

Board of Chiropractic Examiners

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**NOTICE OF PUBLIC MEETING – CORRECTED COPY**
ENFORCEMENT COMMITTEE**May 6, 2010****1:30 p.m.****Embassy Suites LAX
1440 E. Imperial Avenue
El Segundo, CA 90245
(310) 640-3600****AGENDA**

- 1. CALL TO ORDER**
- 2. Approval of Minutes**
March 11, 2010
- 3. Consideration of Various Provisions of the Prior SB 1111**
- 4. Enforcement Oversight**
 - **Establishment of a Board of Chiropractic Examiners Oversight Commission**
 - **Future Goals for the Board of Chiropractic Examiners related to Public and Consumer Protection – Proposal of Revised or New Policies and/or Regulations**
- 5. Peace Officer Status for Board of Chiropractic Examiners' Investigators**
- 6. PUBLIC COMMENT**
- 7. FUTURE AGENDA ITEMS**
- 8. ADJOURNMENT**

ENFORCEMENT COMMITTEE

Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Frederick Lerner, D.C.

The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.

A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. 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. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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**BOARD OF CHIROPRACTIC EXAMINERS
MEETING MINUTES
Enforcement Committee
March 11, 2010
Coast Anabelle Hotel
2011 W. Olive Avenue
Burbank, CA 91506**

Committee Members Present

Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Frederick Lerner, D.C.

Staff Present

Robert Puleo, Interim Executive Officer
LaVonne Powell, Legal Counsel
Keith Powell, Field Investigation Manager
Sandra Walker, Compliance Manager
Dixie Van Allen, Associate Governmental Program Analyst
Valerie James, Office Technician

Call to Order

Dr. Lubkin called the meeting to order at 11:01 a.m.

Roll Call

Dr. Columbu called the roll. All committee members were present.

Approval of January 14, 2010 Minutes

MOTION: DR. LUBKIN MOVED TO APPROVE THE MINUTES.

SECOND: DR. COLUMBU SECONDED THE MOTION.

VOTE: 2-0-1

MOTION CARRIED.

Department of Consumer Affairs Consumer Health Care Enforcement Reform Act (SB1111)

Dr. Lubkin, Dr. Lerner, Dr. Columbu, Robert Puleo and LaVonne Powell discussed the pros and cons of how SB 1111 may enhance the Board's enforcement program.

Comparison of the Board of Chiropractic Examiners' (BCE) Existing Act, Statutes and Regulations with the Provisions of SB 1111

Dr. Lubkin, Dr. Lerner, Dr. Columbu, Robert Puleo and LaVonne Powell decided to review each section of SB 1111 to determine which sections the Board should be included in that are not in conflict with the Chiropractic Initiative Act.

Prior to reviewing SB 1111, Dr. Lubkin invited Roger Calton to come forth to speak. Mr. Calton spoke on his efforts to assist the Department of Consumer Affairs with SB 1111.

Recommendations for Proposed Changes/Enhancements to BCE's Existing Enforcement Program

Dr. Lubkin, Dr. Lerner, Dr. Columbu, Robert Puleo, and LaVonne Powell reviewed and discussed each section of SB 1111. Recommendations for proposed changes to SB 1111 to enhance the Board's existing enforcement program were made and will be brought to the full Board meeting.

Public Comment

No public comment.

Future Agenda Items

The Enforcement Committee members made note that this committee will commence working on enhancing California Code of Regulations Section 317.

Adjournment

MOTION: DR. LUBKIN MOVED ADJOURN THE MEETING.

SECOND: DR. COLUMBU SECONDED THE MOTION.

VOTE: 3-0

MOTION CARRIED.

Dr. Lubkin adjourned the meeting at 1:53 p.m.

Provisions of SB 1111(Negrete McCleod)

May 6, 2010

B&P § 27: Information Provided on the Internet	Okay. However, needs to be drafted to reflect BCE autonomy. Also, add a requirement that licensees have to provide BCE with an e-mail address similar to what the State Bar requires of its licensees.
B&P §125.3 (As amended by SEC 2, Ch. 223, Stats 2006): Cost Recovery for Actual Costs of Investigation, Prosecution and Probation Monitoring	
B&P §125.4: Allow Boards to Contract with Collection Agency	
B&P §155: Authority for Health Boards to Contract for Investigative Services with Medical Board and Attorney General's Office	
B&P §720.2: Authority for Executive Officers to Adopt Default Decisions and Stipulated Settlements	Conflicts with Section 3 and Section 10 (b) of the Chiropractic Act. Would not conflict if the APA was amended. (BCE is okay with authorizing EO to adopt default decisions, but not stipulated settlements)
B&P §720.4: Authority to Enter Into Stipulated Settlements Without Filing an Accusation	Subdivisions (a) & (c) are okay. However, Subdivision (b) needs to be amended to say "Notwithstanding Section ### of the Administrative Procedures Act..." (LaVonne will provide the actual citation)
B&P §720.8: Automatic Suspension of License While Incarcerated	The BCE likes this concept, but it may conflict with the Chiropractic Act, that requires four affirmative votes for the Board to pass a motion. If we can get around the conflict with the Act, the Board wants to be included in this provision.
B&P §720.10: Mandatory Revocation for Acts of Sexual Exploitation	Okay, but language clean-up is necessary. Page 23, line 37 states "decision issued under this article;" however, decisions are actually issued under the APA or individual practice acts.
B&P §720.12: Mandatory Revocation for Registration as Sex Offender	
B&P §720.14: Prohibition of Gag Clauses in Civil Dispute Settlement Agreements	
B&P §720.16: Access to Medical Documents Pursuant to Investigations	BCE has concerns with subdivision (d), which requires documents to be provided within 10 days or receipt of request. This section should be amended to ensure that the licensee actually receives the request. If the request is served on someone other than the licensee (e.g., a receptionist), it's conceivable that the request may not get forwarded to the licensee.
B&P §720.18: Access to Medical Records Pursuant to Investigations	Okay, but should be permissive, not mandatory. Also, fine amounts for licensees should be reduced from \$1,000/\$100,000 to \$100/\$10,000.
B&P §720.20: Access to Records/Documents from Governmental Agencies	

B&P §720.22: Payment to Agencies for Record/Documents Received	
B&P §720.24: Employer of Health Care Practitioner Reporting Requirements	Okay, but fine amount should be reduced to \$10,000 for licensees.
B&P §720.26: Annual Enforcement Reports to the Department and Legislature	BCE should only be required to report to the Legislature, not DCA. Otherwise okay to include BCE.
B&P §720.28: Information Posted on the Internet	Subdivision (c) may be problematic. Board may not be able to obtain felony conviction information going back to 1991. Should be amended to only require information obtained after the effective date of SB 1111. Otherwise, okay to include BCE.
B&P §720.30: Enforcement Timeframes for the Attorney General's Office	
B&P §720.32: Deny License for Mental Illness or Physical Illness	Okay, but Chiropractors should be added to the list of health professionals authorized to perform physical evaluation
B&P §720.34: Limited License for Applicant With Disability	Possibly conflicts with Section 7 of the Act, which limits the BCE to issuing only one form of certificate. Otherwise okay to add to B&P 1005
B&P §720.35: Require Boards to Check Information Maintained by the National Practitioner Databank	BCE supports this concept. However, this requirement raises significant workload/fiscal issues for the Board.
B&P §720.36: Misdemeanor for Violation of Article 10.1 – Healing Arts Licensing	
B&P §726: Conviction of Sexual Misconduct – Crime Substantially Related	BCE is already included in this section under existing law.
B&P §734: Unprofessional Conduct for Drug Related Offenses	
B&P §735: Unprofessional Conduct for Drug Related Offenses	
B&P §736: Unprofessional Conduct for Drug Related Offenses	
B&P §737: Unprofessional Conduct for Failure to Cooperate With Investigation of Board	
B&P §802.1: Reporting by Licensee of Arrest, Conviction or Disciplinary Action	Okay, but this section should be amended to include disciplinary action taken by the federal government, a territory, or another country.
B&P §803: Report of Crime or Personal Injury Judgment by Clerk of Court – B&P	Need to look at 800 series comprehensively
B&P §803.5: Report of Charges of Felony by DA, City Attorney, or Clerk of Court	Need to look at 800 series comprehensively
B&P §803.6: Report of Preliminary Hearing Transcript of Felony by Clerk of Court	Need to look at 800 series comprehensively
B&P §803.7: Notification of Future Arrests or Convictions from DOJ	Need to look at 800 series comprehensively
Penal §830.3: Authority to Hire Peace Officers	

Introduced by Senator Negrete McLeod

February 17, 2010

An act to amend Sections 27, 116, 125.9, 155, 159.5, 160, 726, 802.1, 803, 803.5, 803.6, and 1005, and 2715 of, to amend and repeal Section 125.3 of, to add Sections 27.5, 125.4, 734, 735, 736, 737, 802.2, 803.7, 1006, 1007, 1699.2, 2372, 2815.6, 2669.2, 2770.18, 3534.12, 4375, and 4873.2 to, to add Article 10.1 (commencing with Section 720), Article 15 (commencing with Section 870), and Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Article 4.7 (commencing with Section 1695) of Chapter 4 of, Article 15 (commencing with Section 2360) of Chapter 5 of, Article 5.5 (commencing with Section 2662) of Chapter 5.7 of, Article 3.1 (commencing with Section 2770) of Chapter 6 of, Article 6.5 (commencing with Section 3534) of Chapter 7.7 of, Article 21 (commencing with Section 4360) of Chapter 9 of, and Article 3.5 (commencing with Section 4860) of Chapter 11 of Division 2 of, the Business and Professions Code, to amend Sections 12529, 12529.5, 12529.6, and 12529.7 of add Section 12529.8 to the Government Code, and to amend Section 830.3 of the Penal Code, relating to regulatory boards, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as amended, Negrete McLeod. Regulatory boards.

Existing law provides for the regulation of healing arts licensees by various boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for

the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners.

(1) Existing law requires certain boards within the department to disclose on the Internet information on their respective licensees.

This bill would additionally require specified healing arts boards *and the State Board of Chiropractic Examiners* to disclose on the Internet information on their respective licensees, as specified. The bill would also declare the intent of the Legislature that the department establish an information technology system to create and update healing arts license information and track enforcement cases pertaining to these licensees.

Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

This bill would additionally authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.

Existing law authorizes an administrative law judge to order a licensee in a disciplinary proceeding to pay, upon request of the licensing authority, a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

This bill would instead authorize any entity within the department, *the State Board of Chiropractic Examiners*, or the administrative law judge to order a licensee or applicant in any penalty or disciplinary hearing to pay a sum not to exceed the ~~actual~~ *reasonable* costs of the investigation, prosecution, and enforcement of the case, *in full*, within 30 days of the effective date of an order to pay costs, *unless subject to an agreed upon payment plan*. The bill would also authorize any entity within the department to request that the administrative law judge charge a licensee on probation the costs of the monitoring of his or her probation, and would prohibit relicensure if those costs are not paid. The bill would authorize any board within the department *and the State Board of Chiropractic Examiners* to contract with a collection agency for the purpose of collecting outstanding fees, fines, or cost recovery amounts, *upon a final decision*, and would authorize the release of personal information, including the birth date, telephone number, and social security number of the person who owes that money to the board.

Existing law provides for the regulation of citation or administrative fine assessments issued pursuant to a citation. Hearings to contest citations or administrative fine assessments are conducted pursuant to a formal adjudication process.

This bill would authorize a healing arts ~~boards~~ board to proceed pursuant to an alternative adjudication process, as specified, *provided the board has adopted specified regulations.*

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor.

This bill would expand that requirement to a licensee of any healing arts board, as specified, ~~would require those licensees to submit a written report,~~ and would further require a report upon the arrest of the licensee or when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state *or an agency of the federal government. The bill would also require a licensee who is arrested or charged with a misdemeanor or felony to inform law enforcement and the court that he or she is a licensee of a healing arts board.*

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licentiate has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licentiate.

This bill would instead make those provisions applicable to any described healing arts board. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.

(2) Under existing law, healing arts licensees are regulated by various healing arts boards and these boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their

laws and regulations. Existing law requires or authorizes a healing arts board to appoint an executive officer or an executive director to, among other things, perform duties delegated by the board. *Under existing law, the State Board of Chiropractic Examiners has the authority to issue, suspend, revoke a license to practice chiropractic, and to place a licensee on probation for various violations. Existing law requires the State Board of Chiropractic Examiners to employ an executive officer to carryout certain duties.*

This bill would authorize ~~the~~ *a healing arts board to delegate to its executive officer or the executive director of specified healing arts licensing boards*, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense, appear at the hearing, or has agreed to *the revocation or surrender of his or her license*, to adopt a proposed default decision or a proposed settlement agreement. The bill would also authorize a healing arts board to enter into a settlement with a licensee or applicant ~~prior to~~ *in lieu of* the issuance of an accusation or statement of issues against the licensee or applicant.

Upon receipt of evidence that a licensee of a healing arts board has engaged in conduct that poses an imminent risk of harm to the public health, safety, or welfare, ~~or has failed to comply with a request to inspect or copy records~~, the bill would authorize the executive officer of the healing arts board to petition the director or his or her designee to issue a temporary order that the licensee cease all practice and activities under his or her license. The bill would require the executive officer to provide notice to the licensee of the hearing at least ~~one hour~~ *5 business days* prior to the hearing and would provide a mechanism for the presentation of evidence and oral or written arguments. The bill would allow for the permanent revocation of the license ~~if the director makes a determination that the action is necessary to protect~~ *upon a preponderance of the evidence that an imminent risk to the public health, safety, or welfare exists.*

The bill would also provide that the license of a licensee shall be suspended if the licensee is incarcerated after the conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses; a violation for the use of dangerous

drugs or controlled substances would also constitute unprofessional conduct and a crime, thereby imposing a state-mandated local program.

The bill would prohibit the issuance of a healing arts license to any person who is a registered sex offender, and would provide for the revocation of a license upon the conviction of certain sex offenses, as defined. The bill would provide that the commission of, and conviction for, any act of sexual abuse, misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration as a sex offender, be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

The bill would also prohibit a licensee of healing arts boards from including certain provisions in an agreement to settle a civil dispute arising from his or her practice, as specified. The bill would make a licensee or a health care facility that fails to comply with a patient's medical record request, as specified, within ~~10~~ 15 days, *if a licensee, or 30 days, if a health care facility*, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program.

The bill would authorize the Attorney General and his or her investigative agents and the healing arts boards to inquire into any alleged violation of the laws under the board's jurisdiction and to inspect documents subject to specified procedures. The bill would also set forth procedures related to the inspection of patient records and patient confidentiality. The bill would require cooperation between state agencies and healing arts boards when investigating a licensee, and would require a state agency to provide to the board all records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide records to a healing arts board upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

The bill would require the healing arts boards to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of consumer calls received by the board, the total number of complaint forms received by the board, the total number of convictions reported to the board, and the total

number of licensees in diversion or on probation for alcohol or drug abuse. The bill would require the healing arts boards to ~~search~~ *submit licensee information to specified national databases, and to search those databases* prior to licensure of an applicant or licensee ~~who holds a license in another state~~, and would authorize a healing arts board to charge a fee for the cost of conducting the search. *The bill would authorize a healing arts board to automatically suspend the license of any licensee who also has an out-of-state license or a license issued by an agency of the federal government that is suspended or revoked, except as specified.*

The bill would authorize the healing arts boards to refuse to issue a license to an applicant if the applicant ~~appears to~~ *may* be unable to practice safely due to mental illness or chemical dependency, subject to specified procedural requirements and medical examinations. The bill would also authorize the healing arts boards to issue limited licenses to practice to an applicant with a disability, as specified.

(3) This bill would make it a crime to violate any of the provisions of (2) above; to engage in the practice of healing arts without a current and valid license, except as specified; *or to fraudulently buy, sell, or obtain a license to practice healing arts; or to represent oneself as engaging or authorized to engage in healing arts if he or she is not authorized to do so.* *The bill would, except as otherwise specified, make the provisions of paragraph (2) applicable to licensees subject to the jurisdiction of the State Board of Chiropractic Examiners.* By creating new crimes, the bill would impose a state-mandated local program.

This bill would also provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.

