Board of Chiropractic Examiners

Public Copy

Teleconference
Government Affairs &
Strategic Planning Committee

June 9, 2016

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Committee Meeting Agenda

BOARD of CHIROPRACTIC EXAMINERS
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NOTICE OF PUBLIC MEETING

TELECONFERENCE - GOVERNMENT AFFAIRS & STRATEGIC PLANNING COMMITTEE

June 9, 2016, 11:00 a.m.

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Government Affairs and Strategic Planning Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Teleconference Meeting Locations:
901 P Street, Suite 142A
Sacramento, CA 95814
(916) 263-5355
(Board Staff)

Julie Elginer, DrPH
Agoura Hills Library
29901 Ladyface Circle
Agoura Hills, CA 91301
(818) 889-2278

John Roza, D.C.
800 Douglas Blvd
Roseville, CA 95678
(916) 786-2267

Frank Ruffino
Department of Veterans Affairs
700 E. Naples Court
Chula Vista, CA 91911
(619) 205-1415

AGENDA

1. **Call to Order**

2. **Approval of Minutes**
   a. May 12, 2016

3. **Update and Discussion on the BCE Strategic Plan**

4. **Update and Possible Action Regarding Legislation**
   a. AB 1992 (Jones) Pupil health: physical examinations
   b. AB 2407 (Chavez) Workers' Compensation
   c. AB 2744 (Gordon) Healing arts: referrals
   d. SB 1033 (Hill) Medical Board: disclosure of probationary status.
   e. SB 1155 (Morrell) Professions and vocations: licenses: military service
   f. SB 1195 (Hill) Professions and vocations: board actions: competitive impact.
   g. SB 1217 (Stone) Healing arts: reporting requirements
   h. SB 1348 (Cannella) Licensure applications: military experience.

5. **Discussion of Dates for Future Committee Meetings**

6. **Public Comment For Items Not On The Agenda**
   Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a).] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

7. Future Agenda Items

Note: The Committee may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125] Public comment is encouraged; however, if time constraints mandate, comments may be limited at the discretion of the Chair.

8. Adjournment

GOVERNMENT AFFAIRS COMMITTEE

Julie Elginer, DrPH, Chair
John Roza, D.C.
Frank Ruffino, Public Member

The Board of Chiropractic Examiners' paramount responsibility is to protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care.

Committee Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. 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 Valerie James at (916) 263-5355 ext. 5362 or e-mail valerie.james@dca.ca.gov or send a written request to the Board of Chiropractic Examiners, 901 P Street, Ste. 142A Sacramento, CA 95814. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

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Approval of Minutes

Board of Chiropractic Examiners
TELECONFERENCE MEETING MINUTES
Government Affairs Committee
May 12, 2016

Teleconference Meeting Locations
901 P Street, Suite 142A
Sacramento, CA 95814
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Julie Elginer, DrPH
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John Roza, D.C.
800 Douglas Blvd
Roseville, CA 95678

Mr. Frank Ruffino
Raintree's Cimarron Golf Resort
67-707 30th Avenue
Cathedral City, CA 92234

Committee Members Present
Julie Elginer, DrPH, Chair
John Roza, D.C
Frank Ruffino

Staff Present
Robert Puleo, Executive Officer
Dixie Van Allen, Licensing Manager
Marcus McCarther, Policy Analyst

Call to Order
Dr. Elginer called the meeting to order at 10:12 a.m.

Roll Call
Dr. Roza called the roll. All Board members were present at the locations listed on the Agenda.

Approval of Minutes

MOTION: MR. RUFFINO MOVED TO APPROVE THE MINUTES OF THE APRIL 7, 2016 MEETING.
SECOND: DR. ROZA SECONDED THE MOTION
VOTE: (3-0) (DR. ROZA – AYE, MR. RUFFINO – AYE, DR. ELGINER - AYE)
MOTION CARRIED (3 – 0)

DRAFT

Strategic Plan Process Update

Mr. Puleo introduced the Committee to Ted Evans of DCA's SOLID Unit. Mr. Puleo shared that Mr. Evans started the planning process and has already conducted separate Strategic Plan focus groups with management and staff and will be reaching out to board members to schedule phone interviews in the near future.

