procedures under direct supervision of a licensed
2 dentist, after submitting to the hygiene board evidence of
3 satisfactory completion of a course of instruction, approved by the
4 hygiene board, in the procedures:
5 (a) Soft-tissue curettage.
(b) Administration of local anesthesia.

(c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

SEC. 18.

SEC. 17. Section 1910.5 of the Business and Professions Code is amended to read:

1910.5. (a) In addition to the duties specified in Section 1910, a registered dental hygienist is authorized to perform the following additional duties, as specified:

(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental hygienist shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting.

(ii) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.
(b) The functions described in subdivision (a) may be performed by a registered dental hygienist only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the hygiene board, of having completed a hygiene board-approved course in those functions.

(c) No later than January 1, 2018, the hygiene board shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental hygienist and registered dental hygienist in alternative practice pursuant to Sections 1910.5 and 1926.05, using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The hygiene board shall use the curriculum submitted by the board pursuant to Section 1753.55 to adopt regulatory language for approval of courses of instruction for the Interim Therapeutic Restoration. Any subsequent amendments to the regulations for the Interim Therapeutic Restoration curriculum that are promulgated by the hygiene board shall be agreed upon by the board and the hygiene board.

(d) This section shall become operative on January 1, 2018.

SEC. 19.
SEC. 18. Section 1916 of the Business and Professions Code is amended to read:

1916. (a) (1) An applicant for licensure under this article shall furnish electronic fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.

(2) Notwithstanding paragraph (1), an out-of-state applicant or licensee residing out of state for whom an electronic record of the licensee’s fingerprints does not exist shall furnish a hardcopy of his or her fingerprint card if electronic fingerprint images are not available or shared in the applicant’s or licensee’s state of residence.

(b) The hygiene board shall submit the fingerprint images or card to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.
(c) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the hygiene board.

(d) The Department of Justice shall provide a response to the hygiene board pursuant to subdivision (p) of Section 11105 of the Penal Code.

(e) The hygiene board shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(f) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1943.

(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

SEC. 20.

SEC. 19. Section 1917 of the Business and Professions Code is amended to read:

1917. The hygiene board shall grant initial licensure as a registered dental hygienist to a person who satisfies all of the following requirements:

(a) Completion of an educational program for registered dental hygienists, approved by the hygiene board, accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(b) Within the preceding two 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.

(c) Satisfactory completion of the National Dental Hygiene Board Examination.

(d) Satisfactory completion of the examination in California law and ethics as prescribed by the hygiene board.

(e) Submission of a completed application form and all fees required by the hygiene board.
(f) Satisfactory completion of hygiene board-approved instruction in gingival soft tissue curettage, nitrous oxide-oxygen analgesia, and local anesthesia.

SEC. 21.

SEC. 20. Section 1917.1 of the Business and Professions Code is amended to read:

1917.1. (a) The hygiene board may grant a license as a registered dental hygienist to an applicant who has not taken a clinical examination before the hygiene board, if the applicant submits all of the following to the hygiene board:

1. A completed application form and all fees required by the hygiene board.
2. Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.
3. Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years immediately preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the hygiene board a copy of a pending contract to practice dental hygiene in any of the following facilities:
   A. A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.
   B. A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.
   C. A clinic owned or operated by a public hospital or health system.
   D. A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county’s role under Section 17000 of the Welfare and Institutions Code.
4. Satisfactory performance on a California law and ethics examination and any examination that may be required by the hygiene board.
5. Proof that the applicant has not been subject to disciplinary action by any state in which he or she, is or has been previously, issued any professional or vocational license. If the applicant has
been subject to disciplinary action, the hygiene board shall review that action to determine if it warrants refusal to issue a license to the applicant.

(6) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.

(7) Proof of satisfactory completion of the National Dental Hygiene Board Examination and of a state clinical examination, regional clinical licensure examination, or any other clinical dental hygiene examination approved by the hygiene board.

(8) Proof that the applicant has not failed the state clinical examination, the examination given by the Western Regional Examining Board, or any other clinical dental hygiene examination approved by the hygiene board for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of his or her application for a license under this section.

(9) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the hygiene board on registered dental hygienists licensed in this state at the time of application.

(10) Any other information as specified by the hygiene board to the extent that it is required of applicants for licensure by examination under this article.

(b) The hygiene board may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (a), and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) of subdivision (a) has not been met.

(c) The hygiene board shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

SEC. 22. Section 1917.3 of the Business and Professions Code is amended to read:
1917.3. Notwithstanding Section 135, an examinee for a registered dental hygienist license who either fails to pass the clinical examination required by Section 1917 after three attempts or fails to pass the clinical examination as a result of a single incidence of imposing gross trauma on a patient shall not be eligible for further reexamination until the examinee has successfully completed remedial education at an approved dental hygiene program or a comparable organization approved by the hygiene board.

SEC. 22. Section 1918 of the Business and Professions Code is amended to read:
1918. The hygiene board shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:
(a) Holds a current license as a registered dental hygienist in California.
(b) Completes clinical training approved by the hygiene board in a facility affiliated with a dental school under the direct supervision of the dental school faculty.
(c) Performs satisfactorily on an examination required by the hygiene board.
(d) Completes an application form and pays all application fees required by the hygiene board.

SEC. 23. Section 1922 of the Business and Professions Code is amended to read:
1922. The hygiene board shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the hygiene board and who completes an application form and pays all application fees required by the hygiene board and meets either of the following requirements:
(a) Holds a current California license as a registered dental hygienist and meets the following requirements:
   (1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.
(2) Has successfully completed a bachelor’s degree or its
equivalent from a college or institution of higher education that is
accredited by a national or regional accrediting agency recognized
by the United States Department of Education, and a minimum of
150 hours of additional educational requirements, as prescribed
by the hygiene board by regulation, that are consistent with good
dental and dental hygiene practice, including, but not necessarily
limited to, dental hygiene technique and theory including
gerontology and medical emergencies, and business administration
and practice management.

(b) Has received a letter of acceptance into the employment
utilization phase of the Health Manpower Pilot Project No. 155
established by the Office of Statewide Health Planning and
Development pursuant to Article 1 (commencing with Section
128125) of Chapter 3 of Part 3 of Division 107 of the Health and
Safety Code.

SEC. 24. Section 1926.1 of the Business and Professions Code
is amended to read:

1926.1. Notwithstanding any other provision of law, a
registered dental hygienist in alternative practice may operate a
mobile dental hygiene clinic provided by his or her property and
casualty insurer as a temporary substitute site for the practice
registered by him or her pursuant to Section 1926.3, if both of the
following requirements are met:

(a) The licensee’s registered place of practice has been rendered
and remains unusable due to loss or calamity.

(b) The licensee’s insurer registers the mobile dental hygiene
clinic with the hygiene board in compliance with Section 1926.3.

SEC. 25. Section 1926.2 of the Business and Professions Code
is amended to read:

1926.2. (a) Notwithstanding any other provision of law, a
registered dental hygienist in alternative practice may operate one
mobile dental hygiene clinic registered as a dental hygiene office
or facility. The owner or operator of the mobile dental hygiene
clinic or unit shall be registered and operated in accordance with
regulations established by the hygiene board, which regulations
shall not be designed to prevent or lessen competition in service
areas, and shall pay the fees described in Section 1944.
(b) A mobile service unit, as defined in subdivision (b) of Section 1765.105 of the Health and Safety Code, and a mobile unit operated by an entity that is exempt from licensure pursuant to subdivision (b), (c), or (h) of Section 1206 of the Health and Safety Code, are exempt from this article. Notwithstanding this exemption, the owner or operator of the mobile unit shall notify the hygiene board within 60 days of the date on which dental hygiene services are first delivered in the mobile unit, or the date on which the mobile unit’s application pursuant to Section 1765.130 of the Health and Safety Code is approved, whichever is earlier.

(c) A licensee practicing in a mobile unit described in subdivision (b) is not subject to subdivision (a) as to that mobile unit.

SEC. 27.

SEC. 26. Section 1926.3 of the Business and Professions Code is amended to read:

1926.3. Every person who is now or hereafter licensed as a registered dental hygienist in alternative practice in this state shall register with the executive officer, on forms prescribed by the hygiene board, his or her place of practice, or, if he or she has more than one place of practice pursuant to Section 1926.4, all of the places of practice. If he or she has no place of practice, he or she shall so notify the executive officer. A person licensed by the hygiene board shall register with the executive officer within 30 days after the date of the issuance of his or her license as a registered dental hygienist in alternative practice.

SEC. 28.

SEC. 27. Section 1926.4 of the Business and Professions Code is amended to read:

1926.4. When a registered dental hygienist in alternative practice desires to have more than one place of practice, he or she shall, prior to the opening of the additional office, apply to the hygiene board, pay the fee required by Section 1944, and obtain permission in writing from the hygiene board to have the additional place of practice, subject to a biennial renewal fee described in Section 1944.

SEC. 29.

SEC. 28. Section 1930 of the Business and Professions Code is amended to read:
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.

SEC. 29.

SEC. 29. Section 1931 of the Business and Professions Code
is amended to read:

1931. (a) (1) A dental hygienist in alternative practice may
provide services to a patient without obtaining written verification
that the patient has been examined by a dentist or physician and
surgeon licensed to practice in this state.

(2) If the dental hygienist in alternative practice provides
services to a patient 18 months or more after the first date that he
or she provides services to a patient, he or she shall obtain written
verification that the patient has been examined by a dentist or
physician and surgeon licensed to practice in this state. The
verification shall include a prescription for dental hygiene services
as described in subdivision (b).

(b) A registered dental hygienist in alternative practice may
provide dental hygiene services for a patient who presents to the
registered dental hygienist in alternative practice a written
prescription for dental hygiene services issued by a dentist or
physician and surgeon licensed to practice in this state. The
prescription shall be valid for a time period based on the dentist’s
or physician and surgeon’s professional judgment, but not to exceed
two years from the date it was issued.

(c) (1) The hygiene board may seek to obtain an injunction
against any registered dental hygienist in alternative practice who
provides services pursuant to this section, if the hygiene board has
reasonable cause to believe that the services are being provided to
a patient who has not received a prescription for those services
from a dentist or physician and surgeon licensed to practice in this
state.

(2) Providing services pursuant to this section without obtaining
a prescription in accordance with subdivision (b) shall constitute
unprofessional conduct on the part of the registered dental hygienist
in alternative practice, and reason for the hygiene board to revoke
or suspend the license of the registered dental hygienist in
alternative practice pursuant to Section 1947.
SEC. 31.

SEC. 30. Section 1932 of the Business and Professions Code is amended to read:

1932. (a) The hygiene board may, in its sole discretion, issue a probationary license to an applicant who has satisfied all requirements for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The hygiene board may require, as a term or condition of issuing the probationary license, that the applicant comply with certain additional requirements, including, but not limited to, the following:

1. Successfully completing a professional competency examination.

2. Submitting to a medical or psychological evaluation.


4. Abstaining from the use of alcohol or drugs.

5. Submitting to random fluid testing for alcohol or controlled substance abuse.

6. Submitting to continuing participation in a hygiene board-approved rehabilitation program.

7. Restricting the type or circumstances of practice.

8. Submitting to continuing education and coursework.

9. Complying with requirements regarding notifying the hygiene board of any change of employer or employment.

10. Complying with probation monitoring.

11. Complying with all laws and regulations governing the practice of dental hygiene.

12. Limiting his or her practice to a supervised, structured environment in which his or her activities are supervised by a specified person.

(b) The term of a probationary license is three years. During the term of the license, the licensee may petition the hygiene board for a modification of a term or condition of the license or for the issuance of a license that is not probationary.