(4) ~~Existing law requires regulatory fees to be deposited into special funds within the Professions and Vocations Fund, and certain of those special funds are continuously appropriated for those purposes. Those funds are created, and those fees are set, by the Legislature by statute or, if specified, by administrative regulation.~~

~~This bill would authorize the Department of Consumer Affairs to adjust those healing arts regulatory fees consistent with the California Consumer Price Index. By adding a new source of revenue for deposit into certain continuously appropriated funds, the bill would make an appropriation.~~

(4) Existing law provides in the State Treasury the Professions and Vocations Fund, consisting of the special funds of the healing arts boards, many of which are continuously appropriated.

This bill would establish in the State Treasury the Emergency Health Care Enforcement Reserve Fund, which would be a continuously appropriated fund, and would require that any moneys in a healing arts board fund consisting of more than 4 months operating expenditures be transferred to the fund and would authorize expenditure for specified enforcement purposes, thereby making an appropriation. The bill would require the fund to be administered by the department, and would authorize a healing arts board to loan its surplus moneys in the fund to another healing arts board, thereby making an appropriation.

Existing law requires specified agencies within the Department of Consumer Affairs with unencumbered funds equal to or more than the agency's operating budget for the next 2 fiscal years to reduce license fees in order to reduce surplus funds to an amount less than the agency's operating budget, as specified. With respect to certain other boards within the department, existing law imposes various reserve fund requirements.

Under this bill, if a healing arts board's fund reserve exceeds its statutory maximum, the bill would authorize the board to lower its fees by resolution in order to reduce its fund reserves to an amount below its statutory maximum.

The bill would also authorize the department to request that the Department of Finance augment the amount available for expenditures to pay enforcement costs for the services of the Attorney General's Office and the Office of Administrative Hearings and the bill would impose specified procedures for instances when the augmentation exceeds 20% of the board's budget for the enforcement costs for these services. The bill would make findings and statements of intent with respect to this provision.

(5) Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

This bill would authorize healing arts boards and the State Board of Chiropractic Examiners to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to

contract for investigative services provided by the ~~Medical Board of California or provided by the~~ Department of Justice. The bill would also provide within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.

Existing law provides that the chief and all investigators of the Division of Investigation of the department and all investigators of the Medical Board of California have the authority of peace officers.

This bill would include within that provision investigators of the Board of Registered Nursing and would also provide that investigators employed by the Medical Board of California, the Dental Board of California, and the Board of Registered Nursing are not required to be employed by the division. The bill would also authorize the Board of Registered Nursing to employ nurse consultants and other personnel as it deems necessary.

(6) Existing law establishes diversion and recovery programs to identify and rehabilitate dentists, osteopathic physicians and surgeons, physical therapists and physical therapy assistants, registered nurses, physician assistants, pharmacists and intern pharmacists, and veterinarians and registered veterinary technicians whose competency may be impaired due to, among other things, alcohol and drug abuse.

This bill would make the provisions establishing these diversion programs inoperative on January 1, 2013.

(7) Existing law provides in the Department of Justice the Health Quality Enforcement Section, whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California and any committee of the board, the California *Board of Podiatric Medicine*, and the Board of Psychology.

This bill would ~~require~~ *authorize a healing arts board to utilize the services of the Health Quality Enforcement Section to provide investigative and prosecutorial services to any healing arts board, as defined, upon request by the executive officer of the board or licensing section.* ~~The~~ *If utilized, the* bill would also require the Attorney General to assign attorneys employed by the office of the Attorney General to work on location at the ~~Health Quality Enforcement Unit~~ *licensing unit* of the Division of Investigation of the Department of Consumer Affairs, as specified.

(8) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. This act shall be known and may be cited as the
2 Consumer Health Protection Enforcement Act.

3 SEC. 2. (a) The Legislature finds and declares the following:

4 (1) In recent years, it has been reported that many of the healing
5 arts boards within the Department of Consumer Affairs take, on
6 average, more than three years to investigate and prosecute
7 violations of law, a timeframe that does not adequately protect
8 consumers.

9 (2) The excessive amount of time that it takes healing arts boards
10 to investigate and prosecute licensed professionals who have
11 violated the law has been caused, in part, by legal and procedural
12 impediments to the enforcement programs.

13 (3) Both consumers and licensees have an interest in the quick
14 resolution of complaints and disciplinary actions. Consumers need
15 prompt action against licensees who do not comply with
16 professional standards, and licensees have an interest in timely
17 review of consumer complaints to keep the trust of their patients.

18 (b) It is the intent of the Legislature that the changes made by
19 this act will improve efficiency and increase accountability within
20 the healing arts boards of the Department of Consumer Affairs,
21 and will remain consistent with the long-held paramount goal of
22 consumer protection.

23 (c) It is further the intent of the Legislature that the changes
24 made by this act will provide the healing arts boards within the
25 Department of Consumer Affairs with the regulatory tools and
26 authorities necessary to reduce the average timeframe for

1 investigating and prosecuting violations of law by healing arts
2 practitioners to between 12 and 18 months.

3 SEC. 3. Section 27 of the Business and Professions Code is
4 amended to read:

5 27. (a) ~~Every~~ *Each* entity specified in ~~subdivision (b)~~
6 ~~subdivisions (b) and (c)~~ shall provide on the Internet information
7 regarding the status of every license issued by that entity, *whether*
8 *the license is current, expired, canceled, suspended, or revoked,*
9 in accordance with the California Public Records Act (Chapter 3.5
10 (commencing with Section 6250) of Division 7 of Title 1 of the
11 Government Code) and the Information Practices Act of 1977
12 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
13 4 of Division 3 of the Civil Code). The public information to be
14 provided on the Internet shall include information on suspensions
15 and revocations of licenses issued by the entity and other related
16 enforcement action taken by the entity relative to persons,
17 businesses, or facilities subject to licensure or regulation by the
18 entity. In providing information on the Internet, each entity shall
19 comply with the Department of Consumer Affairs Guidelines for
20 Access to Public Records. The information may not include
21 personal information, including home telephone number, date of
22 birth, or social security number. Each entity shall disclose a
23 licensee's address of record. However, each entity shall allow a
24 licensee to provide a post office box number or other alternate
25 address, instead of his or her home address, as the address of
26 record. This section shall not preclude an entity from also requiring
27 a licensee, who has provided a post office box number or other
28 alternative mailing address as his or her address of record, to
29 provide a physical business address or residence address only for
30 the entity's internal administrative use and not for disclosure as
31 the licensee's address of record or disclosure on the Internet.

32 (b) Each of the following entities within the Department of
33 Consumer Affairs shall comply with the requirements of this
34 section:

35 (1) The Acupuncture Board shall disclose information on its
36 licensees.

37 (2) The Board of Behavioral Sciences shall disclose information
38 on its licensees, ~~including marriage and family therapists, licensed~~
39 ~~clinical social workers, and licensed educational psychologists.~~

1 (3) The Dental Board of California shall disclose information
2 on its licensees.

3 (4) The State Board of Optometry shall disclose information
4 regarding certificates of registration to practice optometry,
5 statements of licensure, optometric corporation registrations, branch
6 office licenses, and fictitious name permits of its licensees.

7 (5) The Board for Professional Engineers and Land Surveyors
8 shall disclose information on its registrants and licensees.

9 (6) The Structural Pest Control Board shall disclose information
10 on its licensees, including applicators, field representatives, and
11 operators in the areas of fumigation, general pest and wood
12 destroying pests and organisms, and wood roof cleaning and
13 treatment.

14 (7) The Bureau of Automotive Repair shall disclose information
15 on its licensees, including auto repair dealers, smog stations, lamp
16 and brake stations, smog check technicians, and smog inspection
17 certification stations.

18 (8) The Bureau of Electronic and Appliance Repair shall disclose
19 information on its licensees, including major appliance repair
20 dealers, combination dealers (electronic and appliance), electronic
21 repair dealers, service contract sellers, and service contract
22 administrators.

23 (9) The Cemetery and Funeral Bureau shall disclose information
24 on its licensees, including cemetery brokers, cemetery salespersons,
25 cemetery managers, crematory managers, cemetery authorities,
26 crematories, cremated remains disposers, embalmers, funeral
27 establishments, and funeral directors.

28 (10) The Professional Fiduciaries Bureau shall disclose
29 information on its licensees.

30 (11) The Contractors' State License Board shall disclose
31 information on its licensees in accordance with Chapter 9
32 (commencing with Section 7000) of Division 3. In addition to
33 information related to licenses as specified in subdivision (a), the
34 board shall also disclose information provided to the board by the
35 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

36 (12) The Board of Psychology shall disclose information on its
37 licensees, including psychologists, psychological assistants, and
38 registered psychologists.

39 (13) The Bureau for Private Postsecondary Education shall
40 disclose information on private postsecondary institutions under

1 its jurisdiction, including disclosure of notices to comply issued
2 pursuant to Section 94935 of the Education Code.

3 ~~(14) The Board of Registered Nursing shall disclose information~~
4 ~~on its licensees.~~

5 ~~(15) The Board of Vocational Nursing and Psychiatric~~
6 ~~Technicians of the State of California shall disclose information~~
7 ~~on its licensees.~~

8 ~~(16) The Veterinary Medical Board shall disclose information~~
9 ~~on its licensees and registrants.~~

10 ~~(17) The Physical Therapy Board of California shall disclose~~
11 ~~information on its licensees.~~

12 ~~(18) The California State Board of Pharmacy shall disclose~~
13 ~~information on its licensees.~~

14 ~~(19) The Speech-Language Pathology and Audiology and~~
15 ~~Hearing Aid Dispensers Board shall disclose information on its~~
16 ~~licensees.~~

17 ~~(20) The Respiratory Care Board of California shall disclose~~
18 ~~information on its licensees.~~

19 ~~(21) The California Board of Occupational Therapy shall~~
20 ~~disclose information on its licensees.~~

21 ~~(22) The Naturopathic Medicine Committee of the Osteopathic~~
22 ~~Medical Board of California shall disclose information on its~~
23 ~~licensees.~~

24 ~~(23) The Physician Assistant Committee of the Medical Board~~
25 ~~of California shall disclose information on its licensees.~~

26 ~~(24) The Dental Hygiene Committee of California shall disclose~~
27 ~~information on its licensees.~~

28 *(c) The State Board of Chiropractic Examiners shall disclose*
29 *information on its licensees.*

30 *(e)*

31 *(d) "Internet" for the purposes of this section has the meaning*
32 *set forth in paragraph (6) of subdivision (f) of Section 17538.*

33 *SEC. 4. Section 27.5 is added to the Business and Professions*
34 *Code, to read:*

35 *27.5. (a) Each entity specified in subdivision (b) shall provide*
36 *on the Internet information regarding the status of every license*
37 *issued by that entity, whether the license is current, expired,*
38 *canceled, suspended, or revoked, in accordance with the California*
39 *Public Records Act (Chapter 3.5 (commencing with Section 6250)*
40 *of Division 7 of Title 1 of the Government Code) and the*

1 *Information Practices Act of 1977 (Chapter 1 (commencing with*
2 *Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).*
3 *The public information to be provided on the Internet shall include*
4 *information on suspensions and revocations of licenses issued by*
5 *the entity and other related enforcement action taken by the entity*
6 *relative to persons, businesses, or facilities subject to licensure or*
7 *regulation by the entity. In providing information on the Internet,*
8 *each entity shall comply with the Department of Consumer Affairs*
9 *Guidelines for Access to Public Records. The information may not*
10 *include personal information, including home telephone number,*
11 *date of birth, or social security number. The information may not*
12 *include the licensee's address, but may include the city and county*
13 *of the licensee's address of record.*

14 *(b) Each of the following entities within the Department of*
15 *Consumer Affairs shall comply with the requirements of this*
16 *section:*

17 *(1) The Board of Registered Nursing shall disclose information*
18 *on its licensees.*

19 *(2) The Board of Vocational Nursing and Psychiatric*
20 *Technicians of the State of California shall disclose information*
21 *on its licensees.*

22 *(3) The Veterinary Medical Board shall disclose information*
23 *on its licensees and registrants.*

24 *(4) The Physical Therapy Board of California shall disclose*
25 *information on its licensees.*

26 *(5) The California State Board of Pharmacy shall disclose*
27 *information on its licensees.*

28 *(6) The Speech-Language Pathology and Audiology and Hearing*
29 *Aid Dispensers Board shall disclose information on its licensees.*

30 *(7) The Respiratory Care Board of California shall disclose*
31 *information on its licensees.*

32 *(8) The California Board of Occupational Therapy shall disclose*
33 *information on its licensees.*

34 *(9) The Naturopathic Medicine Committee within the*
35 *Osteopathic Medical Board of California shall disclose information*
36 *on its licensees.*

37 *(10) The Physician Assistant Committee of the Medical Board*
38 *of California shall disclose information on its licensees.*

39 *(11) The Dental Hygiene Committee of California shall disclose*
40 *information on its licensees.*

1 (c) "Internet" for the purposes of this section has the meaning
2 set forth in paragraph (6) of subdivision (f) of Section 17538.

3 ~~SEC. 4.~~

4 ~~SEC. 5.~~ Section 116 of the Business and Professions Code is
5 amended to read:

6 116. (a) The director or his or her designee may audit and
7 review, upon his or her own initiative, or upon the request of a
8 consumer or licensee, inquiries and complaints regarding licensees,
9 dismissals of disciplinary cases, the opening, conduct, or closure
10 of investigations, informal conferences, and discipline short of
11 formal accusation by any of the healing arts boards ~~defined~~ listed
12 in Section 720. The director may make recommendations for
13 changes to the disciplinary system to the appropriate board, the
14 Legislature, or both, *for their consideration*.

15 (b) The director shall report to the Chairpersons of the Senate
16 Business and Professions Committee and the Assembly Health
17 Committee annually regarding his or her findings from any audit,
18 review, or monitoring and evaluation conducted pursuant to this
19 section.

20 ~~SEC. 5.~~

21 ~~SEC. 6.~~ Section 125.3 of the Business and Professions Code,
22 as amended by Section 2 of Chapter 223 of the Statutes of 2006,
23 is amended to read:

24 125.3. (a) (1) Except as otherwise provided by law, in any
25 order issued in resolution of a penalty or disciplinary proceeding
26 or hearing on a citation issued pursuant to Section 125.9 or
27 regulations adopted *pursuant* thereto, before any board specified
28 in Section 101, the board or the administrative law judge may
29 direct any licensee or applicant found to have committed a violation
30 or violations of law to pay to the board a sum not to exceed the
31 ~~actual~~ *reasonable* costs of the investigation, prosecution, and
32 enforcement of the case.

33 (2) In an order issued pursuant to paragraph (1) that places a
34 license on probation, the administrative law judge may direct a
35 licensee to pay the board's ~~actual~~ *reasonable* costs of monitoring
36 that licensee while he or she remains on probation, if so requested
37 by the entity bringing the proceeding. The board shall provide the
38 administrative law judge with a good faith estimate of the probation
39 monitoring costs at the time of the request.

1 (b) In the case of a disciplined licentiate that is a corporation or
2 a partnership, the order may be made against the licensed corporate
3 entity or licensed partnership.

4 (c) A certified copy of the actual costs, or a good faith estimate
5 of costs where actual costs are not available, signed by the entity
6 bringing the proceeding or its designated representative shall be
7 prima facie evidence of ~~actual~~ *reasonable* costs of investigation,
8 prosecution, and enforcement of the case. The costs shall include
9 the amount of investigative, prosecution, and enforcement costs
10 up to the date of the hearing, including, but not limited to, charges
11 imposed by the Attorney General.

12 (d) The administrative law judge shall make a proposed finding
13 of the amount of ~~actual~~ *reasonable* costs of investigation,
14 prosecution, and enforcement of the case and probation monitoring
15 costs when requested pursuant to subdivision (a). The finding of
16 the administrative law judge with regard to costs shall not be
17 reviewable by the board to increase any cost award. The board
18 may reduce or eliminate the cost award, or remand to the
19 administrative law judge if the proposed decision fails to make a
20 finding on costs requested pursuant to subdivision (a).

21 (e) *In determining reasonable costs pursuant to subdivision (a),*
22 *the administrative law judge shall only consider the public*
23 *resources expended pursuant to the investigation, prosecution,*
24 *and enforcement of the case. The administrative law judge shall*
25 *provide an explanation as to how the amount ordered for*
26 *reasonable costs was determined if the actual costs were not*
27 *ordered.*

28 (e)

29 (f) If an order for recovery of costs is made, payment is due and
30 payable, *in full*, 30 days after the effective date of the order, *unless*
31 *the licensee and the board have agreed to a payment plan*. If timely
32 payment is not made as directed in the board's decision, the board
33 may enforce the order for repayment in any appropriate court. This
34 right of enforcement shall be in addition to any other rights the
35 board may have as to any licentiate to pay costs.