Mr. Evans shared that he had been able to meet with Board staff and management to discuss the details of the upcoming strategic plan. He explained that information was collected on board stakeholders and contact information for board members was discussed. Mr. Evans informed the Committee that a survey was developed and sent out to the board's stakeholder contact list. He shared that stakeholders would have until the end of May to complete the survey.

Dr. Elginer requested that Mr. Evans provide her with the survey questions that were sent out to the Board stakeholders.

Mr. Evans responded that he would provide the questions and that the questions included would be the same for each group participating in the planning process (Board members, staff, and stakeholders). He shared that the only difference is that stakeholders would be asked to identify their affiliation to the board (i.e. whether they are a school, licensee, or consumer).

Mr. Evans explained that items on the Strategic Plan timeline were delayed for personal reasons. Also, he shared that it took time to gain approval on language to include in the email to Board members.

Dr. Elginer requested that Mr. Evans provide an updated Strategic Plan Process timeline before the board meeting the following week.

Mr. Evans responded that it would not be a problem to provide the updated timeline and that the Strategic Plan schedule was still on track for completion. He explained that the Board member interviews would be scheduled and completed by May 27, 2016.

Mr. Evans shared with committee members that DCA's SOLID Unit was currently vetting focus group information and had started the environmental scan document. He stated the a draft of the Environmental Scan would be available for board staff review on June 23, 2016.

Dr. Elginer asked Mr. Evans if there were specific directions or tools provided to members to help prepare for the July 28, 2016 planning session. She explained that experience has shown her that clear directions and expectations yield the best results.

Mr. Evans responded that before the planning session, the environmental scan document is distributed to board members along with a worksheet. He stated that the worksheet includes instructions asking members to identify A, B, and C level priorities, strategic objectives, and to keep notes from the scan, in order to present items of priority to other board members during the group discussion.

Dr. Elginer shared with Mr. Evans that she would remind board members to build time into their schedules to review the environmental scan documents in preparation for the full board planning session.

Mr. Evans stated that he would provide the members with the contact information of Elissa Cohan, the BCE Strategic Plan, Co-Facilitator.

Dr. Elginer explained to Mr. Evans that she expects the other members to be fully prepared and ready to go for the planning session.

Dr. Elginer requested Mr. Evans to add the date of the October 14, 2016 board meeting to the Strategic Plan timeline. She explained that this would ensure that members know the Strategic Plan would be approved at the October meeting.

Legislative Update

Mr. Puleo explained to the committee that the board had taken a position on three bills; however, two of those bills have since died.

AB 1992 (Jones) Pupil health: physical examinations

Mr. Puleo stated that AB 1992, which dealt with pre-participation sports physicals, failed in the Assembly Business and Professions Committee.

Mr. Chris Forsyth, Government Affairs Director for the California Chiropractic Association (CCA), provided the committee with an update on the status of the failed bill. He explained that CCA was working Assembly Member Jones and various other members of the legislature to find another vehicle for the AB 1992 language.

Dr. Elginer requested that Mr. Forsyth provide the board with an update on the bill if it is picked up again.

AB 2407 (Chavez) Workers' compensation

Mr. Puleo shared that AB 2407, which would have encouraged physicians and surgeons to consider conservative care options like chiropractic, before surgery or prescribing opioids to patients failed in Committee. Mr. Puleo explained that AB 2047 was held in the Assembly Insurance Committee and assigned for study.

Mr. Forsythe informed the committee that the legislature would hold a fall informational hearing discussing the subject matter addressed in AB 2407. He explained that the hearing would be held in September or October of 2016 and was not sure where the hearing would take place.

Mr. Ruffino asked Mr. Forsyth if CCA had taken a position on AB 2744.

Mr. Forsyth responded that CCA has taken a watch position on the bill.

DRAFT

SB 1033 (Hill) Medical Board: disclosure of probationary status.

Mr. Puleo began by explaining SB 1033 would require certain medical professionals to disclose their probationary status to patients if their probation requires them to do specific tasks. He shared that this could include having a monitor or third party present.

Mr. Puleo shared that the bill had been amended and the technical amendments requested by the board had been accepted. Those amendments changed references to the "practice of medicine" to the practice of chiropractic and deleted any paragraph that includes a reference to chiropractors "prescribing controlled substances".