(c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the hygiene board shall have all the powers granted in that chapter.
SEC. 31. Section 1934 of the Business and Professions Code is amended to read:

1934. A licensee who changes his or her physical address of record or email address shall notify the hygiene board within 30 days of the change. A licensee who changes his or her legal name shall provide the hygiene board with documentation of the change within 10 days.

SEC. 32. Section 1935 of the Business and Professions Code is amended to read:

1935. If not renewed, a license issued under the provisions of this article, unless specifically excepted, expires at 12 midnight on the last day of the month of the legal birth date of the licensee during the second year of a two-year term. To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the hygiene board and pay the renewal fee prescribed by this article.

SEC. 33. Section 1936 of the Business and Professions Code is amended to read:

1936. Except as otherwise provided in this article, an expired license may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the hygiene board and payment of all accrued renewal and delinquency fees. If the license is renewed after its expiration, the licensee, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect until the expiration date provided in Section 1935 that next occurs after the effective date of the renewal.

SEC. 34. Section 1936.1 of the Business and Professions Code is amended to read:

1936.1. (a) The hygiene board shall require, as a condition of license renewal, that licensees submit assurances satisfactory to
the hygiene board that they will, during the succeeding two-year
period, inform themselves of the developments in the practice of
dental hygiene occurring since the original issuance of their
licenses by pursuing one or more courses of study satisfactory to
the hygiene board, or by other means deemed equivalent by the
hygiene board. The hygiene board shall adopt, amend, and revoke
regulations providing for the suspension of the licenses at the end
of the two-year period until compliance with the assurances
provided for in this section is accomplished. The hygiene board
shall conduct random audits of at least 5 percent of the licensee
population each year to ensure compliance of the continuing
education requirement.

(b) The hygiene board shall also, as a condition of license
renewal, require licensees to successfully complete a portion of
the required continuing education hours in specific areas adopted
in regulations by the hygiene board. The hygiene board may
 prescribe this mandatory coursework within the general areas of
patient care, health and safety, and law and ethics. The mandatory
coursework prescribed by the hygiene board shall not exceed seven
and one-half hours per renewal period. Any mandatory coursework
required by the hygiene board shall be credited toward the
continuing education requirements established by the hygiene
board pursuant to subdivision (a).

(c) The providers of courses referred to in this section shall be
approved by the hygiene board. Providers approved by the dental
board shall be deemed approved by the hygiene board.

SEC. 36. SEC. 35. Section 1940 of the Business and Professions Code
is amended to read:

1940. (a) A licensee who desires an inactive license shall
submit an application to the hygiene board on a form provided by
the hygiene board.

(b) In order to restore an inactive license to active status, the
licensee shall submit an application to the hygiene board on a form
provided by the hygiene board, accompanied by evidence that the
licensee has completed the required number of hours of approved
continuing education in compliance with this article within the last
two years preceding the date of the application.

(c) The holder of an inactive license shall continue to pay to the
hygiene board the required biennial renewal fee.
Within 30 days of receiving a request either to restore an inactive license or to inactivate a license, the hygiene board shall inform the applicant in writing whether the application is complete and accepted for filing or is deficient and, if so, the specific information required to complete the application.

SEC. 36.
Section 1941 of the Business and Professions Code is amended to read:

SEC. 37.
1941. (a) The hygiene board shall grant or renew approval of only those educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that continuously maintain a high quality standard of instruction and, where appropriate, meet the minimum standards set by the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the hygiene board.

(b) A new educational program for registered dental hygienists shall submit a feasibility study demonstrating a need for a new educational program and shall apply for approval from the hygiene board prior to seeking approval for initial accreditation from the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the hygiene board. The hygiene board may approve, provisionally approve, or deny approval of any such new educational program.

(c) For purposes of this section, a new educational program for registered dental hygienists means a program provided by a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education and that has as its primary purpose providing college level courses leading to an associate or higher degree, that is either affiliated with or conducted by a dental school approved by the dental board, or that is accredited to offer college level or college parallel programs by the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the hygiene board.

SEC. 38.
Section 1941.5 is added to the Business and Professions Code, to read:

1941.5. (a) The hygiene board shall renew approval of educational programs for a registered dental hygienist, a registered
dental hygienist in alternative practice, or a registered dental
hygienist in extended functions that certify to the hygiene board
on a form prescribed by the hygiene board that the program
continues to meet the requirements prescribed by the hygiene
board.
(b) The hygiene board may conduct periodic surveys,
evaluations, and announced and unannounced site visits to existing
and new educational programs for a registered dental hygienist, a
registered dental hygienist in alternative practice, or a registered
dental hygienist in extended functions to ensure continued
compliance of educational program requirements and Commission
on Dental Accreditation standards for continued approval.
(c) An existing or new educational program for a registered
dental hygienist, a registered dental hygienist in alternative practice,
or a registered dental hygienist in extended functions that is found
to be noncompliant with the educational program requirements
and Commission on Dental Accreditation standards may be placed
on probation with terms, issued a citation and fine, or have its
approval withdrawn if compliance is not met within reasonable
specified timelines.
(d) The hygiene board, or through an authorized representative,
may issue a citation containing fines and orders of abatement for
any approved educational program for a registered dental hygienist,
a registered dental hygienist in alternative practice, or a registered
dental hygienist in extended functions for any violation of this
section or the regulations adopted pursuant to this section.
SEC. 39. Section 1942 of the Business and Professions Code
is amended to read:
1942. (a) As used in this article “extramural dental facility”
means any clinical facility that has contracted with an approved
dental hygiene educational program for instruction in dental
hygiene, that exists outside or beyond the walls, boundaries, or
precincts of the primary campus of the approved program, and in
which dental hygiene services are rendered.
(b) An approved dental hygiene educational program shall
register an extramural dental facility with the hygiene board. That
registration shall be accompanied by information supplied by the
dental hygiene program pertaining to faculty supervision, scope
of treatment to be rendered, name and location of the facility, date
on which the operation will commence, discipline of which the
instruction is a part, and a brief description of the equipment and
facilities available. The foregoing information shall be
supplemented by a copy of the agreement between the approved
dental hygiene educational program or parent university, and the
affiliated institution establishing the contractual relationship. Any
change in the information initially provided to the hygiene board
shall be communicated to the hygiene board.

SEC. 40.

SEC. 39. Section 1943 of the Business and Professions Code
is amended to read:

1943. (a) The hygiene board may deny an application to take
an examination for licensure as a registered dental hygienist, a
registered dental hygienist in alternative practice, or a registered
dental hygienist in extended functions at any time prior to licensure
for any of the following reasons:

(1) The applicant committed an act that is a ground for license
suspension or revocation under this code or that is a ground for
the denial of licensure under Section 480.

(2) The applicant committed or aided and abetted the
commission of any act for which a license is required under this
chapter.

(3) Another state or territory suspended or revoked the license
that it had issued to the applicant on a ground that constitutes a
basis in this state for the suspension or revocation of licensure
under this article.

(b) The proceedings under this section shall be conducted in
accordance with Chapter 5 (commencing with Section 11500) of
Part 1 of Division 3 of Title 2 of the Government Code, and the
hygiene board shall have all of the powers granted therein.

SEC. 41.

SEC. 40. Section 1944 of the Business and Professions Code
is amended to read:

1944. (a) The hygiene board shall establish by resolution the
amount of the fees that relate to the licensing of a registered dental
hygienist, a registered dental hygienist in alternative practice, and
a registered dental hygienist in extended functions. The fees
established by board resolution in effect on June 30, 2009, as they
relate to the licensure of registered dental hygienists, registered
dental hygienists in alternative practice, and registered dental
hygienists in extended functions, shall remain in effect until modified by the hygiene board. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for issuance of an original license shall not exceed two hundred fifty dollars ($250).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed five hundred dollars ($500).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review and feasibility study review for educational programs for dental hygienists who are not accredited by a hygiene board-approved agency shall not exceed two thousand one hundred dollars ($2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars ($750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars ($500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant’s license to practice dental hygiene in effect on
the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(13) The fee for the hygiene board to conduct a site visit to educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions to ensure compliance of educational program requirements shall not exceed the actual cost incurred by the hygiene board for cost recovery of site visit expenditures.

(14) The fee for a retired license shall not exceed one-half of the current license renewal fee.

(b) The renewal and delinquency fees shall be fixed by the hygiene board by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars ($5).

(c) Fees fixed by the hygiene board by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the hygiene board and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the hygiene board in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars ($250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars ($150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars ($250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars ($250).
(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars ($250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 42.

SEC. 41. Section 1947 of the Business and Professions Code is amended to read:

1947. A license issued under this article and a license issued under this chapter to a registered dental hygienist, to a registered dental hygienist in alternative practice, or to a registered dental hygienist in extended functions may be revoked or suspended by the hygiene board for any reason specified in this article for the suspension or revocation of a license to practice dental hygiene.

SEC. 43.

SEC. 42. Section 1949 of the Business and Professions Code is amended to read:

1949. A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the hygiene board for unprofessional conduct, incompetence, gross negligence, repeated acts of negligence in his or her profession, receiving a license by mistake, or for any other cause applicable to the licentiate provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the hygiene board shall have all the powers granted therein.

SEC. 44.

SEC. 43. Section 1950 of the Business and Professions Code is amended to read:

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the hygiene board, for conviction of a crime substantially related to the licensee’s qualifications, functions, or duties. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction occurred shall be conclusive evidence of conviction.
(b) The hygiene board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee’s qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The hygiene board may reprimand a licensee or order a license suspended or revoked, or placed on probation or may decline to issue a license, when any of the following occur:

1. The time for appeal has elapsed.
2. The judgment of conviction has been affirmed on appeal.
3. An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 45.

SEC. 44. Section 1950.5 of the Business and Professions Code is amended to read:

1950.5. Unprofessional conduct by a person licensed under this article is defined as, but is not limited to, any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.
(b) The aiding or abetting of any unlicensed person to practice dentistry or dental hygiene.
(c) The aiding or abetting of a licensed person to practice dentistry or dental hygiene unlawfully.
(d) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dental hygiene.
(e) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1962.
(f) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiographs, prescriptions, or other services or articles supplied to patients.

(g) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.

(h) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(i) The employing or the making use of solicitors.

(j) Advertising in violation of Section 651.

(k) Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(l) The violation of any of the provisions of this division.

(m) The permitting of any person to operate dental radiographic equipment who has not met the requirements to do so, as determined by the hygiene board.

(n) The clearly excessive administering of drugs or treatment, or the clearly excessive use of treatment procedures, or the clearly excessive use of treatment facilities, as determined by the customary practice and standards of the dental hygiene profession. Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(o) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee’s attempt to comply with the provisions of this chapter or to aid in the compliance.

(p) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(q) The alteration of a patient’s record with intent to deceive.

(r) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.
(s) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.

(t) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(u) Use of fraud in the procurement of any license issued pursuant to this article.

(v) Any action or conduct that would have warranted the denial of the license.

(w) The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.

(x) The failure to report to the hygiene board in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the hygiene board may conduct an inspection of the dental hygiene practice office if the hygiene board finds that it is necessary.