36 (f)

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

40 (g)

1 (h) (1) Except as provided in paragraph (2), the board shall not
2 ~~renew or reinstate the license, reinstate the license, or terminate~~
3 ~~the probation~~ of any licentiate who has failed to pay all of the costs
4 ordered under this section. *This paragraph shall not apply to an*
5 *administrative law judge when preparing a proposed decision.*

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

12 ~~(h)~~

13 (i) All costs recovered under this section shall be considered a
14 reimbursement for costs incurred and shall be deposited in the
15 fund of the board recovering the costs to be available upon
16 appropriation by the Legislature.

17 ~~(i)~~

18 (j) Nothing in this section shall preclude a board from including
19 the recovery of the costs of investigation, prosecution, and
20 enforcement of a case in any stipulated settlement.

21 ~~(j)~~

22 (k) This section does not apply to any board if a specific
23 statutory provision in that board's licensing act provides for broader
24 authority for the recovery of costs in an administrative disciplinary
25 proceeding.

26 ~~(k)~~

27 (l) Notwithstanding the provisions of this section, the Medical
28 Board of California shall not request nor obtain from a physician
29 and surgeon, investigation and prosecution costs for a disciplinary
30 proceeding against the licentiate. The board shall ensure that this
31 subdivision is revenue neutral with regard to it and that any loss
32 of revenue or increase in costs resulting from this subdivision is
33 offset by an increase in the amount of the initial license fee and
34 the biennial renewal fee, as provided in subdivision (e) of Section
35 2435.

36 ~~(l)~~

37 (m) For purposes of this chapter, costs of prosecution shall
38 include, but not be limited to, costs of attorneys, expert consultants,
39 witnesses, any administrative filing and service fees, and any other
40 cost associated with the prosecution of the case.

1 ~~SEC. 6.~~

2 ~~SEC. 7.~~ Section 125.3 of the Business and Professions Code,
3 as added by Section 1 of Chapter 1059 of the Statutes of 1992, is
4 repealed.

5 ~~SEC. 7.~~

6 ~~SEC. 8.~~ Section 125.4 is added to the Business and Professions
7 Code, to read:

8 125.4. (a) Notwithstanding any other provision of law, a board
9 may contract with a collection agency for the purpose of collecting
10 outstanding fees, fines, or cost recovery amounts from any person
11 who owes that money to the board, and, for those purposes, may
12 provide to the collection agency the personal information of that
13 person, including his or her birth date, telephone number, and
14 social security number. The contractual agreement shall provide
15 that the collection agency may use or release personal information
16 only as authorized by the contract, and shall provide safeguards
17 to ensure that the personal information is protected from
18 unauthorized disclosure. The contractual agreement shall hold the
19 collection agency liable for the unauthorized use or disclosure of
20 personal information received or collected under this section.

21 (b) *A board shall not use a collection agency to recover*
22 *outstanding fees, fines, or cost recovery amounts until the person*
23 *has exhausted all appeals and the decision is final.*

24 ~~SEC. 8.~~

25 ~~SEC. 9.~~ Section 125.9 of the Business and Professions Code
26 is amended to read:

27 125.9. (a) Except with respect to persons regulated under
28 Chapter 11 (commencing with Section 7500), and Chapter 11.6
29 (commencing with Section 7590) of Division 3, any board, bureau,
30 commission, or committee within the department, the board created
31 by the Chiropractic Initiative Act, and the Osteopathic Medical
32 Board of California, may establish, by regulation, a system for the
33 issuance to a licensee of a citation that may contain an order of
34 abatement or an order to pay an administrative fine assessed by
35 the board, bureau, commission, or committee where the licensee
36 is in violation of the applicable licensing act or any regulation
37 adopted pursuant thereto.

38 (b) The system shall contain the following provisions:

1 (1) Citations shall be in writing and shall describe with
2 particularity the nature of the violation, including specific reference
3 to the provision of law determined to have been violated.

4 (2) Whenever appropriate, the citation shall contain an order of
5 abatement fixing a reasonable time for abatement of the violation.

6 (3) In no event shall the administrative fine assessed by the
7 board, bureau, commission, or committee exceed five thousand
8 dollars (\$5,000) for each inspection or each investigation made
9 with respect to the violation, or five thousand dollars (\$5,000) for
10 each violation or count if the violation involves fraudulent billing
11 submitted to an insurance company, the Medi-Cal program, or
12 Medicare. In assessing a fine, the board, bureau, commission, or
13 committee shall give due consideration to the appropriateness of
14 the amount of the fine with respect to factors such as the gravity
15 of the violation, the good faith of the licensee, and the history of
16 previous violations.

17 (4) A citation or fine assessment issued pursuant to a citation
18 shall inform the licensee that if he or she desires a hearing to appeal
19 the finding of a violation, that hearing shall be requested by written
20 notice to the board, bureau, commission, or committee within 30
21 days of the date of issuance of the citation or assessment. If a
22 hearing is not requested pursuant to this section, payment of any
23 fine shall not constitute an admission of the violation charged.
24 Hearings shall be held pursuant to Chapter 5 (commencing with
25 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
26 Code or, at the discretion of a healing arts board, as defined *listed*
27 in Section 720, pursuant to paragraph (5).

28 (5) ~~(A) If the healing arts board is a board or committee, the~~
29 ~~executive officer and two members of that board or committee~~
30 ~~shall hear the appeal and issue a citation decision. A licensee~~
31 ~~desiring to appeal the citation decision shall file a written appeal~~
32 ~~of the citation decision with the board or committee within 30 days~~
33 ~~of issuance of the decision. The appeal shall be considered by the~~
34 ~~board or committee itself and shall issue a written decision on the~~
35 ~~appeal. The members of the board or committee who issued the~~
36 ~~citation decision shall not participate in the appeal before the board~~
37 ~~or committee unless one or both of the members are needed to~~
38 ~~establish a quorum to act on the appeal.~~

39 ~~(B) If the healing arts board is a bureau, the director shall~~
40 ~~appoint a designee to hear the appeal and issue a citation decision.~~

1 ~~A licensee desiring to appeal the citation decision shall file a~~
2 ~~written appeal of the citation decision with the bureau within 30~~
3 ~~days of issuance of the decision. The appeal shall be considered~~
4 ~~by the director or his or her designee who shall issue a written~~
5 ~~decision on the appeal.~~

6 ~~(C) The hearings specified in this paragraph are not subject to~~
7 ~~the provisions of Chapter 5 (commencing with Section 11500) of~~
8 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~

9 ~~(D) A healing arts board may adopt regulations to implement~~
10 ~~this paragraph, which may include the use of telephonic hearings.~~

11 *(5) (A) If the healing arts board is a board or committee, two*
12 *members of that board or committee shall hear the appeal and*
13 *issue a citation decision. One of the two members shall be a*
14 *licensee of the board.*

15 *(B) If the healing arts board is a bureau, the director shall*
16 *appoint a designee to hear the appeal and issue a citation decision.*

17 *(C) A hearing held pursuant to this paragraph is not subject to*
18 *the provisions of Chapter 5 (commencing with Section 11500) of*
19 *Part 1 of Division 3 of Title 2 of the Government Code.*

20 *(D) A board or committee choosing to utilize the provisions of*
21 *this paragraph shall first have adopted regulations providing for*
22 *notice and opportunity to be heard. The regulations shall provide*
23 *the licensee with due process and describe, in detail, the process*
24 *for that hearing. Appeal of the citation decision may be made*
25 *through the filing of a petition for writ of mandate.*

26 *(E) A healing arts board may permit the use of telephonic*
27 *hearings. The decision to have a telephonic hearing shall be at*
28 *the discretion of the licensee subject to the citation.*

29 *(6) Failure of a licensee to pay a fine within 30 days of the date*
30 *of assessment, unless the citation is being appealed, may result in*
31 *disciplinary action being taken by the board, bureau, commission,*
32 *or committee. Where a citation is not contested and a fine is not*
33 *paid, the full amount of the assessed fine shall be added to the fee*
34 *for renewal of the license. A license shall not be renewed without*
35 *payment of the renewal fee and fine.*

36 *(c) The system may contain the following provisions:*

37 *(1) A citation may be issued without the assessment of an*
38 *administrative fine.*

39 *(2) Assessment of administrative fines may be limited to only*
40 *particular violations of the applicable licensing act.*

1 (d) Notwithstanding any other provision of law, if a fine is paid
2 to satisfy an assessment based on the finding of a violation,
3 payment of the fine shall be represented as satisfactory resolution
4 of the matter for purposes of public disclosure.

5 (e) Administrative fines collected pursuant to this section shall
6 be deposited in the special fund of the particular board, bureau,
7 commission, or committee.

8 ~~SEC. 9.~~

9 *SEC. 10.* Section 155 of the Business and Professions Code is
10 amended to read:

11 155. (a) In accordance with Section 159.5, the director may
12 employ such investigators, inspectors, and deputies as are necessary
13 to properly to investigate and prosecute all violations of any law,
14 the enforcement of which is charged to the department or to any
15 board, agency, or commission in the department.

16 (b) It is the intent of the Legislature that inspectors used by
17 boards, bureaus, or commissions in the department shall not be
18 required to be employees of the Division of Investigation, but may
19 either be employees of, or under contract to, the boards, bureaus,
20 or commissions. Contracts for services shall be consistent with
21 Article 4.5 (commencing with Section 19130) of Chapter 6 of Part
22 2 of Division 5 of Title 2 of the Government Code. All civil service
23 employees currently employed as inspectors whose functions are
24 transferred as a result of this section shall retain their positions,
25 status, and rights in accordance with Section 19994.10 of the
26 Government Code and the State Civil Service Act (Part 2
27 (commencing with Section 18500) of Division 5 of Title 2 of the
28 Government Code).

29 (c) Investigators used by any healing arts board, as defined *listed*
30 in Section 720, shall not be required to be employees of the
31 Division of Investigation and the healing arts board may contract
32 for investigative services provided by ~~the Medical Board of~~
33 ~~California or provided by the Department of Justice.~~

34 (d) Nothing in this section limits the authority of, or prohibits,
35 investigators in the Division of Investigation in the conduct of
36 inspections or investigations of any licensee, or in the conduct of
37 investigations of any officer or employee of a board or the
38 department at the specific request of the director or his or her
39 designee.

1 ~~SEC. 10.~~

2 ~~SEC. 11.~~ Section 159.5 of the Business and Professions Code
3 is amended to read:

4 159.5. There is in the department the Division of Investigation.
5 The division is in the charge of a person with the title of chief of
6 the division. There is in the division the Health Quality
7 Enforcement Unit. The primary responsibility of the unit is to
8 investigate complaints against licensees and applicants within the
9 jurisdiction of the healing arts boards—~~specified~~ *listed* in Section
10 720.

11 Except as provided in Section 16 of Chapter 1394 of the Statutes
12 of 1970, all positions for the personnel necessary to provide
13 investigative services, as specified in Section 160 of this code and
14 in subdivision (b) of Section 830.3 of the Penal Code, shall be in
15 the division and the personnel shall be appointed by the director.

16 ~~SEC. 11.~~

17 ~~SEC. 12.~~ Section 160 of the Business and Professions Code is
18 amended to read:

19 160. (a) The Chief and designated investigators of the Division
20 of Investigation of the department, designated investigators of the
21 Medical Board of California, designated investigators of the Dental
22 Board of California, and designated investigators of the Board of
23 Registered Nursing have the authority of peace officers while
24 engaged in exercising the powers granted or performing the duties
25 imposed upon them or the division in investigating the laws
26 administered by the various boards comprising the department or
27 commencing directly or indirectly any criminal prosecution arising
28 from any investigation conducted under these laws. All persons
29 herein referred to shall be deemed to be acting within the scope
30 of employment with respect to all acts and matters in this section
31 set forth.

32 (b) The Division of Investigation, the Medical Board of
33 California, the Dental Board of California, and the Board of
34 Registered Nursing may employ investigators who are not peace
35 officers to provide investigative services.

36 ~~SEC. 12.~~

37 ~~SEC. 13.~~ Article 10.1 (commencing with Section 720) is added
38 to Chapter 1 of Division 2 of the Business and Professions Code,
39 to read:

1 Article 10.1. Healing Arts Licensing Enforcement

2
3 720. (a) Unless otherwise provided, as used in this article, the
4 term “healing arts board” shall include all of the following:

- 5 (1) The Dental Board of California.
- 6 (2) The Medical Board of California.
- 7 (3) The State Board of Optometry.
- 8 (4) The California State Board of Pharmacy.
- 9 (5) The Board of Registered Nursing.
- 10 (6) The Board of Behavioral Sciences.
- 11 (7) The Board of Vocational Nursing and Psychiatric
12 Technicians of the State of California.
- 13 (8) The Respiratory Care Board of California.
- 14 (9) The Acupuncture Board.
- 15 (10) The Board of Psychology.
- 16 (11) The California Board of Podiatric Medicine.
- 17 (12) The Physical Therapy Board of California.
- 18 (13) The Physician Assistant Committee of the Medical Board
19 of California.
- 20 (14) The Speech-Language Pathology and Audiology and
21 Hearing Aid Dispensers Board.
- 22 (15) The California Board of Occupational Therapy.
- 23 (16) The Osteopathic Medical Board of California.
- 24 (17) The Naturopathic Medicine Committee ~~of~~ *within* the
25 Osteopathic Medical Board of California.
- 26 (18) The Dental Hygiene Committee of California.
- 27 (19) The Veterinary Medical Board.

28 (b) Unless otherwise provided, as used in this article, “board”
29 means all healing arts boards described under subdivision (a) and
30 “licensee” means a licensee of a healing arts board described in
31 subdivision (a).

32 720.2. (a) ~~The~~ *A healing arts board may delegate to its*
33 *executive officer or executive director of a healing arts board may*
34 *the authority to* adopt a proposed default decision where an
35 administrative action to revoke a license has been filed and the
36 licensee has failed to file a notice of defense or to appear at the
37 hearing and a proposed default decision revoking the license has
38 been issued.

39 (b) ~~The~~ *A healing arts board may delegate to its* executive
40 *officer or executive director of a healing arts board may the*

1 *authority to adopt a proposed settlement agreement where an*
2 *administrative action to revoke a license has been filed by the*
3 *healing arts board and the licensee has agreed to ~~surrender the~~*
4 *revocation or surrender of his or her license.*

5 720.4. (a) Notwithstanding Section 11415.60 of the
6 Government Code, a healing arts board may enter into a settlement
7 with a licensee or applicant ~~prior to the board's~~ *in lieu of the*
8 issuance of an accusation or statement of issues against that
9 licensee or applicant, as applicable.

10 (b) *The settlement shall include language identifying the factual*
11 *basis for the action being taken and a list of the statutes or*
12 *regulations violated.*

13 ~~(b) No~~

14 (c) *A person who enters a settlement pursuant to this section*
15 ~~may petition~~ *is not precluded from filing a petition, in the*
16 *timeframe permitted by law, to modify the terms of the settlement*
17 *or petition for early termination of probation, if probation is part*
18 *of the settlement.*

19 ~~(e) Any settlement~~

20 (d) *Any settlement against a licensee executed pursuant to this*
21 *section shall be considered discipline and a public record and shall*
22 *be posted on the applicable board's Internet Web site. Any*
23 *settlement against an applicant executed pursuant to this section*
24 *shall be considered a public record and shall be posted on the*
25 *applicable board's Internet Web site.*

26 720.6. (a) Notwithstanding any other provision of law, upon
27 receipt of evidence that a licensee of a healing arts board has
28 engaged in conduct that poses an imminent risk of serious harm
29 to the public health, safety, or welfare, ~~or has failed to comply~~
30 ~~with a request to inspect or copy records made pursuant to Section~~
31 ~~720.16,~~ the executive officer of that board may petition the director
32 to issue a temporary order that the licensee cease all practice and
33 activities that require a license by that board.