After review, Mr. Puleo explained that the changes to SB 1033 were not substantive enough to change the board's support position on the bill. Mr. Puleo explained that since the April 7, 2016 committee meeting, SB 1033 had not been heard in the Legislature and was rescheduled several times. He shared that the bill would be heard in the Senate Appropriations Committee on May 16, 2016 and that he did not anticipate any major objections to the bill.

Dr. Elginer responded to Mr. Puleo asking if there were any issues with SB 1033.

Mr. Puleo explained that the author pulled the bill in order to finalize amendments. He shared that it was not the Senate Appropriation Committee raising objections to the bill.

Mr. Puleo informed the committee that staff would represent the board and testify in support of the bill at the Senate Appropriation Committee.

Dr. Elginer asked Mr. Forsyth if CCA had testified in support of SB 1033.

Mr. Forsyth responded that CCA had testified in support of the bill.

Dr. Elginer shared that AB 2744 had been moved to the consent calendar of the Legislature.

Discussion of Dates for Future Committee Meetings

Dr. Elginer explained that the committee has meetings scheduled for June 9, 2016 and July 21, 2016 and tentative dates for the legislative meet and greets in November.

Public Comment For Items Not On The Agenda

There was no public comment on this agenda item.

Future Agenda Items

There were no future agenda items discussed.

Adjournment

Dr. Elginer adjourned the meeting at 10:51 a.m.

DRAFT

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

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Update and Discussion on the BCE Strategic Plan

Exhibit 3

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

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Agenda Item 3
June 9, 2016

Strategic Plan Update

Purpose of the item

The Committee will have the opportunity to review and discuss the BCE 2014-2017 Strategic Plan. The 2014-2017 Strategic Plan is being presented to the committee in order to assist with determining which incomplete items should be moved forward to the next strategic plan.

Action(s) requested

No action requested.

Background

The Board completes a Strategic Plan every three years. The Board completed the 2014-2017 Strategic Plan in 2013. SOLID is currently in an 8-week planning phase where it completes a SWOT analysis and an environmental scan for the Board. Additionally, SOLID planners will conduct focus groups with BCE staff and management and survey stakeholders.

The week of the July 29th Board meeting, SOLID will conduct the full Strategic Planning Session with Board members.

Recommendation(s)

Staff has no recommendation at this time.