(y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the hygiene board all deaths occurring in his or her practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in his or her practice with a copy sent to the hygiene board if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

SEC. 46.
SEC. 45. Section 1951 of the Business and Professions Code is amended to read:
1951. The hygiene board may discipline a licensee by placing
him or her on probation under various terms and conditions that
may include, but are not limited to, the following:
(a) Requiring the licensee to obtain additional training or pass
an examination upon completion of training, or both. The
examination may be a written or oral examination, or both, and
may be a practical or clinical examination, or both, at the option
of the hygiene board.
(b) Requiring the licensee to submit to a complete diagnostic
examination by one or more physicians appointed by the hygiene
board, if warranted by the physical or mental condition of the
licensee. If the hygiene board requires the licensee to submit to an
examination, the hygiene board shall receive and consider any
other report of a complete diagnostic examination given by one
or more physicians of the licensee’s choice.
(c) Restricting or limiting the extent, scope, or type of practice
of the licensee.
(d) Requiring restitution of fees to the licensee’s patients or
payers of services, unless restitution has already been made.
(e) Providing the option of alternative community service in
lieu of all or part of a period of suspension in cases other than
violations relating to quality of care.

SEC. 46.
Section 1952 of the Business and Professions Code
is amended to read:
1952. It is unprofessional conduct for a person licensed under
this article to do any of the following:
(a) Obtain or possess in violation of law, or except as directed
by a licensed physician and surgeon, dentist, or podiatrist, a
controlled substance, as defined in Division 10 (commencing with
Section 11000) of the Health and Safety Code, or any dangerous
drug as defined in Section 4022.
(b) Use a controlled substance, as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code,
or a dangerous drug as defined in Section 4022, or alcoholic
beverages or other intoxicating substances, to an extent or in a
manner dangerous or injurious to himself or herself, to any person,
or the public to the extent that the use impairs the licensee’s ability
to conduct with safety to the public the practice authorized by his
or her license.
(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022, or be convicted of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license.

1. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

2. The hygiene board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 48.

SEC. 47. Section 1955 of the Business and Professions Code is amended to read:

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient’s dental or dental hygiene records that is accompanied by that patient’s written authorization for release of the records to the hygiene board, within 15 days of receiving the request and authorization, shall pay to the hygiene board a civil or administrative penalty or fine up to a maximum of two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars ($5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental or dental hygiene records of a patient that is accompanied by that patient’s written authorization for release of records to the hygiene board together with a notice citing this section and
describing the penalties for failure to comply with this section. Failure to provide the authorizing patient’s dental hygiene records to the hygiene board within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil or administrative penalty or fine, payable to the hygiene board, of up to a maximum of two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars ($5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the hygiene board in obtaining the patient’s authorization. The hygiene board shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the hygiene board shall pay to the hygiene board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the hygiene board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the hygiene board is guilty of a misdemeanor punishable by a fine payable to the hygiene board not to exceed five thousand dollars ($5,000). The fine shall be added to the licensee’s renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the hygiene board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the hygiene board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the hygiene board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced,
(4) A health care facility that fails or refuses to comply with a
court order, issued in the enforcement of a subpoena, mandating
the release of records to the hygiene board is guilty of a
misdemeanor punishable by a fine payable to the hygiene board
not to exceed five thousand dollars ($5,000). Any statute of
limitations applicable to the filing of an accusation by the hygiene
board against a licensee shall be tolled during the period the health
care facility is out of compliance with the court order and during
any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b)
shall be punishable by a fine not to exceed five thousand dollars
($5,000) or by imprisonment in a county jail not exceeding six
months, or by both that fine and imprisonment. Multiple acts by
a health care facility in violation of subdivision (b) shall be
punishable by a fine not to exceed five thousand dollars ($5,000)
and shall be reported to the State Department of Public Health and
shall be considered as grounds for disciplinary action with respect
to licensure, including suspension or revocation of the license or
permit.

(d) A failure or refusal to comply with a court order issued in
the enforcement of a subpoena mandating the release of records
to the hygiene board constitutes unprofessional conduct and is
grounds for suspension or revocation of his or her license.

(e) Imposition of the civil or administrative penalties authorized
by this section shall be in accordance with the Administrative
Procedure Act (Chapter 5 (commencing with Section 11500) of
Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a “health care facility” means
a clinic or health care facility licensed or exempt from licensure
pursuant to Division 2 (commencing with Section 1200) of the
Health and Safety Code.
SEC. 49.
SEC. 48. Section 1957 of the Business and Professions Code is amended to read:
1957. (a) A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the hygiene board for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:
(1) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.
(2) At least two years for early termination, or modification of a condition, of a probation of three years or more.
(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.
(b) The petition shall state any fact required by the hygiene board.
(c) The petition may be heard by the hygiene board, or the hygiene board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.
(d) In considering reinstatement or modification or penalty, the hygiene board or the administrative law judge hearing the petition may consider the following:
(1) All activities of the petitioner since the disciplinary action was taken.
(2) The offense for which the petitioner was disciplined.
(3) The petitioner’s activities during the time the license or permit was in good standing.
(4) The petitioner’s rehabilitative efforts, general reputation for truth, and professional ability.
(e) The hearing may be continued from time to time as the hygiene board or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.
(f) The hygiene board or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license or permit or modifying a penalty.

(g) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.

(h) A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.

(i) The hygiene board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 50.

SEC. 49. Section 1958 of the Business and Professions Code is amended to read:

1958. A person, company, or association is guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in a county jail not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars ($100) nor more than one thousand five hundred dollars ($1,500), or by both that fine and imprisonment, who does any of the following:

(a) Assumes the title of “registered dental hygienist,” “registered dental hygienist in alternative practice,” or “registered dental hygienist in extended functions” or appends the letters “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.” to his or her name without having had the right to assume the title conferred upon him or her through licensure.

(b) Assumes any title, or appends any letters to his or her name, with the intent to represent falsely that he or she has received a dental hygiene degree or a license under this article.

(c) Engages in the practice of dental hygiene without causing to be displayed in a conspicuous place in his or her office his or her license under this article to practice dental hygiene.

(d) Within 10 days after demand is made by the executive officer of the hygiene board, fails to furnish to the hygiene board the name and address of all persons practicing or assisting in the practice of dental hygiene in the office of the person, company, or association, at any time within 60 days prior to the demand, together with a
sworn statement showing under and by what license or authority
this person, company, or association and any employees are or
have been practicing or assisting in the practice of dental hygiene.
This sworn statement shall not be used in any prosecution under
this section.
(e) Is under the influence of alcohol or a controlled substance
while engaged in the practice of dental hygiene in actual attendance
on patients to an extent that impairs his or her ability to conduct
the practice of dental hygiene with safety to patients and the public.

SEC. 51.

SEC. 50. Section 1958.1 of the Business and Professions Code
is amended to read:

1958.1. (a) Notwithstanding any other law, with regard to an
individual who is required to register as a sex offender pursuant
to Section 290 of the Penal Code, or the equivalent in another state
or territory, under military law, or under federal law, all of the
following shall apply:
(1) The hygiene board shall deny an application by the individual
for licensure pursuant to this article.
(2) If the individual is licensed under this article, the hygiene
board shall promptly revoke the license of the individual. The
hygiene board shall not stay the revocation nor place the license
on probation.
(3) The hygiene board shall not reinstate or reissue the
individual’s licensure under this article. The hygiene board shall
not issue a stay of license denial and place the license on probation.
(b) This section shall not apply to any of the following:
(1) An individual who has been relieved under Section 290.5
of the Penal Code of his or her duty to register as a sex offender,
or whose duty to register has otherwise been formally terminated
under California law or the law of the jurisdiction that requires his
or her registration as a sex offender.
(2) An individual who is required to register as a sex offender
pursuant to Section 290 of the Penal Code solely because of a
misdemeanor conviction under Section 314 of the Penal Code.
However, nothing in this paragraph shall prohibit the hygiene
board from exercising its discretion to discipline a licensee under
other provisions of state law based upon the licensee’s conviction
under Section 314 of the Penal Code.
Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2013. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

SEC. 52.
SEC. 51. Section 1962 of the Business and Professions Code is amended to read:

(a) An association, partnership, corporation, or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the hygiene board under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the hygiene board under this section. The hygiene board shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder’s practice if the hygiene board finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: “dental hygiene group,” “dental hygiene practice,” or “dental hygiene office,” contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or
members of the group, and is in conformity with Section 651 and
not in violation of subdivisions (i) and (l) of Section 1950.5.
(4) All licensed persons practicing at the location designated in
the application hold valid licenses and no charges of unprofessional
conduct are pending against any person practicing at that location.
(c) A permit issued under this section shall expire and become
invalid unless renewed in the manner provided for in this article
for the renewal of permits issued under this article.
(d) A permit issued under this section may be revoked or
suspended if the hygiene board finds that any requirement for
original issuance of a permit is no longer being fulfilled by the
permit holder. Proceedings for revocation or suspension shall be
governed by the Administrative Procedure Act.
(e) If charges of unprofessional conduct are filed against the
holder of a permit issued under this section, or a member of an
association, partnership, group, or corporation to whom a permit
has been issued under this section, proceedings shall not be
commenced for revocation or suspension of the permit until a final
determination of the charges of unprofessional conduct, unless the
charges have resulted in revocation or suspension of a license.
SEC. 52. Section 1963 of the Business and Professions Code
is amended to read:
1963. The hygiene board may file a complaint for violation of
any part of this article with any court of competent jurisdiction
and may, by its officers, counsel and agents, assist in presenting
the law or facts at the trial. The district attorney of each county in
this state shall prosecute all violations of this article in their
respective counties in which the violations occur.
SEC. 53. Section 1964 of the Business and Professions Code
is amended to read:
1964. In addition to the other proceedings provided for in this
article, on application of the hygiene board, the superior court of
any county shall issue an injunction to restrain an unlicensed person
from conducting the practice of dental hygiene, as defined in this
article.
SEC. 54. Section 1966 of the Business and Professions Code
is amended to read:
1966. (a) It is the intent of the Legislature that the hygiene board seek ways and means to identify and rehabilitate licensees whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licensees so afflicted may be treated and returned to the practice of dental hygiene in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the hygiene board establish a diversion program as a voluntary alternative approach to traditional disciplinary actions.

(b) One or more diversion evaluation committees shall be established by the hygiene board. The hygiene board shall establish criteria for the selection of each diversion evaluation committee. Each member of a diversion evaluation committee shall receive per diem and expenses as provided in Section 103.

SEC. 56. SEC. 55. Section 1966.1 of the Business and Professions Code is amended to read:

1966.1. (a) The hygiene board shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the hygiene board as a condition of a licensee’s disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.

(b) A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licensee under current investigation by the hygiene board may also request entry into a diversion program by contacting the hygiene board. The hygiene board may refer the licensee requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the hygiene board may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.
(d) If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1951, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the hygiene board shall close the investigation without further action if the licensee is accepted into the hygiene board’s diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the hygiene board.

(e) Neither acceptance nor participation in the diversion program shall preclude the hygiene board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public’s health and safety shall result in the utilization by the hygiene board of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the hygiene board for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the hygiene board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the hygiene board.

SEC. 57.

SEC. 56. Section 1966.2 of the Business and Professions Code is amended to read:

(a) To evaluate those licensees who request to participate in the diversion program according to the guidelines prescribed by the
hygiene board and to consider the recommendations of any
licensees designated by the hygiene board to serve as consultants
on the admission of the licensee to the diversion program.
(b) To review and designate those treatment facilities to which
licensees in a diversion program may be referred.
(c) To receive and review information concerning a licensee
participating in the program.
(d) To consider in the case of each licensee participating in a
program whether he or she may safely continue or resume the
practice of dental hygiene.
(e) To perform other related duties as the hygiene board may
by regulation require.

SEC. 58.
SEC. 57. Section 1966.4 of the Business and Professions Code
is amended to read:
1966.4. Each licensee who requests participation in a diversion
program shall agree to cooperate with the treatment program
designed by a diversion evaluation committee and to bear all costs
related to the program, unless the cost is waived by the hygiene
board. Any failure to comply with the provisions of a treatment
program may result in termination of the licensee’s participation
in a program.