34 (b) (1) The executive officer of the healing arts board shall, to
35 the extent practicable, provide telephonic, electronic mail, message,
36 or facsimile written notice to the licensee of a hearing on the
37 petition at least ~~24 hours~~ *five business days* prior to the hearing.
38 The licensee and his or her counsel and the executive officer or
39 his or her designee shall have the opportunity to present oral or
40 written argument before the director. After presentation of the

1 evidence and consideration of any arguments presented, the director
2 may issue an order that the licensee cease all practice and activities
3 that require a license by that board when, in the opinion of the
4 director, the action is necessary to protect the public health, safety,
5 or welfare., *if, in the director's opinion, the petitioner has*
6 *established by a preponderance of the evidence that an imminent*
7 *risk of serious harm to the public health, safety, or welfare exists,*
8 *the director may issue an order that the licensee cease all practice*
9 *and activities that require a license by that board.*

10 (2) The hearing specified in this subdivision shall not be subject
11 to the provisions of Chapter 5 (commencing with Section 11500)
12 of Part 1 of Division 3 of Title 2 of the Government Code.

13 (c) Any order to cease practice issued pursuant to this section
14 shall automatically be vacated within ~~120~~ 90 days of issuance, or
15 until the healing arts board, ~~pursuant to Section 494, files a petition~~
16 *files a petition pursuant to Section 494* for an interim suspension
17 order and the petition is denied or granted, whichever occurs first.

18 (d) A licensee who fails or refuses to comply with an order of
19 the director to cease practice pursuant to this section is subject to
20 disciplinary action to revoke or suspend his or her license by ~~his~~
21 ~~or her~~ *the* respective healing arts board and an administrative fine
22 assessed by the board not to exceed twenty-five thousand dollars
23 (\$25,000). The remedies provided herein are in addition to any
24 other authority of the healing arts board to sanction a licensee for
25 practicing or engaging in activities subject to the jurisdiction of
26 the board without proper legal authority.

27 (e) Upon receipt of new information, the executive officer for
28 the healing arts board who requested the temporary suspension
29 order shall review the basis for the license suspension to determine
30 if the grounds for the suspension continue to exist. The executive
31 officer shall immediately notify the director if the executive officer
32 believes that the licensee no longer poses an imminent risk of
33 serious harm to the public health, safety, or welfare ~~or that the~~
34 ~~licensee has complied with the request to inspect or copy records~~
35 ~~pursuant to Section 720.16.~~ The director shall review the
36 information from the executive officer and may vacate the
37 suspension order, if he or she believes that the suspension is no
38 longer necessary to protect the public health, safety, or welfare.

39 (f) Any petition and order to cease practice shall be displayed
40 on the Internet Web site of the applicable healing arts board, except

1 that if the petition is not granted or the director vacates the
2 suspension order pursuant to subdivision (e), the petition and order
3 shall be removed from the respective board's Internet Web site.

4 (g) If the position of director is vacant, the chief deputy director
5 of the department shall fulfill the duties of this section.

6 (h) Temporary suspension orders shall be subject to judicial
7 review pursuant to Section 1094.5 of the Code of Civil Procedure
8 and shall be heard only in the superior court in, and for, the
9 Counties of Sacramento, San Francisco, Los Angeles, or San
10 Diego.

11 (i) *For the purposes of this section, "imminent risk of serious*
12 *harm to the public health, safety, or welfare" means that there is*
13 *a reasonable likelihood that allowing the licensee to continue to*
14 *practice will result in serious physical or emotional injury,*
15 *unlawful sexual contact, or death to an individual or individuals*
16 *within the next 90 days.*

17 720.8. (a) The license of a licensee of a healing arts board
18 shall be suspended automatically during any time that the licensee
19 is incarcerated after conviction of a felony, regardless of whether
20 the conviction has been appealed. The healing arts board shall,
21 immediately upon receipt of the certified copy of the record of
22 conviction, determine whether the license of the licensee has been
23 automatically suspended by virtue of his or her incarceration, and
24 if so, the duration of that suspension. The healing arts board shall
25 notify the licensee *in writing* of the license suspension and of his
26 or her right to elect to have the issue of penalty heard as provided
27 in subdivision (d).

28 (b) Upon receipt of the certified copy of the record of conviction,
29 if after a hearing before an administrative law judge from the Office
30 of Administrative Law ~~Hearings~~ it is determined that the felony
31 for which the licensee was convicted was substantially related to
32 the qualifications, functions, or duties of a licensee, the board shall
33 suspend the license until the time for appeal has elapsed, if no
34 appeal has been taken, or until the judgment of conviction has been
35 affirmed on appeal or has otherwise become final, and until further
36 order of the healing arts board.

37 (c) Notwithstanding subdivision (b), a conviction of a charge
38 of violating any federal statute or regulation or any statute or
39 regulation of this state, regulating dangerous drugs or controlled
40 substances, or a conviction of Section 187, 261, 262, or 288 of the

1 Penal Code, shall be conclusively presumed to be substantially
2 related to the qualifications, functions, or duties of a licensee and
3 no hearing shall be held on this issue. However, upon its own
4 motion or for good cause shown, the healing arts board may decline
5 to impose or may set aside the suspension when it appears to be
6 in the interest of justice to do so, with due regard to maintaining
7 the integrity of, and confidence in, the practice regulated by the
8 healing arts board.

9 (d) (1) Discipline may be ordered against a licensee in
10 accordance with the laws and regulations of the healing arts board
11 when the time for appeal has elapsed, the judgment of conviction
12 has been affirmed on appeal, or an order granting probation is
13 made suspending the imposition of sentence, irrespective of a
14 subsequent order under Section 1203.4 of the Penal Code allowing
15 the person to withdraw his or her plea of guilty and to enter a plea
16 of not guilty, setting aside the verdict of guilty, or dismissing the
17 accusation, complaint, information, or indictment.

18 (2) The issue of penalty shall be heard by an administrative law
19 judge from the Office of Administrative ~~Law~~ *Hearings*. The
20 hearing shall not be had until the judgment of conviction has
21 become final or, irrespective of a subsequent order under Section
22 1203.4 of the Penal Code, an order granting probation has been
23 made suspending the imposition of sentence; except that a licensee
24 may, at his or her option, elect to have the issue of penalty decided
25 before those time periods have elapsed. Where the licensee so
26 elects, the issue of penalty shall be heard in the manner described
27 in subdivision (b) at the hearing to determine whether the
28 conviction was substantially related to the qualifications, functions,
29 or duties of a licensee. If the conviction of a licensee who has made
30 this election is overturned on appeal, any discipline ordered
31 pursuant to this section shall automatically cease. Nothing in this
32 subdivision shall prohibit the healing arts board from pursuing
33 disciplinary action based on any cause other than the overturned
34 conviction.

35 (e) The record of the proceedings resulting in a conviction,
36 including a transcript of the testimony in those proceedings, may
37 be received in evidence.

38 (f) Any other provision of law setting forth a procedure for the
39 suspension or revocation of a license issued by a healing arts board
40 shall not apply to proceedings conducted pursuant to this section.

1 720.10. Except as otherwise provided, any proposed decision
2 or decision issued under this article in accordance with the
3 procedures set forth in Chapter 5 (commencing with Section 11500)
4 of Part 1 of Division 3 of Title 2 of the Government Code, that
5 contains any finding of fact that the licensee or registrant engaged
6 in any act of sexual contact, as defined in subdivision (c) of Section
7 729, with a patient, or has committed an act or been convicted of
8 a sex offense as defined in Section 44010 of the Education Code,
9 shall contain an order of revocation. The revocation shall not be
10 stayed by the administrative law judge. ~~Unless otherwise provided~~
11 ~~in the laws and regulations of the healing arts board, the patient~~
12 ~~shall no longer be considered a patient of the licensee when the~~
13 ~~order for medical services and procedures provided by the licensee~~
14 ~~is terminated, discontinued, or not renewed by the prescribing~~
15 ~~physician and surgeon.~~

16 720.12. (a) Except as otherwise provided, with regard to an
17 individual who is required to register as a sex offender pursuant
18 to Section 290 of the Penal Code, or the equivalent in another state
19 or territory, under military law, or under federal law, the healing
20 arts board shall be subject to the following requirements:

21 (1) The healing arts board shall deny an application by the
22 individual for licensure in accordance with the procedures set forth
23 in Chapter 5 (commencing with Section 11500) of Part 1 of
24 Division 3 of Title 2 of the Government Code.

25 (2) If the individual is licensed under this division, the healing
26 arts board shall promptly revoke the license of the individual in
27 accordance with the procedures set forth in Chapter 5 (commencing
28 with Section 11500) of Part 1 of Division 3 of Title 2 of the
29 Government Code. The healing arts board shall not stay the
30 revocation and place the license on probation.

31 (3) The healing arts board shall not reinstate or reissue the
32 individual's license. The healing arts board shall not issue a stay
33 of license denial ~~and~~ *nor* place the license on probation.

34 (b) This section shall not apply to any of the following:

35 (1) An individual who has been relieved under Section 290.5
36 of the Penal Code of his or her duty to register as a sex offender,
37 or whose duty to register has otherwise been formally terminated
38 under California law or the law of the jurisdiction that requires his
39 or her registration as a sex offender.

1 (2) An individual who is required to register as a sex offender
2 pursuant to Section 290 of the Penal Code solely because of a
3 misdemeanor conviction under Section 314 of the Penal Code.
4 However, nothing in this paragraph shall prohibit the healing arts
5 board from exercising its discretion to discipline a licensee under
6 any other provision of state law based upon the licensee's
7 conviction under Section 314 of the Penal Code.

8 (3) Any administrative adjudication proceeding under Chapter
9 5 (commencing with Section 11500) of Part 1 of Division 3 of
10 Title 2 of the Government Code that is fully adjudicated prior to
11 January 1, 2008. A petition for reinstatement of a revoked or
12 surrendered license shall be considered a new proceeding for
13 purposes of this paragraph, and the prohibition against reinstating
14 a license to an individual who is required to register as a sex
15 offender shall be applicable.

16 720.14. (a) A licensee of a healing arts board shall not include
17 or permit to be included any of the following provisions in an
18 agreement to settle a civil dispute arising from his or her practice,
19 whether the agreement is made before or after the filing of an
20 action:

21 (1) A provision that prohibits another party to the dispute from
22 contacting or cooperating with the healing arts board.

23 (2) A provision that prohibits another party to the dispute from
24 filing a complaint with the healing arts board.

25 (3) A provision that requires another party to the dispute to
26 withdraw a complaint he or she has filed with the healing arts
27 board.

28 (b) A provision described in subdivision (a) is void as against
29 public policy.

30 (c) A violation of this section constitutes unprofessional conduct
31 and may subject the licensee to disciplinary action.

32 (d) If a board complies with Section 2220.7, that board shall
33 not be subject to the requirements of this section.

34 720.16. (a) Notwithstanding any other provision of law making
35 a communication between a licensee of a healing arts board and
36 his or her patients a privileged communication, those provisions
37 shall not apply to investigations or proceedings conducted by a
38 healing arts board. Members of a healing arts board, deputies,
39 employees, agents, the office of the Attorney General, and
40 representatives of the board shall keep in confidence during the

1 course of investigations the names of any patients whose records
2 are reviewed and may not disclose or reveal those names, except
3 as is necessary during the course of an investigation, unless and
4 until proceedings are instituted. The authority under this
5 subdivision to examine records of patients in the office of a licensee
6 is limited to records of patients who have complained to the healing
7 arts board about that licensee.

8 (b) Notwithstanding any other provision of law, the Attorney
9 General and his or her investigative agents, and a healing arts board
10 and its investigators and representatives may inquire into any
11 alleged violation of the laws under the jurisdiction of the healing
12 arts board or any other federal or state law, regulation, or rule
13 relevant to the practice regulated by the healing arts board,
14 whichever is applicable, and may inspect documents relevant to
15 those investigations in accordance with the following procedures:

16 (1) Any document relevant to an investigation may be inspected,
17 and copies may be obtained, where patient consent is given.

18 (2) Any document relevant to the business operations of a
19 licensee, and not involving medical records attributable to
20 identifiable patients, may be inspected and copied where relevant
21 to an investigation of a licensee.

22 (c) In all cases where documents are inspected or copies of those
23 documents are received, their acquisition or review shall be
24 arranged so as not to unnecessarily disrupt the medical and business
25 operations of the licensee or of the facility where the records are
26 kept or used.

27 (d) Where certified documents are lawfully requested from
28 licensees in accordance with this section by the Attorney General
29 or his or her agents or deputies, or investigators of any board, the
30 documents shall be provided within 10 business days of receipt of
31 the request, unless the licensee is unable to provide the certified
32 documents within this time period for good cause, including, but
33 not limited to, physical inability to access the records in the time
34 allowed due to illness or travel. Failure to produce requested
35 certified documents or copies thereof, after being informed of the
36 required deadline, shall constitute unprofessional conduct. A
37 healing arts board may use its authority to cite and fine a licensee
38 for any violation of this section. This remedy is in addition to any
39 other authority of the healing arts board to sanction a licensee for
40 a delay in producing requested records.

1 (e) Searches conducted of the office or medical facility of any
2 licensee shall not interfere with the recordkeeping format or
3 preservation needs of any licensee necessary for the lawful care
4 of patients.

5 (f) The licensee shall cooperate with the healing arts board in
6 furnishing information or assistance as may be required, including,
7 but not limited to, participation in an interview with investigators
8 or representatives of the healing arts board.

9 (g) If a board complies with Section 2225, that board shall not
10 be subject to the requirements of this section.

11 (h) *This section shall not apply to a licensee who does not have*
12 *access to, and control over, certified medical records.*

13 720.18. (a) (1) Notwithstanding any other provision of law,
14 a licensee who fails or refuses to comply with a request for the
15 certified medical records of a patient, that is accompanied by that
16 patient's written authorization for release of records to a healing
17 arts board, within ~~10~~ 15 days of receiving the request and
18 authorization, shall pay to the healing arts board a civil penalty of
19 *up to* one thousand dollars (\$1,000) per day for each day that the
20 documents have not been produced after the ~~10th~~ 15th day, up to
21 ~~one hundred thousand dollars (\$100,000)~~ *ten thousand dollars*
22 *(\$10,000)*, unless the licensee is unable to provide the documents
23 within this time period for good cause.

24 (2) A health care facility shall comply with a request for the
25 certified medical records of a patient that is accompanied by that
26 patient's written authorization for release of records to a healing
27 arts board together with a notice citing this section and describing
28 the penalties for failure to comply with this section. Failure to
29 provide the authorizing patient's certified medical records to the
30 healing arts board within ~~10~~ 30 days of receiving the request,
31 authorization, and notice shall subject the health care facility to a
32 civil penalty, payable to the healing arts board, of up to one
33 thousand dollars (\$1,000) per day for each day that the documents
34 have not been produced after the ~~10th~~ 30th day, up to ~~one hundred~~
35 ~~thousand dollars (\$100,000)~~ *ten thousand dollars (\$10,000)*, unless
36 the health care facility is unable to provide the documents within
37 this time period for good cause. This paragraph shall not require
38 health care facilities to assist a healing arts board in obtaining the
39 patient's authorization. A healing arts board shall pay the
40 reasonable costs of copying the certified medical records, but shall

1 not be required to make that payment prior to the production of
2 the medical records.

3 (b) (1) A licensee who fails or refuses to comply with a court
4 order, issued in the enforcement of a subpoena, mandating the
5 release of records to a healing arts board, shall pay to the healing
6 arts board a civil penalty of up to one thousand dollars (\$1,000)
7 per day for each day that the documents have not been produced
8 after the date by which the court order requires the documents to
9 be produced, *up to ten thousand dollars (\$10,000)*, unless it is
10 determined that the order is unlawful or invalid. Any statute of
11 limitations applicable to the filing of an accusation by the healing
12 arts board shall be tolled during the period the licensee is out of
13 compliance with the court order and during any related appeals.

14 (2) Any licensee who fails or refuses to comply with a court
15 order, issued in the enforcement of a subpoena, mandating the
16 release of records to a board is guilty of a misdemeanor punishable
17 by a fine payable to the board not to exceed five thousand dollars
18 (\$5,000). The fine shall be added to the licensee's renewal fee if
19 it is not paid by the next succeeding renewal date. Any statute of
20 limitations applicable to the filing of an accusation by a healing
21 arts board shall be tolled during the period the licensee is out of
22 compliance with the court order and during any related appeals.