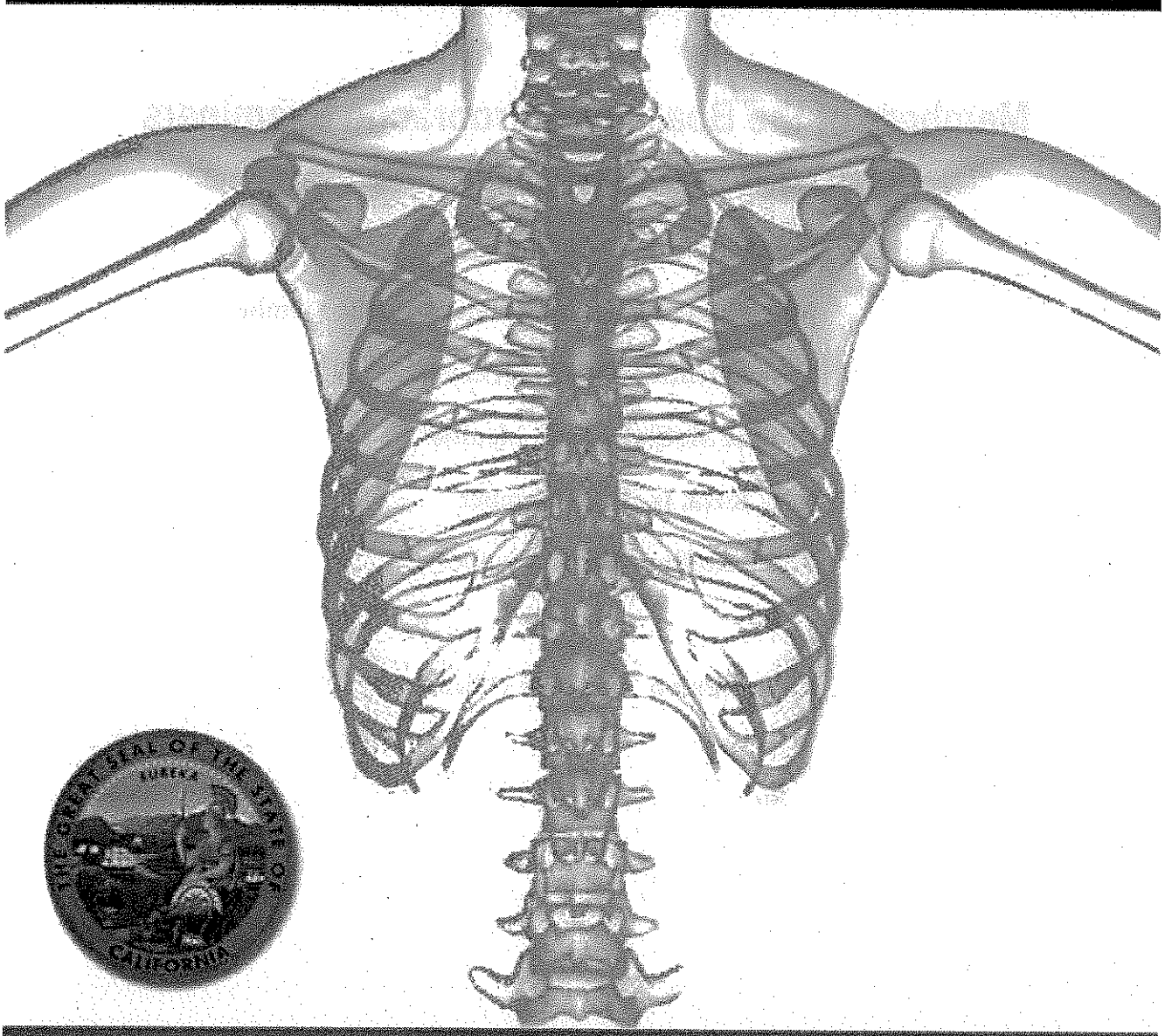
Next Step

Board members will participate in a Strategic Planning Session on July 28, 2016.

Attachment(s)