SEC. 59.
SEC. 58. Section 1966.5 of the Business and Professions Code
is amended to read:
1966.5. (a) After a diversion evaluation committee, in its
discretion, has determined that a licensee has been rehabilitated
and the diversion program is completed, the diversion evaluation
committee shall purge and destroy all records pertaining to the
licensee’s participation in the diversion program.
(b) Except as authorized by subdivision (f) of Section 1966.1,
all hygiene board and diversion evaluation committee records and
records of proceedings pertaining to the treatment of a licensee in
a program shall be kept confidential and are not subject to
discovery or subpoena.

SEC. 60.
SEC. 59. Section 1966.6 of the Business and Professions Code
is amended to read:
1966.6. The hygiene board shall provide for the representation
of any person making reports to a diversion evaluation committee
or the hygiene board under this article in any action for defamation
for reports or information given to the diversion evaluation
committee or the hygiene board regarding a licensee’s participation
in the diversion program.

SEC. 61.

SEC. 60. Section 1967 of the Business and Professions Code
is amended to read:

1967. A registered dental hygienist in alternative practice
corporation is a professional corporation that is authorized to render
professional services, as defined in Section 13401 of the
Corporations Code, so long as that professional corporation and
its shareholders, officers, directors, and professional employees
rendering professional services are in compliance with the
Moscone-Knox Professional Corporation Act (commencing with
Section 13400) of Part 4 of Division 3 of Title 1 of the
Corporations Code, this article, and all other statutes and
regulations now or hereafter adopted pertaining to the professional
corporation and the conduct of its affairs. With respect to a
registered dental hygienist in alternative practice corporation, the
governmental agency referred to in the Moscone-Knox Professional
Corporation Act is the Dental Hygiene Board of California.

SEC. 62.

SEC. 61. Section 13401 of the Corporations Code is amended
to read:

13401. As used in this part:

(a) “Professional services” means any type of professional
services that may be lawfully rendered only pursuant to a license,
certification, or registration authorized by the Business and
Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) “Professional corporation” means a corporation organized
under the General Corporation Law or pursuant to subdivision (b)
of Section 13406 that is engaged in rendering professional services
in a single profession, except as otherwise authorized in Section
13401.5, pursuant to a certificate of registration issued by the
governmental agency regulating the profession as herein provided
and that in its practice or business designates itself as a professional
or other corporation as may be required by statute. However, any
professional corporation or foreign professional corporation
rendering professional services by persons duly licensed by the
Medical Board of California or any examining committee under
the jurisdiction of the board, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services.

(c) “Foreign professional corporation” means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) “Licensed person” means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is, or intends to become, an officer, director, shareholder, or employee.

(e) “Disqualified person” means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

SEC. 63.

SEC. 62. Section 44876 of the Education Code is amended to read:

44876. The qualifications for a dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions shall be a valid license issued by the Dental Hygiene Board of California or by the Dental Board of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.
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:_____
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, 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 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 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.

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee’s address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity’s internal administrative use and not for disclosure as the licensee’s address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs’ guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.
(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors’ State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.
(14) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information on its licensees and registrants.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(18) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Cannabis Regulation shall disclose information on its licensees.

(g) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 650.4 of the Business and Professions Code is repealed.

SEC. 3. Section 865 of the Business and Professions Code is amended to read:

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

(a) “Mental health provider” means a physician and surgeon specializing in the practice of psychiatry, a psychologist, a psychological assistant, intern, or trainee, a licensed marriage and family therapist, a registered associate marriage and family therapist, a marriage and family therapist trainee, a licensed educational psychologist, a credentialed school psychologist, a licensed clinical social worker, an associate clinical social worker, a licensed professional clinical counselor, a registered associate clinical counselor, a professional clinical counselor trainee, or any other person designated as a mental health professional under California law or regulation.
(b) (1) “Sexual orientation change efforts” means any practices by mental health providers that seek to change an individual’s sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(2) “Sexual orientation change efforts” does not include psychotherapies that: (A) provide acceptance, support, and understanding of clients or the facilitation of clients’ coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

SEC. 4. Section 1601.5 of the Business and Professions Code is repealed.

SEC. 5. Section 1601.6 of the Business and Professions Code is repealed.

1601.6. (a) Consistent with and in addition to the federal Centers for Disease Control and Prevention recommendations for water quality, the board shall amend the regulations on the minimum standards for infection control (Section 1005 of Title 16 of the California Code of Regulations) 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.

(b) Until December 31, 2018, the adoption and readoption of a regulation by the board consistent with this section shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11346.9 of the Government Code and the board is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review of the emergency regulations by the Office of Administrative Law.

(c) The board shall adopt final regulations consistent with this section on or before December 31, 2018.

(d) It is the intent of the Legislature that the requirements established by this section and any regulations adopted pursuant to this section apply to individuals licensed to practice dentistry. This section shall not be construed to impose any new duty or obligation on a water district.
SEC. 5.

SEC. 6. Section 1607 of the Business and Professions Code is amended to read:

1607. The board shall meet regularly once each year in San Francisco and once each year in Los Angeles, and at such other times and places as the board may designate, for the purpose of transacting its business.

SEC. 6.

SEC. 7. Section 1611 of the Business and Professions Code is amended to read:

1611. The board shall carry out the purposes and enforce the provisions of this chapter. It shall examine all applicants for a license or permit to practice dentistry and dental assisting, according to the provisions of this chapter, and shall issue licenses and permits to practice dentistry and dental assisting in this state to such applicants as successfully pass all applicable licensing and permitting examinations administered by the board, or any regional or national testing entity designated to administer licensing or permitting examinations, and otherwise comply with the provisions of this chapter. The board shall collect and apply all fees as directed by this chapter.

SEC. 7.

SEC. 8. Section 1611.3 of the Business and Professions Code is amended to read:

1611.3. The board shall comply with the requirements of Section 138 by January 1, 2013. The board shall require that the notice under that section include a provision that the board is the entity that regulates dentists and dental assistants and provide the telephone number and Internet address of the board. The board shall require the notice to be posted in a conspicuous location accessible to public view.

SEC. 8.

SEC. 9. Section 1611.5 of the Business and Professions Code is amended to read:

1611.5. (a) The board may inspect the books, records, and premises of any dentist licensed under this chapter and the licensing documents, records, and premises of any dental assistant permitted under this chapter in response to a complaint that a dentist or dental assistant has violated any law or regulation that constitutes grounds
for disciplinary action by the board, and may employ inspectors
for this purpose.
(b) Failure to allow an inspection or any part thereof shall be
grounds for suspension or revocation of the license or permit in
accordance with Section 1670.

SEC. 9.
SEC. 10. Section 1612 of the Business and Professions Code
is amended to read:
1612. The board shall keep a record of the names of all persons
to whom licenses or permits have been granted by it to practice
dentistry, dental assisting, or any other function requiring a permit,
and such other records as may be necessary to show plainly all of
its acts and proceedings.

SEC. 10.
SEC. 11. Section 1614 of the Business and Professions Code
is amended to read:
1614. The board may adopt regulations pursuant to this chapter
concerning:
(a) The holding of meetings.
(b) The holding of examinations.
(c) The manner of issuance and reissuance of licenses.
(d) The establishment of standards for the approval of dental
colleges and dental assisting programs and educational courses.
(e) Prescribing subjects in which applicants are to be examined.
(f) The administration and enforcement of this chapter.
Such rules shall be adopted, amended, or repealed in accordance
with the provisions of the Administrative Procedure Act.

SEC. 11.
SEC. 12. Section 1615 of the Business and Professions Code
is amended to read:
1615. Each member of the board shall receive a per diem and
expenses as provided in Section 103.

SEC. 12.
SEC. 13. Section 1621 of the Business and Professions Code
is amended to read:
1621. The board shall utilize in the administration of its
licensure examinations only examiners whom it has appointed and
who meet the following criteria:
(a) Possession of a valid license to practice dentistry in this state or possession of a valid license in one of the registered dental assistant categories licensed under this chapter.

(b) Practice as a licensed dentist or in a licensure category described in subdivision (a) for at least five years preceding his or her appointment.

(c) Hold no position as an officer or faculty member at any college, school, or institution that provides instruction in the same licensure category as that held by the examiner. This subdivision shall not apply to a portfolio examiner.

SEC. 14.

Section 1645 of the Business and Professions Code is amended to read:

1645. (a) (1) All holders of licenses under this chapter shall continue their education after receiving a license as a condition to the renewal thereof, and shall obtain evidence satisfactory to the board that they have, during the preceding two-year period, obtained continuing education relevant to developments in the practice of dentistry and dental assisting consistent with regulations established by the board.

(2) The board shall adopt regulations providing for the suspension of the licenses at the end of the two-year period until compliance with this section is accomplished.

(b) The board may also, as a condition of license renewal, require licentiates to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the board. The board may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework 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. Any mandatory coursework required by the board shall be credited toward the continuing education requirements established by the board pursuant to subdivision (a).

(c) For a retired dentist who provides only uncompensated care, the board shall not require more than 60 percent of the hours of continuing education that are required of other licensed dentists. Notwithstanding subdivision (b), all of the hours of continuing education as described in this subdivision shall be gained through courses related to the actual delivery of dental services to the
patient or the community, as determined by the board. Nothing in
this subdivision shall be construed to reduce any requirements
imposed by the board pursuant to subdivision (b).
(d) The board shall report on the outcome of subdivision (c)
pursuant to, and at the time of, its regular sunset review process,
as provided in Section 1601.1.
SEC. 15. Section 1680 of the Business and Professions Code
is amended to read:
1680. Unprofessional conduct by a person licensed under this
chapter is defined as, but is not limited to, any one of the following:
(a) The obtaining of any fee by fraud or misrepresentation.
(b) The employment directly or indirectly of any student or
suspended or unlicensed dentist to practice dentistry as defined in
this chapter.
(c) The aiding or abetting of any unlicensed person to practice
dentistry.
(d) The aiding or abetting of a licensed person to practice
dentistry unlawfully.
(e) The committing of any act or acts of sexual abuse,
misconduct, or relations with a patient that are substantially related
to the practice of dentistry.
(f) The use of any false, assumed, or fictitious name, either as
an individual, firm, corporation, or otherwise, or any name other
than the name under which he or she is licensed to practice, in
advertising or in any other manner indicating that he or she is
practicing or will practice dentistry, except that name as is specified
in a valid permit issued pursuant to Section 1701.5.
(g) The practice of accepting or receiving any commission or
the rebating in any form or manner of fees for professional services,
radiograms, prescriptions, or other services or articles supplied to
patients.
(h) The making use by the licensee or any agent of the licensee
of any advertising statements of a character tending to deceive or
mislead the public.
(i) The advertising of either professional superiority or the
advertising of performance of professional services in a superior
manner. This subdivision shall not prohibit advertising permitted
by subdivision (h) of Section 651.
(j) The employing or the making use of solicitors.
(k) The advertising in violation of Section 651.
(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Chapter 9 (commencing with Section 4000) or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee’s attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(s) The alteration of a patient’s record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.
(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.
(w) Use of fraud in the procurement of any license issued pursuant to this chapter.
(x) Any action or conduct that would have warranted the denial of the license.
(y) The aiding or abetting of a licensed dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dentistry in a negligent or incompetent manner.
(z) (1) The failure to report to the board in writing within seven days any of the following: (A) the death of his or her patient during the performance of any dental or dental hygiene procedure; (B) the discovery of the death of a patient whose death is related to a dental or dental hygiene procedure performed by him or her; or (C) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental or dental hygiene treatment. With the exception of patients to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported. Upon receipt of a report pursuant to this subdivision the board may conduct an inspection of the dental office if the board finds that it is necessary. A dentist shall report to the board all deaths occurring in his or her practice with a copy sent to the Dental Hygiene Committee of California if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the Dental Hygiene Committee of California all deaths occurring as the result of dental hygiene treatment, and a copy of the notification shall be sent to the board.
(2) The report required by this subdivision shall be on a form or forms approved by the board. The form or forms approved by the board shall require the licensee to include, but not be limited to, the following information for cases in which patients received anesthesia: the date of the procedure; the patient’s age in years and months, weight, and sex; the patient’s American Society of Anesthesiologists (ASA) physical status; the patient’s primary diagnosis; the patient’s coexisting diagnoses; the procedures performed; the sedation setting; the medications used; the monitoring equipment used; the category of the provider responsible for sedation oversight; the category of the provider delivering sedation; the category of the provider monitoring the patient during sedation; whether the person supervising the sedation performed one or more of the procedures; the planned airway management; the planned depth of sedation; the complications that occurred; a description of what was unexpected about the airway management; whether there was transportation of the patient during sedation; the category of the provider conducting resuscitation measures; and the resuscitation equipment utilized. Disclosure of individually identifiable patient information shall be consistent with applicable law. A report required by this subdivision shall not be admissible in any action brought by a patient of the licensee providing the report.