23 (3) A health care facility that fails or refuses to comply with a
24 court order, issued in the enforcement of a subpoena, mandating
25 the release of patient records to a healing arts board, that is
26 accompanied by a notice citing this section and describing the
27 penalties for failure to comply with this section, shall pay to the
28 healing arts board a civil penalty of up to one thousand dollars
29 (\$1,000) per day for each day that the documents have not been
30 produced, ~~up to one hundred thousand dollars (\$100,000)~~ *ten*
31 *thousand dollars (\$10,000)*, after the date by which the court order
32 requires the documents to be produced, unless it is determined that
33 the order is unlawful or invalid. Any statute of limitations
34 applicable to the filing of an accusation by the board against a
35 licensee shall be tolled during the period the health care facility is
36 out of compliance with the court order and during any related
37 appeals.

38 (4) Any health care facility that fails or refuses to comply with
39 a court order, issued in the enforcement of a subpoena, mandating
40 the release of records to a healing arts board is guilty of a

1 misdemeanor punishable by a fine payable to the board not to
2 exceed five thousand dollars (\$5,000). Any statute of limitations
3 applicable to the filing of an accusation by the healing arts board
4 against a licensee shall be tolled during the period the health care
5 facility is out of compliance with the court order and during any
6 related appeals.

7 (c) Multiple acts by a licensee in violation of subdivision (b)
8 shall be punishable by a fine not to exceed five thousand dollars
9 (\$5,000) or by imprisonment in a county jail not exceeding six
10 months, or by both that fine and imprisonment. Multiple acts by
11 a health care facility in violation of subdivision (b) shall be
12 punishable by a fine not to exceed five thousand dollars (\$5,000),
13 shall be reported to the State Department of Public Health, and
14 shall be considered as grounds for disciplinary action with respect
15 to licensure, including suspension or revocation of the license or
16 certificate.

17 (d) A failure or refusal of a licensee to comply with a court
18 order, issued in the enforcement of a subpoena, mandating the
19 release of records to the healing arts board constitutes
20 unprofessional conduct and is grounds for suspension or revocation
21 of his or her license.

22 (e) Imposition of the civil penalties authorized by this section
23 shall be in accordance with the Administrative Procedure Act
24 (Chapter 5 (commencing with Section 11500) of Division 3 of
25 Title 2 of the Government Code). Any civil penalties paid to, or
26 received by, a healing arts board pursuant to this section shall be
27 deposited into the fund administered by the healing arts board.

28 (f) For purposes of this section, "certified medical records"
29 means a copy of the patient's medical records authenticated by the
30 licensee or health care facility, as appropriate, on a form prescribed
31 by the licensee's board.

32 (g) For purposes of this section, a "health care facility" means
33 a clinic or health facility licensed or exempt from licensure
34 pursuant to Division 2 (commencing with Section 1200) of the
35 Health and Safety Code.

36 (h) If a board complies with Section ~~1684.5~~ 1684.1, 2225.5, or
37 2969, that board shall not be subject to the requirements of this
38 section.

39 (i) This section shall not apply to a licensee who does not have
40 access to, or control over, certified medical records.

1 720.20. (a) Notwithstanding any other provision of law, a state
2 agency shall, upon receiving a request in writing from a healing
3 arts board *for records*, immediately provide to the healing arts
4 board all records in the custody of the state agency, including, but
5 not limited to, confidential records, medical records, and records
6 related to closed or open investigations.

7 (b) If a state agency has knowledge that a person it is
8 investigating is licensed by a healing arts board, the state agency
9 shall notify the healing arts board that it is conducting an
10 investigation against one of its licentiates. The notification of
11 investigation to the healing arts board ~~is to~~ shall include the name,
12 address, and, if known, the professional licensure *license* type and
13 license number of the person being investigated and the name and
14 address or telephone number of a person who can be contacted for
15 further information about the investigation. The state agency shall
16 cooperate with the healing arts board in providing any requested
17 information.

18 720.22. Notwithstanding any other provision of law, all local
19 and state law enforcement agencies, state and local governments,
20 state agencies, licensed health care facilities, and employers of a
21 licensee of a healing arts board shall provide records to the healing
22 arts board upon request prior to receiving payment from the board
23 *for the cost of providing the records*.

24 720.24. (a) ~~Any~~ *Notwithstanding any other provision of law,*
25 *any* employer of a health care licensee shall report to the board the
26 suspension or termination for cause, or any resignation in lieu of
27 suspension or termination for cause, of any health care licensee in
28 its employ within ~~five~~ 15 business days. The report shall not be
29 made until after the conclusion of the review process specified in
30 Section 52.3 of Title 2 of the California Code of Regulations and
31 *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, for public
32 employees. This required reporting shall not constitute a waiver
33 of confidentiality of medical records. The information reported or
34 disclosed shall be kept confidential except as provided in
35 subdivision (c) of Section 800 and shall not be subject to discovery
36 in civil cases.

37 (b) For purposes of the section, “suspension or termination for
38 cause” ~~is defined as suspension or~~ “*resignation in lieu of*
39 *suspension or termination for cause*” *is defined as resignation,*

1 *suspension*, or termination from employment for any of the
2 following reasons:

3 (1) Use of controlled substances or alcohol to the extent that it
4 impairs the licensee's ability to safely practice.

5 (2) Unlawful sale of a controlled substance or other prescription
6 items.

7 (3) Patient or client abuse, neglect, physical harm, or sexual
8 contact with a patient or client.

9 ~~(4) Falsification of medical records.~~

10 ~~(5)~~

11 (4) Gross negligence or incompetence.

12 ~~(6)~~

13 (5) Theft from a patient or client, any other employee, or the
14 employer.

15 ~~(e) Failure of an employer to make a report required by this~~
16 ~~section is punishable by an administrative fine not to exceed one~~
17 ~~hundred thousand dollars (\$100,000) per violation.~~

18 ~~(d) Pursuant to Section 43.8 of the Civil Code, no person shall~~
19 ~~incur any civil penalty as a result of making any report required~~
20 ~~by this chapter.~~

21 ~~(e) This section shall not apply to any of the reporting~~
22 ~~requirements under Section 805.~~

23 (c) *As used in this section, the following definitions apply:*

24 (1) *"Gross negligence" means a substantial departure from the*
25 *standard of care, which, under similar circumstances, would have*
26 *ordinarily been exercised by a competent licensee, and which has*
27 *or could have resulted in harm to the consumer. An exercise of so*
28 *slight a degree of care as to justify the belief that there was a*
29 *conscious disregard or indifference for the health, safety, or*
30 *welfare of the consumer shall be considered a substantial departure*
31 *from the standard of care.*

32 (2) *"Incompetence" means the lack of possession of and the*
33 *failure to exercise that degree of learning, skill, care, and*
34 *experience ordinarily possessed by a responsible licensee.*

35 (3) *"Willful" means a knowing and intentional violation of a*
36 *known legal duty.*

37 (d) (1) *Willful failure of an employer to make a report required*
38 *by this section is punishable by an administrative fine not to exceed*
39 *one hundred thousand dollars (\$100,000) per violation.*

1 (2) Any failure of an employer, other than willful failure, to
2 make a report required by this section is punishable by an
3 administrative fine not to exceed fifty thousand dollars (\$50,000).

4 (e) Pursuant to Section 43.8 of the Civil Code, no person shall
5 incur any civil penalty as a result of making any report required
6 by this article.

7 (f) No report is required under this section where a report of
8 the action taken is already required under Section 805.

9 720.26. (a) Each healing arts board shall report annually to
10 the department and the Legislature, not later than October 1 of
11 each year, the following information:

12 (1) The total number of consumer calls received by the board
13 and the number of consumer calls or letters designated as
14 discipline-related complaints.

15 (2) The total number of complaint forms received by the board.

16 (3) The total number of reports received by the board pursuant
17 to Sections 801, 801.01, and 803, as applicable.

18 (4) The total number of coroner reports received by the board.

19 (5) The total number of convictions reported to the board.

20 (6) The total number of criminal filings reported to the board.

21 (7) If the board is authorized to receive reports pursuant to
22 Section 805, the total number of Section 805 reports received by
23 the board, by the type of peer review body reporting and, where
24 applicable, the type of health care facility involved, and the total
25 number and type of administrative or disciplinary actions taken
26 by the board with respect to the reports, and their disposition.

27 (8) The total number of complaints closed or resolved without
28 discipline, prior to accusation.

29 (9) The total number of complaints and reports referred for
30 formal investigation.

31 (10) The total number of accusations filed and the final
32 disposition of accusations through the board and court review,
33 respectively.

34 (11) The total number of citations issued, with fines and without
35 fines, and the number of public letters of reprimand, letters of
36 admonishment, or other similar action issued, if applicable.

37 (12) The total number of final licensee disciplinary actions
38 taken, by category.

1 (13) The total number of cases in process for more than six
2 months, more than 12 months, more than 18 months, and more
3 than 24 months, from receipt of a complaint by the board.

4 (14) The average and median time in processing complaints,
5 from original receipt of the complaint by the board, for all cases,
6 at each stage of the disciplinary process and court review,
7 respectively.

8 (15) The total number of licensees in diversion or on probation
9 for alcohol or drug abuse or mental disorder, and the number of
10 licensees successfully completing diversion programs or probation,
11 and failing to do so, respectively.

12 (16) The total number of probation violation reports and
13 probation revocation filings, and their dispositions.

14 (17) The total number of petitions for reinstatement, and their
15 dispositions.

16 (18) The total number of caseloads of investigators for original
17 cases and for probation cases, respectively.

18 (b) "Action," for purposes of this section, includes proceedings
19 brought by, or on behalf of, the healing arts board against licensees
20 for unprofessional conduct that have not been finally adjudicated,
21 as well as disciplinary actions taken against licensees.

22 (c) ~~If a board~~ *A board* that complies with Section 2313, ~~that~~
23 ~~board~~ shall not be subject to the requirements of this section.

24 720.28. Unless otherwise provided, on or after July 1, 2013,
25 every healing arts board shall post on the Internet the following
26 information in its possession, custody, or control regarding every
27 licensee for which the board licenses:

28 (a) With regard to the status of every healing arts license,
29 whether or not the licensee *or former licensee* is in good standing,
30 subject to a temporary restraining order, subject to an interim
31 suspension order, subject to a restriction or cease practice ordered
32 pursuant to Section 23 of the Penal Code, or subject to any of the
33 enforcement actions described in Section 803.1.

34 (b) With regard to prior discipline of a licensee, whether or not
35 the licensee *or former licensee* has been subject to discipline by
36 the healing arts board or by the board of another state or
37 jurisdiction, as described in Section 803.1.

38 (c) Any felony conviction of a licensee reported to the healing
39 arts board ~~after January 3, 1991~~.

1 (d) All current accusations filed by the Attorney General,
2 including those accusations that are on appeal. For purposes of
3 this paragraph, “current accusation” means an accusation that has
4 not been dismissed, withdrawn, or settled, and has not been finally
5 decided upon by an administrative law judge and the board unless
6 an appeal of that decision is pending.

7 (e) Any malpractice judgment or arbitration award imposed
8 against a licensee and reported to the healing arts board ~~after~~
9 ~~January 1, 1993.~~

10 (f) Any hospital disciplinary action imposed against a licensee
11 that resulted in the termination or revocation of a licensee’s hospital
12 staff privileges for a medical disciplinary cause or reason pursuant
13 to Section 720.18 or 805.

14 (g) Any misdemeanor conviction of a licensee that results in a
15 disciplinary action or an accusation that is not subsequently
16 withdrawn or dismissed.

17 (h) Appropriate disclaimers and explanatory statements to
18 accompany the above information, including an explanation of
19 what types of information are not disclosed. These disclaimers and
20 statements shall be developed by the healing arts board and shall
21 be adopted by regulation.

22 720.30. (a) The office of the Attorney General shall serve, or
23 submit to a healing arts board for service, an accusation within 60
24 calendar days of receipt from the healing arts board.

25 (b) The office of the Attorney General shall serve, or submit to
26 a healing arts board for service, a default decision within five days
27 following the time period allowed for the filing of a notice of
28 defense.

29 (c) The office of the Attorney General shall set a hearing date
30 within three days of receiving a notice of defense, unless the
31 healing arts board gives the office of the Attorney General
32 instruction otherwise.

33 720.32. (a) Whenever it appears that an applicant for a license,
34 certificate, or permit from a healing arts board may be unable to
35 practice his or her profession safely because the applicant’s ability
36 to practice ~~would~~ *may* be impaired due to mental illness, or physical
37 illness affecting competency, the healing arts board may order the
38 applicant to be examined by one or more physicians and surgeons
39 or psychologists designated by the healing arts board. The report
40 of the examiners shall be made available to the applicant and may

1 be received as direct evidence in proceedings conducted pursuant
2 to Chapter 2 (commencing with Section 480) of Division 1.5.

3 (b) An applicant's failure to comply with an order issued under
4 subdivision (a) shall authorize the board to deny an applicant a
5 license, certificate, or permit.

6 (c) A healing arts board shall not grant a license, certificate, or
7 permit until it has received competent evidence of the absence or
8 control of the condition that caused its action and until it is satisfied
9 that with due regard for the public health and safety the person
10 may safely practice the profession for which he or she seeks
11 licensure.

12 720.34. (a) An applicant for a license, certificate, or permit
13 from a healing arts board who is otherwise eligible for that license
14 but is unable to practice some aspects of his or her profession
15 safely due to a disability may receive a limited license if he or she
16 does both of the following:

17 (1) Pays the initial licensure fee.

18 (2) Signs an agreement on a form prescribed by the healing arts
19 board in which the applicant agrees to limit his or her practice in
20 the manner prescribed by the healing arts board.

21 (b) The healing arts board may require the applicant described
22 in subdivision (a) to obtain an independent clinical evaluation of
23 his or her ability to practice safely as a condition of receiving a
24 limited license under this section.

25 (c) Any person who knowingly provides false information in
26 the agreement submitted pursuant to subdivision (a) shall be subject
27 to any sanctions available to the healing arts board.

28 720.35. (a) ~~Each~~ *Each healing arts board listed in Section 720*
29 *shall report to the National Practitioner Data Bank and the*
30 *Healthcare Integrity and Protection Data Bank the following*
31 *information on each of its licensees:*

32 (1) *Any adverse action taken by the board as a result of any*
33 *disciplinary proceeding, including any revocation or suspension*
34 *of a license and the length of that suspension, or any reprimand,*
35 *censure, or probation.*

36 (2) *Any dismissal or closure of a disciplinary proceeding by*
37 *reason of a licensee surrendering his or her license or leaving the*
38 *state.*

39 (3) *Any other loss of the license of a licensee, whether by*
40 *operation of law, voluntary surrender, or otherwise.*

1 (4) Any negative action or finding by the board regarding a
2 licensee.

3 (b) Each healing arts board shall conduct a search on the
4 National Practitioner Data Bank and the Healthcare Integrity and
5 Protection Data Bank prior to granting or renewing a license,
6 certificate, or permit to an applicant who is licensed by another
7 state.

8 (b)

9 (c) A healing arts board may charge a fee to cover the actual
10 cost to conduct the search specified in subdivision (a) (b).

11 720.36. (a) Unless otherwise provided, if a licensee possesses
12 a license or is otherwise authorized to practice in any state other
13 than California or by any agency of the federal government and
14 that license or authority is suspended or revoked outright and is
15 reported to the National Practitioner Data Bank, the California
16 license of the licensee shall be suspended automatically for the
17 duration of the suspension or revocation, unless terminated or
18 rescinded as provided in subdivision (c). The healing arts board
19 shall notify the licensee of the license suspension and of his or her
20 right to have the issue of penalty heard as provided in this section.

21 (b) Upon its own motion or for good cause shown, a healing
22 arts board may decline to impose or may set aside the suspension
23 when it appears to be in the interest of justice to do so, with due
24 regard to maintaining the integrity of, and confidence in, the
25 specific healing art.

26 (c) The issue of penalty shall be heard by an administrative law
27 judge sitting alone or with a panel of the board, in the discretion
28 of the board. A licensee may request a hearing on the penalty and
29 that hearing shall be held within 90 days from the date of the
30 request. If the order suspending or revoking the license or authority
31 to practice is overturned on appeal, any discipline ordered
32 pursuant to this section shall automatically cease. Upon a showing
33 to the administrative law judge or panel by the licensee that the
34 out-of-state action is not a basis for discipline in California, the
35 suspension shall be rescinded. If an accusation for permanent
36 discipline is not filed within 90 days of the suspension imposed
37 pursuant to this section, the suspension shall automatically
38 terminate.