- 2014-2017 Strategic Plan

2014–2017 Strategic Plan



Board of Chiropractic Examiners

State of California

Members of the Board of Chiropractic Examiners

Sergio Azzolino, D.C., Chair

Heather Dehn, D.C., Vice-Chair

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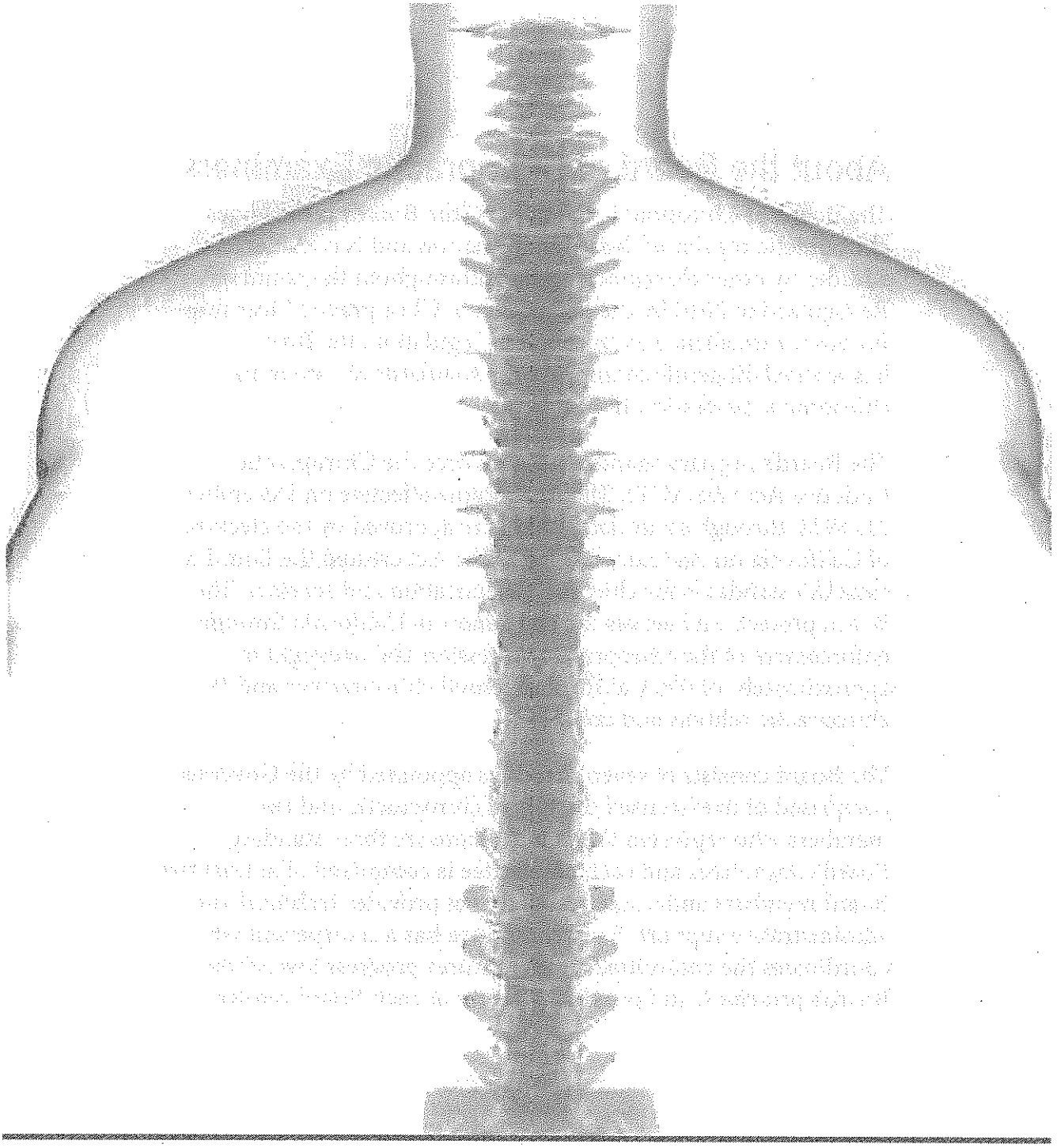
Anna M. Caballero, Secretary, Business, Consumer Services and Housing Agency

Awet Kidane, Director, Department of Consumer Affairs



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About the Board of Chiropractic Examiners

The Board of Chiropractic Examiners (the Board) is the largest chiropractic regulatory board in the nation and is considered a leader by other chiropractic boards throughout the country. Recognized in 2010 by the Federation of Chiropractic Licensing Boards for excellence in chiropractic regulation, the Board has worked diligently to improve the standards of care in the chiropractic profession in California.

The Board's primary mandate is to enforce the Chiropractic Initiative Act (the ACT). The Act became effective on December 21, 1922, through an initiative measure approved by the electors of California on November 7, 1922. The Act created the Board to establish standards for chiropractic education and services. The Board protects and serves the consumers of California through enforcement of the chiropractic profession and oversight of approximately 14,000 California licensed chiropractors and 19 chiropractic schools and colleges.

The Board consists of seven members appointed by the Governor, comprised of five licensed doctors of chiropractic and two members who represent the public. There are three standing Board committees and each committee is comprised of at least two Board members and a staff resource that provides technical and administrative support. Each committee has a chairperson who coordinates the committee's work, ensures progress toward the Board's priorities, and provides a report at each Board meeting.

BOARD of CHIROPRACTIC EXAMINERS
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The three Board committees include:

Committee	Responsibilities
Licensing, Continuing Education, & Public Relations	Proposes policies and standards regarding chiropractic colleges, doctors of chiropractic, satellite offices, corporation registration, and continuing education providers and courses. The Committee also develops strategies to communicate with the public through various forms of media.
Enforcement & Scope of Practice	Proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations. The Committee continuously seeks ways to improve the Board's enforcement activities.
Government Affairs & Strategic Planning	Proposes and reviews policies, procedures to address audit and sunset review deficiencies.
	Works directly with the Executive Officer and staff to monitor budget expenditures, trends, and the Contingent Fund levels.
	Reviews and recommends positions on legislative bills that affect the Board.
	Oversees all administrative issues regarding Board operations.
	Develops draft strategic plans and monitors the Board's progress in achieving goals and objectives, reporting on progress of plan completion annually.