(3) For the purposes of paragraph (2), categories of provider are: General Dentist, Pediatric Dentist, Oral Surgeon, Dentist Anesthesiologist, Physician Anesthesiologist, Dental Assistant, Registered Dental Assistant, Dental Sedation Assistant, Registered Nurse, Certified Registered Nurse Anesthetist, or Other.

(4) The form shall state that this information shall not be considered an admission of guilt, but is for educational, data, or investigative purposes.

(5) The board may assess a penalty on any licensee who fails to report an instance of an adverse event as required by this subdivision. The licensee may dispute the failure to file within 10 days of receiving notice that the board had assessed a penalty against the licensee.

(aa) Participating in or operating any group advertising and referral services that are in violation of Section 650.2.
(ab) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(ac) Engaging in the practice of dentistry with an expired license.

(ad) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to patient, from patient to patient, and from patient to dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. The board shall review infection control guidelines, if necessary, on an annual basis and proposed changes shall be reviewed by the Dental Hygiene Committee of California to establish a consensus. The committee shall submit any recommended changes to the infection control guidelines for review to establish a consensus. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that all appropriate dental personnel are informed of the responsibility to follow infection control guidelines, and of the most recent scientifically recognized
safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(ae) The utilization by a licensed dentist of any person to perform the functions of any registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permit holder, orthodontic assistant permit holder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license or permit to perform those functions.

#af) The prescribing, dispensing, or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.

(ag) 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.

SEC. 14.

SEC. 16. Section 1750 of the Business and Professions Code is amended to read:

1750. (a) A dental assistant is an individual who, without a license, may perform basic supportive dental procedures, as authorized by Section 1750.1 and by regulations adopted by the board, under the supervision of a licensed dentist. “Basic supportive dental procedures” are those procedures that have technically elementary characteristics, are completely reversible, and are unlikely to precipitate potentially hazardous conditions for the patient being treated.

(b) The supervising licensed dentist shall be responsible for determining the competency of the dental assistant to perform the basic supportive dental procedures, as authorized by Section 1750.1.

(c) The employer of a dental assistant shall be responsible for ensuring that the dental assistant who has been in continuous employment for 120 days or more, has already successfully completed, or successfully completes, all of the following within a year of the date of employment:

(1) A board-approved two-hour course in the Dental Practice Act.

(2) A board-approved eight-hour course in infection control.
(3) A course in basic life support offered by an instructor approved by the American Red Cross or the American Heart Association, or any other course approved by the board as equivalent and that provides the student the opportunity to engage in hands-on simulated clinical scenarios.

(d) The employer of a dental assistant shall be responsible for ensuring that the dental assistant maintains certification in basic life support.

(e) This section shall become operative on January 1, 2010.

SEC. 17. Section 1750.2 of the Business and Professions Code is amended to read:

1750.2. (a) The board may issue an orthodontic assistant permit to a person who files a completed application including a fee and provides evidence, satisfactory to the board, of all of the following eligibility requirements:

(1) Current, active, and valid licensure as a registered dental assistant or completion of at least 12 months of verifiable work experience as a dental assistant.

(2) Successful completion of a two-hour board-approved course in the Dental Practice Act and an eight-hour board-approved course in infection control.

(3) Successful completion of a course in basic life support offered by an instructor approved by the American Red Cross or the American Heart Association, or any other course approved by the board as equivalent.

(4) Successful completion of a board-approved orthodontic assistant course, which may commence after the completion of six months of work experience as a dental assistant.

(5) Passage of a written examination administered by the board after completion of all of the other requirements of this subdivision. The written examination shall encompass the knowledge, skills, and abilities necessary to competently perform the duties specified in Section 1750.3.

(b) A person who holds an orthodontic assistant permit pursuant to this section shall be subject to the same continuing education requirements for registered dental assistants as established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).
SEC. 16.

SEC. 18. Section 1750.4 of the Business and Professions Code is amended to read:

1750.4. (a) The board may issue a dental sedation assistant permit to a person who files a completed application including a fee and provides evidence, satisfactory to the board, of all of the following eligibility requirements:

1. Current, active, and valid licensure as a registered dental assistant or completion of at least 12 months of verifiable work experience as a dental assistant.

2. Successful completion of a two-hour board-approved course in the Dental Practice Act and an eight-hour board-approved course in infection control.

3. Successful completion of a course in basic life support offered by an instructor approved by the American Red Cross or the American Heart Association, or any other course approved by the board as equivalent.

4. Successful completion of a board-approved dental sedation assistant course, which may commence after the completion of six months of work experience as a dental assistant.

5. Passage of a written examination administered by the board after completion of all of the other requirements of this subdivision. The written examination shall encompass the knowledge, skills, and abilities necessary to competently perform the duties specified in Section 1750.5.

(b) A person who holds a permit pursuant to this section shall be subject to the continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

SEC. 19.

SEC. 19. Section 1751 of the Business and Professions Code is amended to read:

1751. At least once every seven years, the board shall review the allowable duties for dental assistants, registered dental assistants, registered dental assistants in extended functions, dental sedation assistant permit holders, and orthodontic assistant permit holders, the supervision level for these categories, and the settings under which these duties may be performed, and shall update the regulations as necessary to keep them current with the state of the dental practice.
SEC. 18.

SEC. 20. Section 1753.7 of the Business and Professions Code is amended to read:

1753.7. A licensed dentist may simultaneously utilize in his or her practice no more than three registered dental assistants in extended functions or registered dental hygienists in extended functions licensed pursuant to Section 1753 or 1918.

SEC. 19.

SEC. 21. Section 2290.5 of the Business and Professions Code is amended to read:

2290.5. (a) For purposes of this division, the following definitions shall apply:

(1) “Asynchronous store and forward” means the transmission of a patient’s medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) “Distant site” means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) “Health care provider” means either of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.

(4) “Originating site” means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) “Synchronous interaction” means a real-time interaction between a patient and a health care provider located at a distant site.

(6) “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.
(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient’s rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h)(1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 22. Section 2556 of the Business and Professions Code is amended to read:
2556. (a) Except as authorized by Section 655, it is unlawful for a registered dispensing optician or a person who engages in the business of, or holds himself or herself out to be, a dispensing optician to do any of the following: to advertise the furnishing of, or to furnish, the 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 the same. For the purposes of this section, “furnish” does not mean to enter into a landlord-tenant relationship of any kind.

(b) Notwithstanding Section 125.9, the board may, by regulation, impose and issue administrative fines and citations for a violation of this section or Section 655, which may be assessed in addition to any other applicable fines, citations, or administrative or criminal actions.

SEC. 20.
SEC. 23. Section 3004 of the Business and Professions Code is amended to read:

3004. (a) As used in this chapter, “board” means the State Board of Optometry.

(b) Any reference in this code or any other code to the “State Board of Optometry” shall be deemed to refer to the “California State Board of Optometry.”

SEC. 24. Section 3040 of the Business and Professions Code is amended to read:

3040. (a) It is unlawful for a person to engage in the practice of optometry or to display a sign or 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 under the provisions of this chapter or under the provisions of any former act relating to the practice of optometry. A valid, unrevoke California optometrist license. The practice of optometry includes the performing or controlling of any acts set forth in Section 3041.

(b) In any prosecution for a violation of this section, the use of test cards, test lenses, or of trial frames is prima facie evidence of the practice of optometry.
SEC. 21. 
SEC. 25. Section 3146 of the Business and Professions Code is amended to read:
3146. An optometric license issued under this chapter expires at midnight on the last day of the month in which the license was issued during the second year of a two-year term if not renewed. To renew an unexpired license, the optometrist shall apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

SEC. 22. 
SEC. 26. Section 3735 of the Business and Professions Code is amended to read:
3735. (a) Except as otherwise provided in this chapter, an applicant shall not receive a license under this chapter without first successfully passing the National Board for Respiratory Care’s Therapist Multiple-Choice Examination, at the cut-off level required to qualify for the Clinical Simulation Examination, and the Clinical Simulation Examination, or any succeeding examinations.
(b) Notwithstanding subdivision (a), any person applying for licensure who provides evidence that he or she passed the national Certified Respiratory Therapist Examination or Written Registry Examination prior to January 1, 2015, shall be deemed to have met the examination requirement of subdivision (a), provided there is no evidence of prior license or job-related discipline, as determined by the board in its discretion.

SEC. 23. 
SEC. 27. Section 3751 of the Business and Professions Code is amended to read:
3751. (a) A person whose license has been revoked, surrendered, or suspended, or placed on probation, may petition the board for reinstatement, modification, or termination of probation, provided the person has paid all outstanding fees, fines, and cost recovery in full, and monthly probation monitoring payments are current.
(b) A person petitioning for reinstatement of his or her license that has been revoked or surrendered for three or more years shall also meet the current education and examination requirements required for initial licensure.
A petition may be filed only after a period of time has elapsed, but not less than the following minimum periods from the effective date of the decision ordering that disciplinary action:

1. At least three years for reinstatement of a license that has been revoked or surrendered.
2. At least two years for early termination of probation of three years or more.
3. At least one year for modification of a condition, or reinstatement of a license revoked or surrendered for mental or physical illness, or termination of probation of less than three years.

The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from licensed health care practitioners who have personal knowledge of the professional activities of the petitioner since the disciplinary penalty was imposed. The board may accept or reject the petition.

Written or oral argument may be provided by the petitioner or, at the request of the board, by the Attorney General. Unless the board or the petitioner requests the presentation of oral argument, the petition shall be considered and voted upon by mail. If the petitioner or the board requests the opportunity for oral argument, the petition shall be heard by the board or the board may assign the petition to an administrative law judge.

Consideration shall be given to all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner’s activities during the time the license was in good standing, and the petitioner’s rehabilitative efforts, general reputation for truth, and professional ability.

The board may deny the petition for reinstatement, reinstate the license without terms and conditions, require an examination for the reinstatement, restoration, or modification of probation, or reinstate the license with terms and conditions as it deems necessary. Where a petition is heard by an administrative law judge, the administrative law judge shall render a proposed decision to the board denying the petition for reinstatement, reinstating the license without terms and conditions, requiring an examination for the reinstatement, or reinstating the license with terms and conditions as he or she deems necessary. The board may take any
action with respect to the proposed decision and petition as it deems appropriate.