39 (d) The record of the proceedings that resulted in the suspension
40 or revocation of the licensee's out-of-state license or authority to

1 practice, including a transcript of the testimony therein, may be
2 received in evidence.

3 (e) This section shall not apply to a licensee who maintains his
4 or her primary practice in California, as evidenced by having
5 maintained a practice in this state for not less than one year
6 immediately preceding the date of suspension or revocation.
7 Nothing in this section shall preclude a licensee's license from
8 being suspended pursuant to any other provision of law.

9 (f) This section shall not apply to a licensee whose license has
10 been surrendered, whose only discipline is a medical staff
11 disciplinary action at a federal hospital and not for medical
12 disciplinary cause or reason as that term is defined in Section 805,
13 or whose revocation or suspension has been stayed, even if the
14 licensee remains subject to terms of probation or other discipline.

15 (g) This section shall not apply to a suspension or revocation
16 imposed by a state that is based solely on the prior discipline of
17 the licensee by another state.

18 (h) The other provisions of this article setting forth a procedure
19 for the suspension or revocation of a licensee's license or
20 certificate shall not apply to summary suspensions issued pursuant
21 to this section. If a summary suspension has been issued pursuant
22 to this section, the licensee may request that the hearing on the
23 penalty conducted pursuant to subdivision (c) be held at the same
24 time as a hearing on the accusation.

25 (i) A board that complies with Section 2310 shall not be subject
26 to the requirements of this section.

27 ~~720.36.—Unless it is~~

28 720.37. Unless otherwise expressly provided, any person,
29 whether licensed pursuant to this division or not, who violates any
30 provision of this article is guilty of a misdemeanor and shall be
31 punished by a fine of not less than two hundred dollars (\$200) nor
32 more than one thousand two hundred dollars (\$1,200), or by
33 imprisonment in a county jail for a term of not less than 60 days
34 nor no more than 180 days, or by both the fine and imprisonment.

35 720.38. (a) The Emergency Health Care Enforcement Reserve
36 Fund is hereby established in the State Treasury, to be
37 administered by the department. Notwithstanding Section 13340
38 of the Government Code, all moneys in the fund are hereby
39 continuously appropriated and shall be used to support the
40 investigation and prosecution of any matter within the authority

1 of any of the healing arts boards. The department, upon direction
2 of a healing arts board, shall pay out the funds or approve such
3 payments as deemed necessary from those funds as have been
4 designated for the purpose of this section.

5 (b) Notwithstanding any other law, the funds of the Emergency
6 Health Care Enforcement Reserve Fund are those moneys from
7 the healing arts board's individual funds, which shall be deposited
8 into the Emergency Health Care Enforcement Reserve Fund when
9 the amount within those funds exceeds more than four months
10 operating expenditures of the healing arts board.

11 (c) Notwithstanding any other law, the department, with
12 approval of a healing arts board, may loan to any other board
13 moneys necessary for the purpose of this section when it has been
14 established that insufficient funds exist for that board, provided
15 that the moneys will be repaid.

16 720.40. Notwithstanding any other provision of law, if a healing
17 arts board's fund reserve exceeds its statutory maximum, the board
18 may lower its fees by resolution in order to reduce its reserves to
19 an amount below its maximum.

20 720.42. (a) The Legislature finds that there are occasions
21 when a healing arts board, as listed in Section 720, urgently
22 requires additional expenditure authority in order to fund
23 unanticipated enforcement and litigation activities. Without
24 sufficient expenditure authority to obtain the necessary additional
25 resources for urgent litigation and enforcement matters, the board
26 is unable to adequately protect the public. Therefore, it is the intent
27 of the Legislature that, apart from, and in addition to, the
28 expenditure authority that may otherwise be established, the
29 healing arts boards, as listed in Section 720, shall be given the
30 increase in its expenditure authority in any given current fiscal
31 year that is authorized by the Department of Finance pursuant to
32 the provisions of subdivision (b) of this section, for costs and
33 services in urgent litigation and enforcement matters, including,
34 but not limited to, costs for the services of the Attorney General
35 and the Office of Administrative Hearings.

36 (b) Notwithstanding any other provision of law, upon the request
37 of the department, the Department of Finance may augment the
38 amount available for expenditures to pay enforcement costs for
39 the services of the Attorney General's Office and the Office of
40 Administrative Hearings. If an augmentation exceeds 20% of the

1 *board's budget for the Attorney General, it may be made no sooner*
2 *than 30 days after notification in writing to chairpersons of the*
3 *committees in each house of the Legislature that consider*
4 *appropriations and the Chairperson of the Joint Legislative Budget*
5 *Committee, or no sooner than whatever lesser time the chairperson*
6 *of the Joint Legislative Budget Committee may in each instance*
7 *determine.*

8 ~~SEC. 13.~~

9 *SEC. 14.* Section 726 of the Business and Professions Code is
10 amended to read:

11 726. (a) The commission of any act of sexual abuse,
12 misconduct, or relations with a patient, client, or customer
13 constitutes unprofessional conduct and grounds for disciplinary
14 action for any person licensed under this division, and under any
15 initiative act referred to in this division.

16 (b) For purposes of Division 1.5 (commencing with Section
17 475), ~~and the licensing laws and regulations of a healing arts board,~~
18 ~~as defined in Section 720,~~ the commission of, and conviction for,
19 any act of sexual abuse, sexual misconduct, or attempted sexual
20 misconduct, whether or not with a patient, or conviction of a felony
21 requiring registration pursuant to Section 290 of the Penal Code
22 shall be considered a crime substantially related to the
23 qualifications, functions, or duties of a licensee of a healing arts
24 board *listed in Section 720.*

25 (c) This section shall not apply to sexual contact between a
26 physician and surgeon and his or her spouse or person in an
27 equivalent domestic relationship when that physician and surgeon
28 provides medical treatment, other than psychotherapeutic treatment,
29 to his or her spouse or person in an equivalent domestic
30 relationship.

31 ~~SEC. 14.~~

32 *SEC. 15.* Section 734 is added to the Business and Professions
33 Code, to read:

34 734. (a) The conviction of a charge of violating any federal
35 statute or regulation or any statute or regulation of this state
36 regulating dangerous drugs or controlled substances constitutes
37 unprofessional conduct. The record of the conviction is conclusive
38 evidence of the unprofessional conduct. A plea or verdict of guilty
39 or a conviction following a plea of nolo contendere is deemed to
40 be a conviction within the meaning of this section.

1 (b) Discipline may be ordered against a licensee in accordance
2 with the laws and regulations of the healing arts board or the board
3 may order the denial of the license when the time for appeal has
4 elapsed, or the judgment of conviction has been affirmed on appeal,
5 or when an order granting probation is made suspending the
6 imposition of sentence, irrespective of a subsequent order under
7 the provisions of Section 1203.4 of the Penal Code allowing that
8 person to withdraw his or her plea of guilty and to enter a plea of
9 not guilty, or setting aside the verdict of guilty, or dismissing the
10 accusation, complaint, information, or indictment.

11 ~~SEC. 15:~~

12 *SEC. 16.* Section 735 is added to the Business and Professions
13 Code, to read:

14 735. A violation of any federal statute or federal regulation or
15 any of the statutes or regulations of this state regulating dangerous
16 drugs or controlled substances constitutes unprofessional conduct.

17 ~~SEC. 16:~~

18 *SEC. 17.* Section 736 is added to the Business and Professions
19 Code, to read:

20 736. (a) The use or prescribing for or administering to himself
21 or herself of any controlled substance; or the use of any of the
22 dangerous drugs specified in Section 4022, or of alcoholic
23 beverages, to the extent or in such a manner as to be dangerous or
24 injurious to the licensee, or to any other person or to the public,
25 or to the extent that the use impairs the ability of the licensee to
26 practice safely; or any misdemeanor or felony involving the use,
27 consumption, or self-administration of any of the substances
28 referred to in this section, or any combination thereof, constitutes
29 unprofessional conduct. The record of the conviction is conclusive
30 evidence of the unprofessional conduct.

31 (b) A plea or verdict of guilty or a conviction following a plea
32 of nolo contendere is deemed to be a conviction within the meaning
33 of this section. Discipline may be ordered against a licensee in
34 accordance with the laws and regulations of the healing arts board
35 or the board may order the denial of the license when the time for
36 appeal has elapsed or the judgment of conviction has been affirmed
37 on appeal or when an order granting probation is made suspending
38 imposition of sentence, irrespective of a subsequent order under
39 the provisions of Section 1203.4 of the Penal Code allowing that
40 person to withdraw his or her plea of guilty and to enter a plea of

1 not guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, complaint, information, or indictment.

3 (c) A violation of subdivision (a) is a misdemeanor punishable
4 by a fine of up to ten thousand dollars (\$10,000), imprisonment
5 in the county jail of up to six months, or both the fine and
6 imprisonment.

7 ~~SEC. 17.~~

8 *SEC. 18.* Section 737 is added to the Business and Professions
9 Code, to read:

10 737. It shall be unprofessional conduct for any licensee of a
11 healing arts board to fail to comply with the following:

12 (a) Furnish information in a timely manner to the healing arts
13 board or the board's investigators or representatives if ~~legally~~
14 requested by the board.

15 (b) Cooperate and participate in any ~~disciplinary~~ investigation
16 or other regulatory or disciplinary proceeding pending against
17 ~~himself or herself~~ *the licensee*. However, this subdivision shall not
18 be construed to deprive a licensee of any privilege guaranteed by
19 the Fifth Amendment to the Constitution of the United States, or
20 any other constitutional or statutory privileges. This subdivision
21 shall not be construed to require a licensee to cooperate with a
22 request that requires him or her to waive any constitutional or
23 statutory privilege or to comply with a request for information or
24 other matters within an unreasonable period of time in light of the
25 time constraints of the licensee's practice. Any exercise by a
26 licensee of any constitutional or statutory privilege shall not be
27 used against the licensee in a regulatory or disciplinary proceeding
28 against ~~him or her~~ *the licensee*.

29 ~~SEC. 18.~~

30 *SEC. 19.* Section 802.1 of the Business and Professions Code
31 is amended to read:

32 802.1. (a) (1) A licensee of a healing arts board ~~defined under~~
33 ~~Section 720 shall submit a written report of listed in Section 720~~
34 *shall report* any of the following to the entity that issued his or her
35 license:

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

38 (B) The arrest of the licensee.

1 (C) The conviction of the licensee, including any verdict of
2 guilty, or plea of guilty or no contest, of any felony or
3 misdemeanor.

4 (D) Any disciplinary action taken by another licensing entity
5 or authority of this state or of another state *or an agency of the*
6 *federal government.*

7 (2) The report required by this subdivision shall be made in
8 writing within 30 days of the date of the bringing of the indictment
9 or the charging of a felony, the arrest, the conviction, or the
10 disciplinary action.

11 (b) Failure to make a report required by this section shall be a
12 public offense punishable by a fine not to exceed five thousand
13 ~~dollars (\$5,000).~~ *dollars (\$5,000) and shall constitute*
14 *unprofessional conduct.*

15 *SEC. 20. Section 802.2 is added to the Business and Professions*
16 *Code, to read:*

17 *802.2. A licensee of a healing arts board listed in Section 720*
18 *shall identify himself or herself as a licensee of the board to law*
19 *enforcement and the court upon being arrested or charged with a*
20 *misdemeanor or felony. The healing arts boards shall inform its*
21 *licensees of this requirement.*

22 ~~SEC. 19.~~

23 *SEC. 21. Section 803 of the Business and Professions Code is*
24 *amended to read:*

25 803. (a) Except as provided in subdivision (b), within 10 days
26 after a judgment by a court of this state that a person who holds a
27 license, certificate, or other similar authority from a healing arts
28 board ~~defined~~ *listed* in Section 720, has committed a crime, or is
29 liable for any death or personal injury resulting in a judgment for
30 an amount in excess of thirty thousand dollars (\$30,000) caused
31 by his or her negligence, error or omission in practice, or his or
32 her rendering unauthorized professional services, the clerk of the
33 court that rendered the judgment shall report that fact to the agency
34 that issued the license, certificate, or other similar authority.

35 (b) For purposes of a physician and surgeon, osteopathic
36 physician and surgeon, or doctor of podiatric medicine, who is
37 liable for any death or personal injury resulting in a judgment of
38 any amount caused by his or her negligence, error or omission in
39 practice, or his or her rendering unauthorized professional services,

1 the clerk of the court that rendered the judgment shall report that
2 fact to the board that issued the license.

3 ~~SEC. 20.~~

4 *SEC. 22.* Section 803.5 of the Business and Professions Code
5 is amended to read:

6 803.5. (a) The district attorney, city attorney, or other
7 prosecuting agency shall notify the *appropriate* healing arts board
8 ~~defined listed~~ in Section 720 and the clerk of the court in which
9 the charges have been filed, of any filings against a licensee of
10 that board charging a felony immediately upon obtaining
11 information that the defendant is a licensee of the board. The notice
12 shall identify the licensee and describe the crimes charged and the
13 facts alleged. The prosecuting agency shall also notify the clerk
14 of the court in which the action is pending that the defendant is a
15 licensee, and the clerk shall record prominently in the file that the
16 defendant holds a license from one of the boards described above.

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

21 ~~SEC. 21.~~ Section 803.6 of the Business and Professions Code
22 is amended to read:

23 ~~803.6.~~ (a) ~~The clerk of the court shall transmit any felony~~
24 ~~preliminary hearing transcript concerning a defendant licensee to~~
25 ~~the appropriate healing arts boards defined in Section 720 where~~
26 ~~the total length of the transcript is under 800 pages and shall notify~~
27 ~~the appropriate board of any proceeding where the transcript~~
28 ~~exceeds that length.~~

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

33 *SEC. 23.* Section 803.6 of the Business and Professions Code
34 is amended to read:

35 803.6. (a) The clerk of the court shall transmit any felony
36 preliminary hearing transcript concerning a defendant licensee to
37 the Medical Board of California, the Osteopathic Medical Board
38 of California, the California Board of Podiatric Medicine, or other
39 appropriate allied health board, as applicable; *appropriate healing*
40 *arts board listed in Section 720* where the total length of the

1 transcript is under 800 pages and shall notify the appropriate board
2 of any proceeding where the transcript exceeds that length.

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

7 ~~SEC. 22.~~

8 *SEC. 24.* Section 803.7 is added to the Business and Professions
9 Code, to read:

10 803.7. The Department of Justice shall ensure that subsequent
11 reports authorized to be issued to any board identified in Section
12 101 are submitted to that board within 30 days from notification
13 of subsequent arrests, convictions, or other updates.

14 ~~SEC. 23.~~ Article 15 (commencing with Section 870) is added
15 to Chapter 1 of Division 2 of the Business and Professions Code,
16 to read:

17
18 ~~Article 15. Healing Arts Licensing Fees~~

19
20 ~~870. (a) Notwithstanding any provision of law establishing a~~
21 ~~fee or a fee range in this division, the department may annually~~
22 ~~establish a maximum fee amount for each healing arts board, as~~
23 ~~defined in Section 720, adjusted consistent with the California~~
24 ~~Consumer Price Index.~~

25 ~~(b) The department shall promulgate regulations pursuant to~~
26 ~~the Administrative Procedures Act to establish the maximum fee~~
27 ~~amount calculated pursuant to subdivision (a).~~

28 ~~(c) A healing arts board, as defined in Section 720, shall~~
29 ~~establish, through regulations, the specific amount of all fees~~
30 ~~authorized by statute at a level that is at or below the amount~~
31 ~~established pursuant to subdivision (b).~~

32 ~~SEC. 24.~~

33 *SEC. 25.* Article 16 (commencing with Section 880) is added
34 to Chapter 1 of Division 2 of the Business and Professions Code,
35 to read:

36
37 ~~Article 16. Unlicensed Practice~~

38
39 880. (a) (1) It is a public offense, punishable by a fine not to
40 exceed one hundred thousand dollars (\$100,000), by imprisonment

1 in a county jail not to exceed one year, or by both that fine and
 2 imprisonment, ~~for a person to do any of the following: for:~~

3 (A) Any person who does not hold a current and valid license
 4 to practice a healing art under this division who engages in that
 5 practice.