The Board appoints an Executive Officer to oversee a staff of 19 permanent positions that support three functional units:

- The Administrative/Licensing Unit is responsible for the Board of Chiropractic Examiners licensee application and renewals, continuing education, administrative, and policy functions.
- The Compliance Unit (CU) and the Field Investigations Unit (FIU), which are responsible for enforcement functions, handling complaint intake, investigations, disciplinary action, and probation monitoring.

All of these functions support the protection of Californians from licensed and unlicensed individuals who engage in fraudulent, negligent, or incompetent chiropractic practice.

The Board must ensure that only those applicants with the necessary education, examination, and experience receive a California license to practice chiropractic. Requirements for licensing include passing the California Law and Professional Practice Exam (CLPPE), completing 60 pre-chiropractic units of approved education courses, and graduation from a Council on Chiropractic Education (CCE) approved college or school. Licensees are required to complete 24 hours of continuing education credit each year for license renewal.

The Board continually strives to fulfill its state mandate and mission in the most efficient manner, by exploring new policies and revising existing policies, programs, and processes. The Board is continually committed to increasing the quality and availability of services it offers to stakeholders.

Overview of Strategic Planning

SOLID begins strategic planning by conducting a preliminary meeting with the Executive Officer and Board staff management to learn about the background of the Board of Chiropractic Examiners, identify key areas of focus, define roles and responsibilities, and establish a customized strategic planning schedule.

To understand the environment in which the Board operates and identify factors that could impact the Board's success, SOLID conducted a scan and analysis of the internal and external environments by collecting information through the following methods:

- An online survey sent to twenty-four Board stakeholders, comprised of chiropractic professional associations, Board approved schools or colleges, and others who expressed interest in the strategic direction of the Board. Sixteen stakeholders responded to the survey.
- Telephone interviews with six Board members conducted during the month of May 2013.
- Focus group discussion on June 13, 2013, with Board staff, managers, and the Executive Officer.

The most significant themes and trends identified from the environmental scan were discussed by the Board during a strategic planning session facilitated by SOLID. This information guided the Board in development of its Vision, Mission, and Values, and directed the strategic goals and objectives outlined in this strategic plan for the Board to accomplish over the next four years 2014–2017.

Significant Accomplishments

As a part of strategic planning, the Board evaluated its previous strategic plan goals and identified which objectives were accomplished. The following are the significant Board accomplishments since the 2008 strategic plan was adopted:

- Established a Board culture that fosters and promotes consumer protection, effective Board governance, and accountability.
- Developed and maintain a Board Member Administrative Manual, which is used as a model for other Boards, and assists Board members in carrying out their responsibilities of developing policy, adjudicating disciplinary matters and protecting the public's interest.
- Analyzed core business processes and implemented improvements that resulting in decreased processing times and the elimination of backlogs for Licensing, Enforcement, and Continuing Education.
- Developed and implemented an internal control system for monitoring timeliness of case reviews, complaint processing, and created compliance and investigation procedure manuals.
- Established and filled field investigator positions to investigate consumer complaints, monitor probationers, and onsite inspections of chiropractic offices.
- Maintained proactive consumer protection and enforcement by staying current and recognizing when changes to laws are needed. Promulgated and adopted regulations for consumer protection to raise requirements, and institute a citation and fine program, which improved enforcement operations.

- Adopted regulations to increase the required annual continuing education from 12 hours to 24 hours, and allowed for online courses and courses approved by other health care Boards.
- Restructured the Board's eight committees into three committees.
- Began live webcasting Board meetings in May 2009 and posting these recorded meetings on the Board's website.
- Reduced enforcement case closure rates to within nine months.
- Began teleconferencing committee meetings to save costs and allow for increased public access.
- Completed a successful Sunset Review.

Our Vision

To promote excellence in chiropractic care.

Our Mission

To protect the health, welfare, and safety of the public through licensure, education, and enforcement in chiropractic care.

Our Values

CONSUMER PROTECTION

We make effective and informed decisions in the best interest and for the safety of the consumer.

SERVICE

We are professional and responsive to the needs of our stakeholders.

INNOVATION

We value new ideas and concepts, which are fundamental to our successful delivery of services to consumers and the efficient regulation of the Chiropractic marketplace.