(h) No petition shall be considered under either of the following circumstances:

(1) If the petitioner is under sentence for any criminal offense including any period during which the petitioner is on court-imposed probation or parole.

(2) If an accusation or a petition to revoke probation is pending against the person.

(i) The board may deny without a hearing or argument any petition filed pursuant to this section within a period of three years from the effective date of the prior decision.

(j) Petitions for reinstatement shall include a processing fee equal to fees charged pursuant to subdivisions (a) and (h) of Section 3775. In addition, petitions for reinstatement that are granted shall include a fee equal to the fee charged pursuant to subdivision (d) of Section 3775, before the license may be reinstated.

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

SEC. 24.

SEC. 28. Section 4848 of the Business and Professions Code is amended to read:

4848. (a) (1) The board shall, by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state and shall issue a license to every person whom it finds to be qualified. No license shall be issued to anyone who has not demonstrated his or her competency by examination.

(2) The examination shall consist of each of the following:

(A) A licensing examination that is administered on a national basis.

(B) A California state board examination.

(C) An examination concerning those statutes and regulations of the Veterinary Medicine Practice Act administered by the board. The examination shall be administered by regular mail, email, or by both regular mail and email, and provided to applicants within 10 to 20 days of eligibility determination. The board shall have 10 to 20 days from the date of receipt to process the examination and provide candidates with the results of the examination. The applicant shall certify that he or she personally completed the
examination. Any false statement is a violation subject to Section 4831. University of California and Western University of Health Sciences veterinary medical students who have successfully completed a board-approved course on veterinary law and ethics covering the Veterinary Medicine Practice Act shall be exempt from this provision.

(3) The examinations may be given at the same time or at different times as determined by the board. For examination purposes, the board may make contractual arrangements on a sole source basis with organizations furnishing examination material as it may deem desirable and shall be exempt from Section 10115 of the Public Contract Code.

(4) The licensing examination may be waived by the board in any case in which it determines that the applicant has taken and passed an examination for licensure in another state substantially equivalent in scope and subject matter to the licensing examination last given in California before the determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass the licensing examination administered in California.

(5) Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program, as determined by the board, in a veterinary college recognized by the board under Section 4846 to take any examination or any part thereof prior to satisfying the requirements for application for a license established by Section 4846.

(b) For purposes of reciprocity, the board shall waive the examination requirements of subdivision (a), and issue a license to an applicant to practice veterinary medicine if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:

(1) The applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and, within three years immediately preceding filing an application for licensure in this state, has practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,944 hours of clinical practice. Experience obtained while participating in an American Veterinary Medical Association (AVMA) accredited institution’s internship, residency, or specialty board
training program shall be valid for meeting the minimum
experience requirement.
The term “in good standing” means that an applicant under this
section:
(A) Is not currently under investigation nor has been charged
with an offense for any act substantially related to the practice of
veterinary medicine by any public agency, nor entered into any
consent agreement or been subject to an administrative decision
that contains conditions placed by an agency upon an applicant’s
professional conduct or practice, including any voluntary surrender
of license, nor been the subject of an adverse judgment resulting
from the practice of veterinary medicine that the board determines
constitutes evidence of a pattern of incompetence or negligence.
(B) Has no physical or mental impairment related to drugs or
alcohol, and has not been found mentally incompetent by a
physician so that the applicant is unable to undertake the practice
of veterinary medicine in a manner consistent with the safety of a
patient or the public.
(2) At the time of original licensure, the applicant passed the
national licensing requirement in veterinary science with a passing
score or scores on the examination or examinations equal to or
greater than the passing score required to pass the national licensing
examination or examinations administered in this state.
(3) The applicant has either graduated from a veterinary college
recognized by the board under Section 4846 or possesses a
certificate issued by the Educational Commission for Foreign
Veterinary Graduates (ECFVG) or the Program for the Assessment
of Veterinary Education Equivalence (PAVE).
(4) The applicant passes an examination concerning the statutes
and regulations of the Veterinary Medicine Practice Act,
administered by the board, pursuant to subparagraph (C) of
paragraph (2) of subdivision (a).
(5) The applicant completes an approved educational curriculum
on regionally specific and important diseases and conditions. The
board, in consultation with the California Veterinary Medical
Association (CVMA), shall approve educational curricula that
cover appropriate regionally specific and important diseases and
conditions that are common in California. The curricula shall focus
on small and large animal diseases consistent with the current
proportion of small and large animal veterinarians practicing in
the state. The approved curriculum shall not exceed 30 hours of
educational time. The approved curriculum may be offered by
multiple providers so that it is widely accessible to candidates
licensed under this subdivision.

(c) The board shall issue a temporary license valid for one year
to an applicant to practice veterinary medicine under the
supervision of another California-licensed veterinarian in good
standing if the applicant satisfies all of the following requirements:

1. The applicant meets the requirements of paragraphs (1) to
   (4), inclusive, of subdivision (b).
2. The applicant would not be denied issuance of a license
   under any other provision of this chapter.
3. The applicant agrees to complete the approved educational
   curriculum described in paragraph (5) of subdivision (b) on
   regionally specific and important diseases and conditions during
   the period of temporary licensure.
4. Upon completion of the curriculum described in paragraph
   (5) of subdivision (b), a temporary licensee shall submit an
   application for full licensure accompanied by verification of
   completion of that curriculum and all applicable fees.

(e) The board, in its discretion, may extend the expiration date
of a temporary license issued pursuant to subdivision (c) for not
more than one year for reasons of health, military service, or undue
hardship. An application for an extension shall be submitted on a
form provided by the board.

SEC. 25.

SEC. 29. Section 4980.37 of the Business and Professions Code
is amended to read:

4980.37. (a) This section shall apply to applicants for licensure
or registration who began graduate study before August 1, 2012,
and completed that study on or before December 31, 2018. Those
applicants may alternatively qualify under paragraph (2) of
subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall
possess a doctor’s or master’s degree in marriage, family, and child
counseling, marriage and family therapy, couple and family
therapy, psychology, clinical psychology, counseling psychology,
or counseling with an emphasis in either marriage, family, and
child counseling or marriage and family therapy, obtained from a
school, college, or university accredited by a regional or national
institutional accrediting agency that is recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor’s or master’s degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester units or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, abuse and neglect of older and dependent adults, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor’s or master’s degree program shall contain not less than six semester units or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that
provides supervised fieldwork experience within the scope of
practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after
January 1, 1995, the practicum shall include a minimum of 150
hours of face-to-face experience counseling individuals, couples,
families, or groups.

(3) The practicum hours shall be considered as part of the 48
semester or 72 quarter unit requirement.

(d) As an alternative to meeting the qualifications specified in
subdivision (b), the board shall accept as equivalent degrees those
master’s or doctor’s degrees granted by educational institutions
whose degree program is approved by the Commission on
Accreditation for Marriage and Family Therapy Education.

(e) In order to provide an integrated course of study and
appropriate professional training, while allowing for innovation
and individuality in the education of marriage and family therapists,
a degree program that meets the educational qualifications for
licensure or registration under this section shall do all of the
following:

(1) Provide an integrated course of study that trains students
generally in the diagnosis, assessment, prognosis, and treatment
of mental disorders.

(2) Prepare students to be familiar with the broad range of
matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage
and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that
are intimately related to the counseling situation such as integrity,
sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic
techniques and modalities that may be utilized to improve, restore,
or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any
one or more of the unique and complex array of human problems,
symptoms, and needs of Californians served by marriage and
family therapists.

(7) Prepare students to be familiar with cross-cultural mores
and values, including a familiarity with the wide range of racial
and ethnic backgrounds common among California’s population,
including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low income and multicultural mental health settings.

SEC. 26. Section 4980.39 of the Business and Professions Code is amended to read:

4980.39. (a) An applicant for licensure whose education qualifies him or her under Section 4980.37 shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging. On and after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution’s required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

SEC. 27. Section 4980.41 of the Business and Professions Code is amended to read:

4980.41. (a) An applicant for licensure whose education qualifies him or her under Section 4980.37 shall complete the following coursework or training in order to be eligible to sit for the licensing examinations as specified in subdivision (d) of Section 4980.40:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage and family therapists,
which shall include, but not be limited to, the following areas of study:

(A) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession’s scope of practice.

(B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including family law.

(C) The current legal patterns and trends in the mental health profession.

(D) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(E) A recognition and exploration of the relationship between a practitioner’s sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.37.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master’s or doctor’s degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.37.

(4) For persons who began graduate study on or after January 1, 1986, a master’s or doctor’s degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master’s or doctor’s degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.37. Coursework required under this paragraph may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The applicant may satisfy this requirement by successfully completing this coursework from a master’s or doctoral degree program at an accredited or approved institution, as described in subdivision (b) of Section 4980.37, or
from a board-accepted provider of continuing education, as described in Section 4980.54.

(5) For persons who began graduate study during the period commencing on January 1, 1995, and ending on December 31, 2003, a master’s or doctor’s degree qualifying for licensure shall include coursework in spousal or partner abuse assessment, detection, and intervention. For persons who began graduate study on or after January 1, 2004, a master’s or doctor’s degree qualifying for licensure shall include a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this paragraph may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The applicant may satisfy this requirement by successfully completing this coursework from a master’s or doctoral degree program at an accredited or approved institution, as described in subdivision (b) of Section 4980.37, or from a board-accepted provider of continuing education, as described in Section 4980.54.

(6) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychological testing. When coursework in a master’s or doctor’s degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.37.

(7) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychopharmacology. When coursework in a master’s or doctor’s degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.37.

(b) The requirements added by paragraphs (6) and (7) of subdivision (a) are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice and are not intended in any way to expand or restrict the scope of practice for licensed marriage and family therapists.
SEC. 28.
SEC. 32. Section 4980.72 of the Business and Professions Code is amended to read:

4980.72. (a) This section applies to a person who is licensed outside of California and applies for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or country, if all of the following conditions are satisfied:

(1) The applicant’s education is substantially equivalent, as defined in Section 4980.79. The applicant’s degree title need not be identical to that required by Section 4980.36 or 4980.37.

(2) The applicant complies with Section 4980.76, if applicable.

(3) The applicant’s supervised experience is substantially equivalent to that required for a license under this chapter. The board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a marriage and family therapist shall be accepted at a rate of 100 hours per month, up to a maximum of 1,200 hours, if the applicant’s degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4980.79 without exemptions or remediation.

(4) The applicant passes the California law and ethics examination.

(5) The applicant passes a clinical examination designated by the board. An applicant who obtained his or her license or registration under another jurisdiction may qualify for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(B) The applicant’s license or registration in that jurisdiction is active, in good standing at the time of his or her application, and
is not revoked, suspended, surrendered, denied, or otherwise
restricted or encumbered.

SEC. 29.