6 (B) Any person who fraudulently buys, sells, or obtains a license
 7 to practice any healing art in this division or to violate any
 8 provision of this division.

9 ~~(C) Any person who represents himself or herself as engaging
 10 or authorized to engage in a healing art of this division who is not
 11 authorized to do so.~~

12 (2) Subparagraph (A) of paragraph (1) shall not apply to any
 13 person who is already being charged with a crime under the specific
 14 healing arts licensing provisions for which he or she engaged in
 15 unauthorized practice.

16 (b) Notwithstanding any other provision of law, any person who
 17 is licensed under this division, but ~~who is not authorized to provide
 18 some or all services of another healing art, who practices or
 19 supervises the practice of those unauthorized services~~ any person
 20 who does not hold a current and valid license to practice a healing
 21 art under this division, is guilty of a public crime, punishable by
 22 a fine not to exceed one hundred thousand dollars (\$100,000), by
 23 imprisonment in a county jail not to exceed one year, or by both
 24 that fine and imprisonment.

25 *SEC. 26. Section 1005 of the Business and Professions Code*
 26 *is amended to read:*

27 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,
 28 104, 114, 115, 119, 121, 121.5, 125, ~~125.3, 125.4, 125.6, 125.9,~~
 29 136, 137, 140, 141, 143, ~~155,~~ 163.5, 461, 462, 475, 480, 484, 485,
 30 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512,
 31 701, 702, 703, 704, 710, 716, 720.2, 720.4, 720.8, 720.10, 720.12,
 32 720.14, 720.16, 720.18, 720.20, 720.22, 720.24, 720.28, 720.30,
 33 720.32, 720.35, 720.36, 730.5, 731, ~~and~~ 734, 735, 736, 737, 802.1,
 34 803, 803.5, 803.6, 803.7, 851, ~~and~~ 880 are applicable to persons
 35 licensed by the State Board of Chiropractic Examiners under the
 36 Chiropractic Act.

37 *SEC. 27. Section 1006 is added to the Business and Professions*
 38 *Code, to read:*

39 1006. (a) Notwithstanding any other provision of law, upon
 40 receipt of evidence that a licensee of the State Board of

1 *Chiropractic Examiners has engaged in conduct that poses an*
2 *imminent risk of serious harm to the public health, safety, or*
3 *welfare, the executive officer may issue a temporary order that*
4 *the licensee cease all practice and activities that require a license*
5 *by the board.*

6 *(b) Before the executive officer may take any action pursuant*
7 *to this section, the board shall delegate to the executive officer*
8 *authority to issue a temporary cease practice order as specified*
9 *in subdivision (a). The board may, by affirmative vote, rescind the*
10 *executive officer's authority to issue cease temporary practice*
11 *orders pursuant to subdivision (a).*

12 *(c) A licensee may appeal the temporary cease practice order*
13 *decision pursuant to the provisions of Chapter 5 (commencing*
14 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
15 *Government Code.*

16 *(d) Any temporary order to cease practice issued pursuant to*
17 *this section shall automatically be vacated within 90 days of*
18 *issuance, or until the board files a petition pursuant to Section*
19 *494 for an interim suspension order and the petition is denied or*
20 *granted, whichever occurs first.*

21 *(e) A licensee who fails or refuses to comply with a temporary*
22 *order of the executive officer to cease practice pursuant to this*
23 *section shall be subject to disciplinary action to revoke or suspend*
24 *his or her license and by the board and an administrative fine*
25 *assessed by the board not to exceed twenty-five thousand dollars*
26 *(\$25,000). The remedies provided herein are in addition to any*
27 *other authority of the board to sanction a licensee for practicing*
28 *or engaging in activities subject to the jurisdiction of the board*
29 *without proper legal authority.*

30 *(f) Upon receipt of new information, the executive officer shall*
31 *review the basis for the interim license suspension order pursuant*
32 *to subdivision (d) to determine if the grounds for the suspension*
33 *continue to exist. The executive officer may vacate the suspension*
34 *order, if he or she believes that the suspension is no longer*
35 *necessary to protect the public health, safety, or welfare as*
36 *described in subdivision (a) of Section 494.*

37 *(g) Any order to cease practice including an order pursuant to*
38 *Section 494 shall be displayed on the board's Internet Web site,*
39 *except that if the executive officer vacates the suspension order*

1 pursuant to subdivision (e), the petition and order shall be removed
2 from the respective board's Internet Web site.

3 (h) Temporary suspension orders shall be subject to judicial
4 review pursuant to Section 1094.5 of the Code of Civil Procedure
5 and shall be heard only in the superior court in, and for, the
6 Counties of Sacramento, San Francisco, Los Angeles, or San
7 Diego.

8 (i) For the purposes of this section, "imminent risk of serious
9 harm to the public health, safety, or welfare" means that there is
10 a reasonable likelihood that permitting the licensee to continue to
11 practice will result in serious physical or emotional injury,
12 unlawful sexual contact, or death to an individual or individuals
13 within the next 90 days.

14 SEC. 28. Section 1007 is added to the Business and Professions
15 Code, to read:

16 1007. (a) The State Board of Chiropractic Examiners shall
17 report annually to the Legislature, not later than October 1 of
18 each year, the following information:

19 (1) The total number of consumer calls received by the board
20 and the number of consumer calls or letters designated as
21 discipline-related complaints.

22 (2) The total number of complaint forms received by the board.

23 (3) The total number of reports received by the board pursuant
24 to Sections 801, 801.01, and 803, as applicable.

25 (4) The total number of coroner reports received by the board.

26 (5) The total number of convictions reported to the board.

27 (6) The total number of criminal filings reported to the board.

28 (7) The total number of complaints closed or resolved without
29 discipline, prior to accusation.

30 (8) The total number of complaints and reports referred for
31 formal investigation.

32 (9) The total number of accusations filed and the final
33 disposition of accusations through the board and court review,
34 respectively.

35 (10) The total number of citations issued, with fines and without
36 fines, and the number of public letters of reprimand, letters of
37 admonishment, or other similar action issued, if applicable.

38 (11) The total number of final licensee disciplinary actions
39 taken, by category.

1 (12) *The total number of cases in process for more than six*
2 *months, more than 12 months, more than 18 months, and more*
3 *than 24 months, from receipt of a complaint by the board.*

4 (13) *The average and median time in processing complaints,*
5 *from original receipt of the complaint by the board, for all cases,*
6 *at each stage of the disciplinary process and court review,*
7 *respectively.*

8 (14) *The total number of licensees in diversion or on probation*
9 *for alcohol or drug abuse or mental disorder, and the number of*
10 *licensees successfully completing diversion programs or probation,*
11 *and failing to do so, respectively.*

12 (15) *The total number of probation violation reports and*
13 *probation revocation filings, and their dispositions.*

14 (16) *The total number of petitions for reinstatement, and their*
15 *dispositions.*

16 (17) *The total number of caseloads of investigators for original*
17 *cases and for probation cases, respectively.*

18 (b) *“Action,” for purposes of this section, includes proceedings*
19 *brought by, or on behalf of, the board against licensees for*
20 *unprofessional conduct that have not been finally adjudicated, as*
21 *well as disciplinary actions taken against licensees.*

22 ~~SEC. 25.~~

23 *SEC. 29.* Section 1699.2 is added to the Business and
24 Professions Code, to read:

25 1699.2. This article shall remain in effect only until January
26 1, 2013, and as of that date is repealed, unless a later enacted
27 statute, that is enacted before January 1, 2013, deletes or extends
28 that date.

29 ~~SEC. 26.~~

30 *SEC. 30.* Section 2372 is added to the Business and Professions
31 Code, to read:

32 2372. This article shall remain in effect only until January 1,
33 2013, and as of that date is repealed, unless a later enacted statute,
34 that is enacted before January 1, 2013, deletes or extends that date.

35 ~~SEC. 27.~~

36 *SEC. 31.* Section 2669.2 is added to the Business and
37 Professions Code, to read:

38 2669.2. This article shall remain in effect only until January
39 1, 2013, and as of that date is repealed, unless a later enacted

1 statute, that is enacted before January 1, 2013, deletes or extends
2 that date.

3 ~~SEC. 28:~~

4 *SEC. 32.* Section 2715 of the Business and Professions Code
5 is amended to read:

6 2715. The board shall prosecute all persons guilty of violating
7 the provisions of this chapter.

8 The board, in accordance with the provisions of the Civil Service
9 Law, may employ investigators, nurse consultants, and other
10 personnel as it deems necessary to carry into effect the provisions
11 of this chapter. Investigators employed by the board shall be
12 provided special training in investigating *alleged* nursing practice
13 activities *violations*.

14 The board shall have and use a seal bearing the name “Board of
15 Registered Nursing.” The board may adopt, amend, or repeal, in
16 accordance with the provisions of Chapter 4.5 (commencing with
17 Section 11371) of Part 1 of Division 3 of Title 2 of the Government
18 Code, such rules and regulations as may be reasonably necessary
19 to enable it to carry into effect the provisions of this chapter.

20 ~~SEC. 29:~~

21 *SEC. 33.* Section 2770.18 is added to the Business and
22 Professions Code, to read:

23 2770.18. This article shall remain in effect only until January
24 1, 2013, and as of that date is repealed, unless a later enacted
25 statute, that is enacted before January 1, 2013, deletes or extends
26 that date.

27 *SEC. 34.* Section 2815.6 is added to the Business and
28 Professions Code, to read:

29 2815.6. (a) *It is the intent of the Legislature that,*
30 *notwithstanding Section 128.5, in order to maintain an appropriate*
31 *fund reserve, and in setting fees pursuant to this chapter, the Board*
32 *of Registered Nursing shall seek to maintain a reserve in the Board*
33 *of Registered Nursing Fund of not less than three and no more*
34 *than six months' operating expenditures.*

35 ~~SEC. 30:~~

36 *SEC. 35.* Section 3534.12 is added to the Business and
37 Professions Code, to read:

38 3534.12. This article shall remain in effect only until January
39 1, 2013, and as of that date is repealed, unless a later enacted

1 statute, that is enacted before January 1, 2013, deletes or extends
2 that date.

3 ~~SEC. 31.~~

4 ~~SEC. 36.~~ Section 4375 is added to the Business and Professions
5 Code, to read:

6 4375. This article shall remain in effect only until January 1,
7 2013, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, 2013, deletes or extends that date.

9 ~~SEC. 32.~~

10 ~~SEC. 37.~~ Section 4873.2 is added to the Business and
11 Professions Code, to read:

12 4873.2. This article shall remain in effect only until January
13 1, 2013, and as of that date is repealed, unless a later enacted
14 statute, that is enacted before January 1, 2013, deletes or extends
15 that date.

16 ~~SEC. 33.~~ Section 12529 of the Government Code, as amended
17 by Section 8 of Chapter 505 of the Statutes of 2009, is amended
18 to read:

19 ~~12529. (a) There is in the Department of Justice the Health~~
20 ~~Quality Enforcement Section. The primary responsibility of the~~
21 ~~section is to investigate and prosecute proceedings against licensees~~
22 ~~and applicants within the jurisdiction of the Medical Board of~~
23 ~~California, the California Board of Podiatric Medicine, the Board~~
24 ~~of Psychology, any committee under the jurisdiction of the Medical~~
25 ~~Board of California, or any other healing arts board, as defined in~~
26 ~~Section 720 of the Business and Professions Code, as requested~~
27 ~~by the executive officer of that board.~~

28 ~~(b) The Attorney General shall appoint a Senior Assistant~~
29 ~~Attorney General of the Health Quality Enforcement Section. The~~
30 ~~Senior Assistant Attorney General of the Health Quality~~
31 ~~Enforcement Section shall be an attorney in good standing licensed~~
32 ~~to practice in the State of California, experienced in prosecutorial~~
33 ~~or administrative disciplinary proceedings and competent in the~~
34 ~~management and supervision of attorneys performing those~~
35 ~~functions.~~

36 ~~(c) The Attorney General shall ensure that the Health Quality~~
37 ~~Enforcement Section is staffed with a sufficient number of~~
38 ~~experienced and able employees that are capable of handling the~~
39 ~~most complex and varied types of disciplinary actions against the~~
40 ~~licensees of the boards.~~

1 ~~(d) Funding for the Health Quality Enforcement Section shall~~
2 ~~be budgeted in consultation with the Attorney General from the~~
3 ~~special funds financing the operations of the Medical Board of~~
4 ~~California, the California Board of Podiatric Medicine, the Board~~
5 ~~of Psychology, the committees under the jurisdiction of the Medical~~
6 ~~Board of California, and any other healing arts board, as defined~~
7 ~~in Section 720 of the Business and Professions Code, with the~~
8 ~~intent that the expenses be proportionally shared as to services~~
9 ~~rendered.~~

10 ~~(e) This section shall remain in effect only until January 1, 2013,~~
11 ~~and as of that date is repealed, unless a later enacted statute, that~~
12 ~~is enacted before January 1, 2013, deletes or extends that date.~~

13 ~~SEC. 34. Section 12529 of the Government Code, as amended~~
14 ~~by Section 9 of Chapter 505 of the Statutes of 2009, is amended~~
15 ~~to read:~~

16 ~~12529. (a) There is in the Department of Justice the Health~~
17 ~~Quality Enforcement Section. The primary responsibility of the~~
18 ~~section is to prosecute proceedings against licensees and applicants~~
19 ~~within the jurisdiction of the Medical Board of California, the~~
20 ~~California Board of Podiatric Medicine, the Board of Psychology,~~
21 ~~any committee under the jurisdiction of the Medical Board of~~
22 ~~California, or any other healing arts board, as defined in Section~~
23 ~~720 of the Business and Professions Code, as requested by the~~
24 ~~executive officer of that board, and to provide ongoing review of~~
25 ~~the investigative activities conducted in support of those~~
26 ~~prosecutions, as provided in subdivision (b) of Section 12529.5.~~

27 ~~(b) The Attorney General shall appoint a Senior Assistant~~
28 ~~Attorney General of the Health Quality Enforcement Section. The~~
29 ~~Senior Assistant Attorney General of the Health Quality~~
30 ~~Enforcement Section shall be an attorney in good standing licensed~~
31 ~~to practice in the State of California, experienced in prosecutorial~~
32 ~~or administrative disciplinary proceedings and competent in the~~
33 ~~management and supervision of attorneys performing those~~
34 ~~functions.~~

35 ~~(c) The Attorney General shall ensure that the Health Quality~~
36 ~~Enforcement Section is staffed with a sufficient number of~~
37 ~~experienced and able employees that are capable of handling the~~
38 ~~most complex and varied types of disciplinary actions against the~~
39 ~~licensees of the boards.~~

1 ~~(d) Funding for the Health Quality Enforcement Section shall~~
2 ~~be budgeted in consultation with the Attorney General from the~~
3 ~~special funds financing the operations of the Medical Board of~~
4 ~~California, the California Board of Podiatric Medicine, the Board~~
5 ~~of Psychology, the committees under the jurisdiction of the Medical~~
6 ~~Board of California, and any other healing arts board, as defined~~
7 ~~in Section 720 of the Business and Professions Code, with the~~
8 ~~intent that the expenses be proportionally shared as to services~~
9 ~~rendered.~~

10 ~~(c) This section shall become operative January 1, 2013.~~

11 ~~SEC. 35. Section 12529.5 of the Government Code, as amended~~
12 ~~by Section 10 of Chapter 505 of the Statutes of 2009, is amended~~
13 ~~to read:~~

14 ~~12529.5. (a) All complaints or relevant information concerning~~
15 ~~licensees that are within the jurisdiction of the Medical Board of~~
16 ~~California, the California Board of Podiatric Medicine, or the~~
17 ~~Board of Psychology shall be made available to the Health Quality~~
18 ~~Enforcement Section. Complaints or relevant information may be~~
19 ~~referred to the Health Quality Enforcement Section as determined~~
20 ~~by the executive officer of any other healing arts board, as defined~~
21 ~~in Section 720 of the Business and Professions Code.~~

22 ~~(b) The Senior Assistant Attorney General of the Health Quality~~
23 ~~Enforcement Section shall assign attorneys to work on location at~~
24 ~~the intake unit of the Medical Board of California, the California~~
25 ~~Board of Podiatric Medicine, or the Board of Psychology, and~~
26 ~~shall assign attorneys to work on location at the Health Quality~~
27 ~~Enforcement Unit of the Division of Investigation of the~~
28 ~~Department of Consumer Affairs to assist in evaluating and~~
29 ~~screening complaints and to assist in developing uniform standards~~
30 ~~and procedures for processing complaints.~~

31 ~~(c) The Senior Assistant Attorney General or his or her deputy~~
32 ~~attorneys general shall assist the boards, committees, and the~~
33 ~~Division of Investigation in designing and providing initial and~~
34 ~~in-service training programs for staff of the boards or committees,~~
35 ~~including, but not limited to, information collection and~~
36 ~~investigation.~~

37 ~~(d) The determination to bring a disciplinary proceeding against~~
38 ~~a licensee of the boards shall be made by the executive officer of~~
39 ~~the boards or committees as appropriate in consultation with the~~
40 ~~senior assistant.~~

1 (e) This section shall remain in effect only until January 1, 2013,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2013, deletes or extends that date.