QUALITY

We will deliver service, information, and products that reflect excellence.

TRANSPARENCY

We hold ourselves accountable to the people of California.

EFFICIENCY

We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

INTEGRITY

We are honest, fair, respectful, and ethical.

Strategic Goals and Objectives

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Goal 1: Licensing

Promote licensing standards to protect consumers and allow reasonable access to the profession.

The objectives and action items to meet this goal are listed below in order of priority:

1.1 Evaluate internal procedures to identify areas for improvement to maintain prompt and efficient processing of applications and renewals.

Objective Measurement
Adherence to timeframes and completed review of existing policies/procedures.
Action Item
1.1.1 Conduct evaluation of workload and processing timeframes (e.g., monthly reports, quarterly statistics, process goals), and determine discrepancies.
1.1.2 Compare internal processes to similar health profession boards to identify best practice processing timeframes.
1.1.3 Review statistics and existing policies/procedures to identify areas for improvement.
1.1.4 Adjust workload policies and procedures and/or goals for greater efficiency.

1.2 Collaborate with the Department of Consumer Affairs (DCA) to implement a new licensing and enforcement system (BreEZe) for online processing of initial and license renewals, including acceptance of credit card payments.

Objective Measurement
Successful implementation of BreEZe.
Action Item
1.2.1 Correspond regularly with DCA's BreEZe team until phase 3 rollout is completed.
1.2.2 Actively work with Breeze development team to define business needs, test system, and clean up data in preparation for Breeze implementation.
1.2.3 Train all BCE staff on Breeze.

1.3 Determine the feasibility of recognizing equivalent educational standards with other countries.

Objective Measurement
Presentation of findings to the Licensing, Continuing Education, & Public Relations Committee.
Action Item
1.3.1 Evaluate the curriculum of foreign schools to ensure it meets BCE requirements.
1.3.2 Determine standards of the Chiropractic Council of Education (CCE) and the Councils on Chiropractic Education International (CCEI) to meet minimum standards of equivalence.
1.3.3 Identify needed changes to existing regulations.
1.3.4 Present findings to the Licensing, Continuing Education, & Public Relations Committee.

Goal 2: Regulation and Enforcement

Enforce laws and regulations to ensure consumer protection.

The objectives and action items to meet this goal are listed below in order of priority:

2.1 Establish standardized training and evaluation of Expert Consultants to improve effectiveness and consistency.

Objective Measurement
Successful creation of standards, training, and an Expert Consultant evaluation.
Action Item
2.1.1 Consult with DCA's Legal Affairs about the ability to test and evaluate expert consultants to ensure consistency in reporting.
2.1.2 Develop qualifications and proficiency standards for expert consultants with the Enforcement & Scope of Practice Committee to define criteria and standards for expert consultant selection.
2.1.3 Review regulations to more clearly define standards of care to establish consistency among expert consultants.
2.1.4 Conduct a needs assessment to identify existing materials, gaps, and determine what is needed for training expert consultants.
2.1.5 Consult with SOLID to create a training course for expert consultants to provide more in-depth training.

2.2 Protect the Board's authority to interpret and clarify the Chiropractic Initiative Act to ensure public protection.

Objective Measurement
Communication updates of trends and areas of concern provided at Board meetings.
Action Item
2.2.1 Monitor legislation that impacts the Board and its authority during the legislative cycle (Jan – Sept).
2.2.2 Communicate with legislative staff throughout the legislative process: Analyze legislation, send position letters and testify at hearings.
2.2.3 Monitor the legislative activities of special interest groups and determine the impact to the Chiropractic Act.
2.2.4 Work with the Government Affairs & Strategic Planning Committee to keep lines of communication open with the legislative staff and the Legislature.
2.2.5 Update Board members on trends and special interest group areas of concern at Board meetings.

2.3 Review and revise the Board's disciplinary guidelines.

Objective Measurement
Completion of regulatory process.
Action Item
2.3.1 Conduct review of new laws and current disciplinary guidelines. Work with the Enforcement & Scope of Practice Committee to identify changes.
2.3.2 Identify areas of improvement and prepare a draft with proposed changes.
2.3.3 Prepare proposed regulatory language in document and display changes.
2.3.4 Submit document to Board for review and approval.
2.3.5 Complete the regulatory process.