SEC. 33. Section 4980.78 of the Business and Professions Code
is amended to read:

4980.78. (a) This section applies to persons who apply for
licensure or registration on or after January 1, 2016, and who do
not hold a license as described in Section 4980.72.
(b) For purposes of Section 4980.74, education is substantially
equivalent if all of the following requirements are met:
(1) The degree is obtained from a school, college, or university
accredited by a regional or national institutional accrediting agency
that is recognized by the United States Department of Education
and consists of, at a minimum, the following:
(A) (i) For an applicant who obtained his or her degree within
the timeline prescribed by subdivision (a) of Section 4980.36, the
degree shall contain no less than 60 semester units or 90 quarter
units of instruction.
(ii) Up to 12 semester units or 18 quarter units of instruction
may be remediated, if missing from the degree. The remediation
may occur while the applicant is registered as an intern.
(B) For an applicant who obtained his or her degree within the
timeline prescribed by subdivision (a) of Section 4980.37, the
degree shall contain no less than 48 semester units or 72 quarter
units of instruction.
(C) Six semester units or nine quarter units of supervised
practicum, including, but not limited to, a minimum of 150 hours
of face-to-face experience counseling individuals, couples, families,
or groups, and an additional 75 hours of either face-to-face
experience counseling individuals, couples, families, or groups or
client centered advocacy, or a combination of face-to-face
experience counseling individuals, couples, families, or groups
and client centered advocacy.
(D) Twelve semester units or 18 quarter units in the areas of
marriage, family, and child counseling and marital and family
systems approaches to treatment, as specified in subparagraph (A)
of paragraph (1) of subdivision (d) of Section 4980.36.
(2) The applicant shall complete coursework in California law
and ethics as follows:
(A) An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81, that did not contain instruction in California law and ethics, shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process. This coursework shall be completed prior to registration as an intern.

(B) An applicant who has not completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 shall complete this required coursework. The coursework shall contain content specific to California law and ethics. This coursework shall be completed prior to registration as an intern.

(3) The applicant completes the educational requirements specified in Section 4980.81 not already completed in his or her education. The coursework may be from an accredited school, college, or university as specified in paragraph (1), from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate courses shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited school, college, or university as specified in paragraph (1) from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate courses shall not satisfy this requirement.
(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, unless otherwise specified.

(6) The applicant’s degree title need not be identical to that required by subdivision (b) of Section 4980.36.

SEC. 30. SEC. 34. Section 4980.79 of the Business and Professions Code is amended to read:

4980.79. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who hold a license as described in Section 4980.72.

(b) For purposes of Section 4980.72, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by a regional or national institutional accrediting agency recognized by the United States Department of Education and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.36, the degree shall contain no less than 60 semester units or 90 quarter units of instruction.

(ii) Up to 12 semester units or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.37, the degree shall contain no less than 48 semester units or 72 quarter units of instruction.
(C) Six semester units or nine quarter units of supervised practicum, including, but not limited to, a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy.

(i) An out-of-state applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the supervised practicum requirement, shall remediate it by obtaining 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy. These hours are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while registered as an intern.

(D) Twelve semester units or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) An applicant shall complete coursework in California law and ethics as follows:

(A) An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 that did not include instruction in California law and ethics, shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online
therapy, insurance reimbursement, civil liability, disciplinary
actions and unprofessional conduct, ethics complaints and ethical
standards, termination of therapy, standards of care, relevant family
law, therapist disclosures to patients, differences in legal and ethical
standards in different types of work settings, and licensing law
and licensing process. This coursework shall be completed prior
to registration as an intern.

(B) An applicant who has not completed a course in law and
professional ethics for marriage and family therapists as specified
in paragraph (8) of subdivision (a) of Section 4980.81 shall
complete this required coursework. The coursework shall include
content specific to California law and ethics. An applicant shall
complete this coursework prior to registration as an intern.

(3) The applicant completes the educational requirements
specified in Section 4980.81 not already completed in his or her
education. The coursework may be from an accredited school,
college, or university as specified in paragraph (1), from an
educational institution approved by the Bureau for Private
Postsecondary Education, or from a continuing education provider
that is acceptable to the board as defined in Section 4980.54.
Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not
already completed in his or her education from an accredited
school, college, or university as specified in paragraph (1) above,
from an educational institution approved by the Bureau for Private
Postsecondary Education, or from a continuing education provider
that is acceptable to the board as defined in Section 4980.54.
Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction
pertaining to the principles of mental health recovery-oriented care
and methods of service delivery in recovery-oriented practice
environments, including structured meetings with various
consumers and family members of consumers of mental health
services to enhance understanding of their experience of mental
illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that
includes an understanding of various California cultures and the
social and psychological implications of socioeconomic position.

(5) An applicant’s degree title need not be identical to that
required by subdivision (b) of Section 4980.36.
(6) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, unless otherwise specified.

SEC. 31.  SEC. 35. Section 4990.30 of the Business and Professions Code is amended to read:

4990.30. (a) A licensed marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, associate clinical social worker, licensed professional clinical counselor, associate professional clinical counselor, or licensed educational psychologist whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The petition shall be on a form provided by the board and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order. The petition shall be verified by the petitioner who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.

(b) The licensee or registrant may file the petition on or after the expiration of the following timeframes, each of which commences on the effective date of the decision ordering the disciplinary action or, if the order of the board, or any portion of it, is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) Three years for reinstatement of a license or registration that was revoked for unprofessional conduct, except that the board may, in its sole discretion, specify in its revocation order that a petition for reinstatement may be filed after two years.

(2) Two years for early termination of any probation period of three years or more.

(3) One year for modification of a condition, reinstatement of a license or registration revoked for mental or physical illness, or termination of probation of less than three years.
(c) The petition may be heard by the board itself or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code.

(d) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

(e) The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition and an opportunity to present both oral and documentary evidence and argument to the board or the administrative law judge.

(f) The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(g) The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner’s activities during the time his or her license or registration was in good standing, and the petitioner’s rehabilitative efforts, general reputation for truth, and professional ability.

(h) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate but in no case may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.

(i) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4990.40. If a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board. The board may take action with respect to the proposed decision and petition as it deems appropriate.

(j) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner’s current physical and mental condition. Information provided to the board pursuant to
the release shall be confidential and shall not be subject to
discovery or subpoena in any other proceeding, and shall not be
admissible in any action, other than before the board, to determine
the petitioner’s fitness to practice as required by Section 822.

(k) The board may delegate to its executive officer authority to
order investigation of the contents of the petition.

(l) No petition shall be considered while the petitioner is under
sentence for any criminal offense, including any period during
which the petitioner is on court-imposed probation or parole or
the petitioner is required to register pursuant to Section 290 of the
Penal Code. No petition shall be considered while there is an
accusation or petition to revoke probation pending against the
petitioner.

(m) Except in those cases where the petitioner has been
disciplined for violation of Section 822, the board may in its
discretion deny without hearing or argument any petition that is
filed pursuant to this section within a period of two years from the
effective date of a prior decision following a hearing under this
section.

SEC. 32.
SEC. 36. Section 4992 of the Business and Professions Code
is amended to read:

4992. (a) Every applicant for a license under this chapter shall
file an application with the board accompanied by the application
fee prescribed by this chapter. Every application shall also be
accompanied by the applicable examination fee prescribed by this
chapter.

(b) The application shall contain information showing that the
applicant has all the qualifications required by the board for
admission to an examination.

SEC. 37.
SEC. 37. Section 4996.17 of the Business and Professions Code
is amended to read:

4996.17. (a) (1) Experience gained outside of California shall
be accepted toward the licensure requirements if it is substantially
the equivalent of the requirements of this chapter.

(2) Commencing January 1, 2014, an applicant with education
gained outside of California shall complete an 18-hour course in
California law and professional ethics. The content of the course
shall include, but not be limited to, the following: advertising,
scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(b) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes, or has passed, the licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

1. The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.
2. Completion of the following coursework or training in or out of this state:
   - (A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.
   - (B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.
   - (C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.
   - (D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.
3. Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following:
advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(4) The applicant’s license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant’s professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or a corresponding authority of any state, if the person has held that license for at least four years immediately preceding the date of application, the person passes, or has passed, the licensing examinations as specified in Section 4996.1, and the person pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:
(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(3) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(4) The applicant’s license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant’s professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work.
that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(d) An applicant who obtained his or her license or registration under another jurisdiction may qualify for licensure with the board without taking the clinical examination specified in Section 4996.1 if both of the following conditions are met:

(1) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(2) The applicant’s license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

SEC. 34.
SEC. 38. Section 4999.14 of the Business and Professions Code is amended to read:

4999.14. The board shall do all of the following:

(a) Communicate information about its activities, the requirements and qualifications for licensure, and the practice of professional clinical counseling to the relevant educational institutions, supervisors, professional associations, applicants, clinical counselor trainees, associates, and the public.

(b) Develop policies and procedures to assist educational institutions in meeting the educational qualifications of Sections 4999.32 and 4999.33.

SEC. 35.
SEC. 39. Section 4999.22 of the Business and Professions Code is amended to read:

4999.22. (a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words “licensed professional clinical counselor” and shall not state that they are licensed to practice professional clinical counseling, unless
they are otherwise licensed to provide professional clinical
counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit,
or withdraw provisions of the Medical Practice Act, the Clinical
Social Worker Practice Act, the Nursing Practice Act, the
Psychology Licensing Law, or the Licensed Marriage and Family
Therapist Act.

(c) This chapter shall not apply to any priest, rabbi, or minister
of the gospel of any religious denomination who performs
counseling services as part of his or her pastoral or professional
duties, or to any person who is admitted to practice law in this
state, or who is licensed to practice medicine, who provides
counseling services as part of his or her professional practice.

(d) This chapter shall not apply to an employee of a
governmental entity or a school, college, or university, or of an
institution both nonprofit and charitable, if his or her practice is
performed solely under the supervision of the entity, school,
college, university, or institution by which he or she is employed,
and if he or she performs those functions as part of the position
for which he or she is employed.

(e) All persons registered as associates or licensed under this
chapter shall not be exempt from this chapter or the jurisdiction
of the board.

SEC. 36.
SEC. 40. Section 4999.32 of the Business and Professions Code
is amended to read:

4999.32. (a) This section shall apply to applicants for licensure
or registration who began graduate study before August 1, 2012,
and completed that study on or before December 31, 2018. Those
applicants may alternatively qualify under paragraph (2) of
subdivision (a) of Section 4999.33.

(b) To qualify for licensure or registration, applicants shall
possess a master’s or doctoral degree that is counseling or
psychotherapy in content and that meets the requirements of this
section, obtained from an accredited or approved institution, as
defined in Section 4999.12. For purposes of this subdivision, a
degree is “counseling or psychotherapy in content” if it contains
the supervised practicum or field study experience described in
paragraph (3) of subdivision (c) and, except as provided in
subdivision (d), the coursework in the core content areas listed in
subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c).

(c) The degree described in subdivision (b) shall contain not less than 48 graduate semester units or 72 graduate quarter units of instruction, which shall, except as provided in subdivision (d), include all of the following:

(1) The equivalent of at least three semester units or four and one-half quarter units of graduate study in each of the following core content areas:

(A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.

(B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.

(C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

(D) Group counseling theories and techniques, including principles of group dynamics, group process components, developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.

(E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.

(F) Multicultural counseling theories and techniques, including counselors’ roles in developing cultural self-awareness, identity
development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors’ roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual of Mental Disorders, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession’s scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner’s sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:
(A) Applied psychotherapeutic techniques.
(B) Assessment.
(C) Diagnosis.
(D) Prognosis.
(E) Treatment.
(F) Issues of development, adjustment, and maladjustment.
(G) Health and wellness promotion.
(H) Other recognized counseling interventions.
(I) A minimum of 150 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(d) (1) (A) An applicant whose degree is deficient in no more than two of the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy those deficiencies by successfully completing a postmaster's degree coursework at an accredited or approved institution, as defined in Section 4999.12.

(B) Notwithstanding subparagraph (A), no applicant shall be deficient in the required areas of study specified in subparagraph (E) or (G) of paragraph (1) of subdivision (c).