4 SEC. 36. Section 12529.5 of the Government Code, as amended
5 by Section 11 of Chapter 505 of the Statutes of 2009, is amended
6 to read:

7 12529.5. (a) All complaints or relevant information concerning
8 licensees that are within the jurisdiction of the Medical Board of
9 California, the California Board of Podiatric Medicine, or the
10 Board of Psychology shall be made available to the Health Quality
11 Enforcement Section. Complaints or relevant information may be
12 referred to the Health Quality Enforcement Section as determined
13 by the executive officer of any other healing arts board, as defined
14 in Section 720 of the Business and Professions Code.

15 (b) The Senior Assistant Attorney General of the Health Quality
16 Enforcement Section shall assign attorneys to assist the boards in
17 intake and investigations, shall assign attorneys to work on location
18 at the Health Quality Enforcement Unit of the Division of
19 Investigation of the Department of Consumer Affairs, and to direct
20 discipline-related prosecutions. Attorneys shall be assigned to
21 work closely with each major intake and investigatory unit of the
22 boards, to assist in the evaluation and screening of complaints from
23 receipt through disposition and to assist in developing uniform
24 standards and procedures for the handling of complaints and
25 investigations.

26 A deputy attorney general of the Health Quality Enforcement
27 Section shall frequently be available on location at each of the
28 working offices at the major investigation centers of the boards,
29 to provide consultation and related services and engage in case
30 review with the boards' investigative, medical advisory, and intake
31 staff and the Division of Investigation. The Senior Assistant
32 Attorney General and deputy attorneys general working at his or
33 her direction shall consult as appropriate with the investigators of
34 the boards, medical advisors, and executive staff in the
35 investigation and prosecution of disciplinary cases.

36 (c) The Senior Assistant Attorney General or his or her deputy
37 attorneys general shall assist the boards or committees in designing
38 and providing initial and in-service training programs for staff of
39 the boards or committees, including, but not limited to, information
40 collection and investigation.

1 (d) ~~The determination to bring a disciplinary proceeding against~~
2 ~~a licensee of the boards shall be made by the executive officer of~~
3 ~~the boards or committees as appropriate in consultation with the~~
4 ~~senior assistant.~~

5 (e) ~~This section shall become operative January 1, 2013.~~

6 ~~SEC. 37. Section 12529.6 of the Government Code is amended~~
7 ~~to read:~~

8 ~~12529.6. (a) The Legislature finds and declares that the healing~~
9 ~~arts boards, as defined in Section 720 of the Business and~~
10 ~~Professions Code, by ensuring the quality and safety of health care,~~
11 ~~perform one of the most critical functions of state government.~~
12 ~~Because of the critical importance of a board's public health and~~
13 ~~safety function, the complexity of cases involving alleged~~
14 ~~misconduct by health care practitioners, and the evidentiary burden~~
15 ~~in a healing arts board's disciplinary cases, the Legislature finds~~
16 ~~and declares that using a vertical enforcement and prosecution~~
17 ~~model for those investigations is in the best interests of the people~~
18 ~~of California.~~

19 ~~(b) Notwithstanding any other provision of law, each complaint~~
20 ~~that is referred to a district office of the Medical Board of~~
21 ~~California, the California Board of Podiatric Medicine, the Board~~
22 ~~of Psychology, or the Health Quality Enforcement Unit for~~
23 ~~investigation shall be simultaneously and jointly assigned to an~~
24 ~~investigator and to the deputy attorney general in the Health Quality~~
25 ~~Enforcement Section responsible for prosecuting the case if the~~
26 ~~investigation results in the filing of an accusation. The joint~~
27 ~~assignment of the investigator and the deputy attorney general~~
28 ~~shall exist for the duration of the disciplinary matter. During the~~
29 ~~assignment, the investigator so assigned shall, under the direction~~
30 ~~but not the supervision of the deputy attorney general, be~~
31 ~~responsible for obtaining the evidence required to permit the~~
32 ~~Attorney General to advise the board on legal matters such as~~
33 ~~whether the board should file a formal accusation, dismiss the~~
34 ~~complaint for a lack of evidence required to meet the applicable~~
35 ~~burden of proof, or take other appropriate legal action.~~

36 ~~(c) The Medical Board of California, the Department of~~
37 ~~Consumer Affairs, and the Office of the Attorney General shall,~~
38 ~~if necessary, enter into an interagency agreement to implement~~
39 ~~this section.~~

1 ~~(d) This section does not affect the requirements of Section~~
2 ~~12529.5 as applied to the Medical Board of California where~~
3 ~~complaints that have not been assigned to a field office for~~
4 ~~investigation are concerned.~~

5 ~~(e) It is the intent of the Legislature to enhance the vertical~~
6 ~~enforcement and prosecution model as set forth in subdivision (a).~~
7 ~~The Medical Board of California shall do all of the following:~~

8 ~~(1) Increase its computer capabilities and compatibilities with~~
9 ~~the Health Quality Enforcement Section in order to share case~~
10 ~~information.~~

11 ~~(2) Establish and implement a plan to collocate, when feasible,~~
12 ~~its enforcement staff and the staff of the Health Quality~~
13 ~~Enforcement Section, in order to carry out the intent of the vertical~~
14 ~~enforcement and prosecution model.~~

15 ~~(3) Establish and implement a plan to assist in team building~~
16 ~~between its enforcement staff and the staff of the Health Quality~~
17 ~~Enforcement Section in order to ensure a common and consistent~~
18 ~~knowledge base.~~

19 ~~(f) This section shall remain in effect only until January 1, 2013,~~
20 ~~and as of that date is repealed, unless a later enacted statute, that~~
21 ~~is enacted before January 1, 2013, deletes or extends that date.~~

22 ~~SEC. 38. Section 12529.7 of the Government Code is amended~~
23 ~~to read:~~

24 ~~12529.7. By March 1, 2012, the Department of Consumer~~
25 ~~Affairs, in consultation with the healing arts boards, as defined in~~
26 ~~Section 720 of the Business and Professions Code, and the~~
27 ~~Department of Justice, shall report and make recommendations to~~
28 ~~the Governor and the Legislature on the vertical enforcement and~~
29 ~~prosecution model created under Section 12529.6.~~

30 ~~SEC. 38. Section 12529.8 is added to the Government Code,~~
31 ~~to read:~~

32 ~~12529.8. (a) Any healing arts board listed in Section 720 of~~
33 ~~the Business and Professions Code may utilize the model~~
34 ~~prescribed in Sections 12529 to 12529.6, inclusive, for the~~
35 ~~investigation and prosecution of some or all of its enforcement~~
36 ~~actions and may utilize the services of the Department of Justice~~
37 ~~Health Quality Enforcement Section or the licensing section. If a~~
38 ~~board elects to proceed pursuant to this section and utilizes the~~
39 ~~services of the licensing section, the Department of Justice shall~~

1 *assign attorneys to work on location at the licensing unit of the*
2 *Division of Investigation of the Department of Consumer Affairs.*

3 (b) *The report requirements contained in Section 12529.7 shall*
4 *apply to any healing arts board that utilizes those provisions for*
5 *enforcement.*

6 (c) *This section shall not apply to any healing arts board listed*
7 *in subdivision (a) of Section 12529.*

8 SEC. 39. Section 830.3 of the Penal Code is amended to read:

9 830.3. The following persons are peace officers whose authority
10 extends to any place in the state for the purpose of performing
11 their primary duty or when making an arrest pursuant to Section
12 836 of the Penal Code as to any public offense with respect to
13 which there is immediate danger to person or property, or of the
14 escape of the perpetrator of that offense, or pursuant to Section
15 8597 or 8598 of the Government Code. These peace officers may
16 carry firearms only if authorized and under those terms and
17 conditions as specified by their employing agencies:

18 (a) Persons employed by the Division of Investigation of the
19 Department of Consumer Affairs and investigators of the Medical
20 Board of California, the Dental Board of California, and the Board
21 of Registered Nursing who are designated by the Director of
22 Consumer Affairs, provided that the primary duty of these peace
23 officers shall be the enforcement of the law as that duty is set forth
24 in Section 160 of the Business and Professions Code.

25 (b) Voluntary fire wardens designated by the Director of
26 Forestry and Fire Protection pursuant to Section 4156 of the Public
27 Resources Code, provided that the primary duty of these peace
28 officers shall be the enforcement of the law as that duty is set forth
29 in Section 4156 of that code.

30 (c) Employees of the Department of Motor Vehicles designated
31 in Section 1655 of the Vehicle Code, provided that the primary
32 duty of these peace officers shall be the enforcement of the law as
33 that duty is set forth in Section 1655 of that code.

34 (d) Investigators of the California Horse Racing Board
35 designated by the board, provided that the primary duty of these
36 peace officers shall be the enforcement of Chapter 4 (commencing
37 with Section 19400) of Division 8 of the Business and Professions
38 Code and Chapter 10 (commencing with Section 330) of Title 9
39 of Part 1 of this code.

1 (e) The State Fire Marshal and assistant or deputy state fire
2 marshals appointed pursuant to Section 13103 of the Health and
3 Safety Code, provided that the primary duty of these peace officers
4 shall be the enforcement of the law as that duty is set forth in
5 Section 13104 of that code.

6 (f) Inspectors of the food and drug section designated by the
7 chief pursuant to subdivision (a) of Section 106500 of the Health
8 and Safety Code, provided that the primary duty of these peace
9 officers shall be the enforcement of the law as that duty is set forth
10 in Section 106500 of that code.

11 (g) All investigators of the Division of Labor Standards
12 Enforcement designated by the Labor Commissioner, provided
13 that the primary duty of these peace officers shall be the
14 enforcement of the law as prescribed in Section 95 of the Labor
15 Code.

16 (h) All investigators of the State Departments of Health Care
17 Services, Public Health, Social Services, Mental Health, and
18 Alcohol and Drug Programs, the Department of Toxic Substances
19 Control, the Office of Statewide Health Planning and Development,
20 and the Public Employees' Retirement System, provided that the
21 primary duty of these peace officers shall be the enforcement of
22 the law relating to the duties of his or her department or office.
23 Notwithstanding any other provision of law, investigators of the
24 Public Employees' Retirement System shall not carry firearms.

25 (i) The Chief of the Bureau of Fraudulent Claims of the
26 Department of Insurance and those investigators designated by the
27 chief, provided that the primary duty of those investigators shall
28 be the enforcement of Section 550.

29 (j) Employees of the Department of Housing and Community
30 Development designated under Section 18023 of the Health and
31 Safety Code, provided that the primary duty of these peace officers
32 shall be the enforcement of the law as that duty is set forth in
33 Section 18023 of that code.

34 (k) Investigators of the office of the Controller, provided that
35 the primary duty of these investigators shall be the enforcement
36 of the law relating to the duties of that office. Notwithstanding any
37 other law, except as authorized by the Controller, the peace officers
38 designated pursuant to this subdivision shall not carry firearms.

39 (l) Investigators of the Department of Corporations designated
40 by the Commissioner of Corporations, provided that the primary

1 duty of these investigators shall be the enforcement of the
2 provisions of law administered by the Department of Corporations.
3 Notwithstanding any other provision of law, the peace officers
4 designated pursuant to this subdivision shall not carry firearms.

5 (m) Persons employed by the Contractors' State License Board
6 designated by the Director of Consumer Affairs pursuant to Section
7 7011.5 of the Business and Professions Code, provided that the
8 primary duty of these persons shall be the enforcement of the law
9 as that duty is set forth in Section 7011.5, and in Chapter 9
10 (commencing with Section 7000) of Division 3, of that code. The
11 Director of Consumer Affairs may designate as peace officers not
12 more than three persons who shall at the time of their designation
13 be assigned to the special investigations unit of the board.
14 Notwithstanding any other provision of law, the persons designated
15 pursuant to this subdivision shall not carry firearms.

16 (n) The Chief and coordinators of the Law Enforcement Division
17 of the Office of Emergency Services.

18 (o) Investigators of the office of the Secretary of State designated
19 by the Secretary of State, provided that the primary duty of these
20 peace officers shall be the enforcement of the law as prescribed
21 in Chapter 3 (commencing with Section 8200) of Division 1 of
22 Title 2 of, and Section 12172.5 of, the Government Code.
23 Notwithstanding any other provision of law, the peace officers
24 designated pursuant to this subdivision shall not carry firearms.

25 (p) The Deputy Director for Security designated by Section
26 8880.38 of the Government Code, and all lottery security personnel
27 assigned to the California State Lottery and designated by the
28 director, provided that the primary duty of any of those peace
29 officers shall be the enforcement of the laws related to ~~assuring~~
30 *ensuring* the integrity, honesty, and fairness of the operation and
31 administration of the California State Lottery.

32 (q) Investigators employed by the Investigation Division of the
33 Employment Development Department designated by the director
34 of the department, provided that the primary duty of those peace
35 officers shall be the enforcement of the law as that duty is set forth
36 in Section 317 of the Unemployment Insurance Code.

37 Notwithstanding any other provision of law, the peace officers
38 designated pursuant to this subdivision shall not carry firearms.

39 (r) The chief and assistant chief of museum security and safety
40 of the California Science Center, as designated by the executive

1 director pursuant to Section 4108 of the Food and Agricultural
2 Code, provided that the primary duty of those peace officers shall
3 be the enforcement of the law as that duty is set forth in Section
4 4108 of the Food and Agricultural Code.

5 (s) Employees of the Franchise Tax Board designated by the
6 board, provided that the primary duty of these peace officers shall
7 be the enforcement of the law as set forth in Chapter 9
8 (commencing with Section 19701) of Part 10.2 of Division 2 of
9 the Revenue and Taxation Code.

10 (t) Notwithstanding any other provision of this section, a peace
11 officer authorized by this section shall not be authorized to carry
12 firearms by his or her employing agency until that agency has
13 adopted a policy on the use of deadly force by those peace officers,
14 and until those peace officers have been instructed in the employing
15 agency's policy on the use of deadly force.

16 Every peace officer authorized pursuant to this section to carry
17 firearms by his or her employing agency shall qualify in the use
18 of the firearms at least every six months.

19 (u) Investigators of the Department of Managed Health Care
20 designated by the Director of the Department of Managed Health
21 Care, provided that the primary duty of these investigators shall
22 be the enforcement of the provisions of laws administered by the
23 Director of the Department of Managed Health Care.
24 Notwithstanding any other provision of law, the peace officers
25 designated pursuant to this subdivision shall not carry firearms.

26 (v) The Chief, Deputy Chief, supervising investigators, and
27 investigators of the Office of Protective Services of the State
28 Department of Developmental Services, provided that the primary
29 duty of each of those persons shall be the enforcement of the law
30 relating to the duties of his or her department or office.

31 SEC. 40. (a) It is the intent of the Legislature that the
32 Department of Consumer Affairs shall, on or before December
33 31, 2012, establish an enterprise information technology system
34 necessary to electronically create and update healing arts license
35 information, track enforcement cases, and allocate enforcement
36 efforts pertaining to healing arts licensees. The Legislature intends
37 the system to be designed as an integrated system to support all
38 business automation requirements of the department's licensing
39 and enforcement functions.

1 (b) The Legislature also intends the department to enter into
2 contracts for telecommunication, programming, data analysis, data
3 processing, and other services necessary to develop, operate, and
4 maintain the enterprise information technology system.

5 SEC. 41. No reimbursement is required by this act pursuant
6 to Section 6 of Article XIII B of the California Constitution for
7 certain costs that may be incurred by a local agency or school
8 district because, in that regard, this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 However, if the Commission on State Mandates determines that
15 this act contains other costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.