(2) Coursework taken to meet deficiencies in the required areas of study listed in subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision (c) shall be the equivalent of three semester units or four and one-half quarter units of study.

(3) The board shall make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation.

(e) In addition to the degree described in this section, or as part of that degree, an applicant shall complete the following coursework or training prior to registration as an associate:

(1) A minimum of 15 contact hours of instruction in alcoholism and other chemical substance abuse dependency, as specified by regulation.

(2) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(3) A two semester unit or three quarter unit survey course in psychopharmacology.

(4) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, and intervention strategies,
including knowledge of community resources, cultural factors, and same gender abuse dynamics.

(5) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations adopted thereunder.

(6) A minimum of 18 contact hours of instruction in California law and professional ethics for professional clinical counselors that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to clients, and state and federal laws related to confidentiality of patient health information. When coursework in a master’s or doctoral degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester unit or 72 quarter unit requirement in subdivision (c).

(7) A minimum of 10 contact hours of instruction in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging. On and after January 1, 2012, this coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(8) A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.

SEC. 37. Section 4999.48 of the Business and Professions Code is amended to read:

4999.48. The board shall adopt regulations regarding the supervision of associates that may include, but not be limited to, the following:

(a) Supervisor qualifications.
(b) Continuing education requirements of supervisors.
(c) Registration or licensing of supervisors, or both.
(d) General responsibilities of supervisors.
(e) The board’s authority in cases of noncompliance or gross or repeated negligence by supervisors.

SEC. 38.

SEC. 42. Section 4999.60 of the Business and Professions Code is amended to read:

4999.60. (a) This section applies to persons who are licensed outside of California and apply for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States, if all of the following conditions are satisfied:

1. The applicant’s education is substantially equivalent, as defined in Section 4999.63.
2. The applicant complies with subdivision (c) of Section 4999.40, if applicable.
3. The applicant’s supervised experience is substantially equivalent to that required for a license under this chapter. The board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a professional clinical counselor shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours if the applicant’s degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4999.63 without exemptions or remediation.
4. The applicant passes the examinations required to obtain a license under this chapter. An applicant who obtained his or her license or registration under another jurisdiction may qualify for licensure with the board without taking the clinical examination if both of the following conditions are met:
   A. The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.
(B) The applicant’s license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

SEC. 39.

SEC. 43. Section 4999.62 of the Business and Professions Code is amended to read:

4999.62. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who do not hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.61, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester units or 90 graduate quarter units of instruction.

(ii) Up to 12 semester units or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an associate.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester units or 72 graduate quarter units of instruction.

(C) Six semester units or nine quarter units of supervised practicum or field study experience, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(D) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet any

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deficiencies shall be the equivalent of three semester units or four
and one-half quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient
in the required areas of study specified in subparagraph (E) or (G)
of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional
orientation, ethics, and law in counseling as required by
subparagraph (I) of paragraph (1) of subdivision (c) of Section
4999.33 that did not contain instruction in California law and ethics
shall complete an 18-hour course in California law and professional
ethics that includes, but is not limited to, instruction in advertising,
scope of practice, scope of competence, treatment of minors,
confidentiality, dangerous clients, psychotherapist-client privilege,
recordkeeping, client access to records, state and federal laws
relating to confidentiality of patient health information, dual
relationships, child abuse, elder and dependent adult abuse, online
therapy, insurance reimbursement, civil liability, disciplinary
actions and unprofessional conduct, ethics complaints and ethical
standards, termination of therapy, standards of care, relevant family
law, and therapist disclosures to clients. An applicant shall
complete this coursework prior to registration as an associate.

(iii) An applicant who has not completed a course in professional
orientation, ethics, and law in counseling as required by
subparagraph (I) of paragraph (1) of subdivision (c) of Section
4999.33 shall complete this required coursework, including content
in California law and ethics. An applicant shall complete this
coursework prior to registration as an associate.

(2) The applicant completes any units required by subdivision
(c) of Section 4999.33 not already completed in his or her education
as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced
coursework to develop knowledge of specific treatment issues or
special populations. This coursework is in addition to the course
requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school,
college, or university as defined in Section 4999.12.

(3) (A) The applicant completes the following coursework not
already completed in his or her education:

(i) A minimum of 10 contact hours of training in human
sexuality, as specified in Section 25 and any regulations
promulgated thereunder, including the study of the physiological,
psychological, and social cultural variables associated with sexual
behavior, gender identity, and the assessment and treatment of
psychosexual dysfunction.

(ii) A minimum of 15 contact hours of instruction in spousal or
partner abuse assessment, detection, intervention strategies, and
same-gender abuse dynamics.

(iii) A minimum of seven contact hours of training or
coursework in child abuse assessment and reporting as specified
in Section 28 and any regulations promulgated thereunder.

(iv) A minimum of 10 contact hours of instruction in aging and
long-term care, including biological, social, cognitive, and
psychological aspects of aging. This coursework shall include
instruction on the assessment and reporting of, as well as treatment
related to, elder and dependent adult abuse and neglect.

(B) This coursework may be from an accredited or approved
school, college, or university as defined in Section 4999.12, or
from a continuing education provider that is acceptable to the board
as defined in Section 4999.76. Undergraduate coursework shall
not satisfy this requirement.

(4) The applicant completes the following coursework not
already completed in his or her education from an accredited or
approved school, college, or university as defined in Section
4999.12, or from a continuing education provider that is acceptable
to the board as defined in Section 4999.76. Undergraduate
coursework shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction
regarding the principles of mental health recovery-oriented care
and methods of service delivery in recovery-oriented practice
environments, including structured meetings with various
consumers and family members of consumers of mental health
services to enhance understanding of their experiences of mental
illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that
includes an understanding of various California cultures and the
social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content
requirements required under paragraph (2), (3), or (4) not already
completed in his or her education while registered with the board
as an associate.
SEC. 40.

SEC. 44. Section 4999.63 of the Business and Professions Code is amended to read:

4999.63. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.60, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester units or 90 graduate quarter units of instruction.

(ii) Up to 12 semester units or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an associate.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester units or 72 graduate quarter units of instruction.

(C) Six semester units or nine quarter units of supervised practicum or field study experience, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(i) An applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the supervised practicum or field study experience requirement, shall remediate the requirement by demonstrating completion of a total of 280 hours of face-to-face supervised clinical experience, as specified in subparagraph (K) of paragraph (3) of subdivision (c) of Section 4999.33. Any postdegree hours gained to meet this requirement are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while the applicant is registered with the board as an associate.
(D) The required areas of study specified in subparagraphs (A)
to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than
six of the required areas of study specified in subparagraphs (A)
to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing
graduate level coursework at an accredited or approved institution,
as defined in Section 4999.12. Coursework taken to meet any
deficiencies shall be the equivalent of three semester units or four
and one-half quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient
in the required areas of study specified in subparagraphs
subparagraph (E) or (G) of paragraph (1) of subdivision (c) of
Section 4999.33.

(ii) An applicant who completed a course in professional
orientation, ethics, and law in counseling as required by
subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics
shall complete an 18-hour course in California law and professional
ethics that includes, but is not limited to, instruction in advertising,
scope of practice, scope of competence, treatment of minors,
confidentiality, dangerous clients, psychotherapist-client privilege,
recordkeeping, client access to records, state and federal laws
relating to confidentiality of patient health information, dual
relationships, child abuse, elder and dependent adult abuse, online
therapy, insurance reimbursement, civil liability, disciplinary
actions and unprofessional conduct, ethics complaints and ethical
standards, termination of therapy, standards of care, relevant family
law, and therapist disclosures to clients. An applicant shall
complete this coursework prior to registration as an associate.

(iii) An applicant who has not completed a course in professional
orientation, ethics, and law in counseling as required by
subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content
in California law and ethics. An applicant shall complete this
coursework prior to registration as an associate.

(2) The applicant completes any units required under subdivision
(c) of Section 4999.33 not already completed in his or her education
as follows:
(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) The applicant completes the following coursework not already completed in his or her education:

(A) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(B) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(C) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated under that section.

(D) A minimum of 10 contact hours of instruction in aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(E) This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units or 45 hours of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various
consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit or 15 hours of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required by subparagraph (D) of paragraph (1) or paragraphs (2), (3), and (4) not already completed in his or her education while registered with the board as an associate, unless otherwise specified.

SEC. 41.

SEC. 45. Section 4999.100 of the Business and Professions Code is amended to read:

4999.100. (a) An associate registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant’s last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The associate registration may be renewed a maximum of five times. Registration shall not be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent associate registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.
SEC. 46. Section 6924 of the Family Code is amended to read:

6924. (a) As used in this section:

(1) “Mental health treatment or counseling services” means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

(A) A governmental agency.

(B) A person or agency having a contract with a governmental agency to provide the services.

(C) An agency that receives funding from community united funds.

(D) A runaway house or crisis resolution center.

(E) A professional person, as defined in paragraph (2).

(2) “Professional person” means any of the following:

(A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations.

(B) A marriage and family therapist as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(C) A licensed educational psychologist as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code.

(D) A credentialed school psychologist as described in Section 49424 of the Education Code.

(E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(F) The chief administrator of an agency referred to in paragraph (1) or (3).

(G) A person registered as an associate marriage and family therapist, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.

(H) A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(I) A person registered as an associate professional clinical counselor, as defined in Chapter 16 (commencing with Section
of Division 2 of the Business and Professions Code, while
working under the supervision of a licensed professional specified
in subdivision (h) of Section 4999.12 of the Business and
Professions Code.

(3) “Residential shelter services” means any of the following:
(A) The provision of residential and other support services to
minors on a temporary or emergency basis in a facility that services
only minors by a governmental agency, a person or agency having
a contract with a governmental agency to provide these services,
an agency that receives funding from community funds, or a
licensed community care facility or crisis resolution center.
(B) The provision of other support services on a temporary or
emergency basis by any professional person as defined in paragraph
(2).

(b) A minor who is 12 years of age or older may consent to
mental health treatment or counseling on an outpatient basis, or
to residential shelter services, if both of the following requirements
are satisfied:
(1) The minor, in the opinion of the attending professional
person, is mature enough to participate intelligently in the
outpatient services or residential shelter services.
(2) The minor (A) would present a danger of serious physical
or mental harm to self or to others without the mental health
treatment or counseling or residential shelter services, or (B) is
the alleged victim of incest or child abuse.
(c) A professional person offering residential shelter services,
whether as an individual or as a representative of an entity specified
in paragraph (3) of subdivision (a), shall make his or her best
efforts to notify the parent or guardian of the provision of services.
(d) The mental health treatment or counseling of a minor
authorized by this section shall include involvement of the minor’s
parent or guardian unless, in the opinion of the professional person
who is treating or counseling the minor, the involvement would
be inappropriate. The professional person who is treating or
counseling the minor shall state in the client record whether and
when the person attempted to contact the minor’s parent or
guardian, and whether the attempt to contact was successful or
unsuccessful, or the reason why, in the professional person’s
opinion, it would be inappropriate to contact the minor’s parent
or guardian.
(e) The minor’s parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor’s parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

(f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor’s parent or guardian.

SEC. 47. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
MEMORANDUM

<table>
<thead>
<tr>
<th>DATE</th>
<th>August 1, 2018</th>
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<tbody>
<tr>
<td>TO</td>
<td>Members of the Dental Board of California</td>
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<tr>
<td>FROM</td>
<td>Jeri Westerfeld, Executive Assistant Dental Board of California</td>
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<tr>
<td>SUBJECT</td>
<td>Agenda Item 14C: Discussion of Prospective Legislative Proposals</td>
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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.