2.4 Utilize BreEZe and online resources to coordinate receipt of disciplinary documents more efficiently.

Objective Measurement
Successful implementation of BreEZe.
Action Item
2.4.1 Correspond regularly with DCA's BreEZe team until phase 3 rollout is completed.
2.4.2 Actively work with Breeze development team to define business needs, test system, and clean up data in preparation for Breeze implementation.
2.4.3 Train all BCE staff on Breeze.

Goal 3: Professional Qualifications and Continuing Education

Ensure the initial and continuous competency of all Doctors of Chiropractic.

The objectives and action items to meet this goal are listed below in order of priority:

3.1 Establish provider review standards for continuing education providers.

Objective Measurement
Completion of regulatory process.
Action Item
3.1.1 Define proficiency standards for Continuing Education (CE) providers with the Licensing, Continuing Education, & Public Relations (LIC/CE/PR) Committee.
3.1.2 Prepare proposed regulatory language in document and display changes.
3.1.3 Submit document to the Board for review and approval.
3.1.4 Complete the regulatory process.

3.2 Develop a continuing education course auditing system to ensure providers are delivering quality instruction to licensees and take action against those providers who fail to meet these standards.

Objective Measurement
Developed auditing mechanism to maintain quality of CE courses and integrity of the CE process.
Action Item
3.2.1 Review regulations to determine criteria for course content.
3.2.2 Develop an auditing form/checklist for CE courses.
3.2.3 Provide a quarterly list of new CE providers and dates for upcoming courses to the Licensing, Continuing Education, & Public Relations Committee.
3.2.4 The Licensing, Continuing Education, & Public Relations (LIC/CE/PR) Committee assigns auditors to attend CE courses and audit providers.
3.2.5 Submit audit forms to the CE Manager and take action as appropriate.

3.3 Evaluate effectiveness of compliance with continuing education regulations to ensure competency.

Objective Measurement
Presentation of findings to the Licensing, Continuing Education, & Public Relations (LIC/CE/PR) Committee.
Action Item
3.3.1 Collect and evaluate complaints and compile statistics regarding enforcement trends and new laws related to CE course work.
3.3.2 Develop a process to conduct random audits of licensees' compliance with CE regulations and course completion.
3.3.3 Identify the top 10 licensee violations and disseminate to CE providers as topics for CE courses.
3.3.4 Present findings to the LIC/CE/PR Committee to determine the next action items.

3.4 Establish and document protocols for ongoing communication with chiropractic oversight organizations to ensure consistent standards.

Objective Measurement
Chair appoints a Board member liaison who provides bi-annual reports to the Board.
Action Item
3.4.1 Assign a professional Board member to serve as a liaison to professional organizations and BCE.
3.4.2 Update Board member manual to reflect new duties and responsibilities of the Board liaison role.
3.4.3 Board member liaison regularly communicates with other chiropractic oversight organizations.
3.4.4 Report findings to the Board.

Goal 4: Organizational Effectiveness

Efficiently utilize resources to meet goals and objectives.

The objectives and action items to meet this goal are listed below in order of priority:

4.1 Improve onboarding of new Board members by creating a Board specific orientation program.

Objective Measurement
Updated onboarding program and materials for Board members.
Action Item
4.1.1 Establish a process to invite new Board members to visit the BCE office to gain understanding of office functions.
4.1.2 Develop a Board member mentor program.
4.1.3 Survey Board members to assess needs and determine the types of materials to include in the new Board member manual.
4.1.4 Based on the needs assessment results, develop a new employee/ welcome binder for new Board members with BCE overview, BCE budget, administrative processes, and historical information.
4.1.5 Work with the Government Affairs & Strategic Planning Committee to update the Board Administration Manual.
4.1.6 Present the onboarding manuals for Board approval.

4.2 Increase Board awareness of staff functions, responsibilities, and timeframes for completing tasks.

Objective Measurement
Board member satisfaction of materials and awareness of BCE staff functions.
Action Item
4.2.1 Schedule BCE office visits for Board members.
4.2.2 Implement email blasts of Board related events to notify Board members of BCE, DCA BMOT, and association meetings.
4.2.3 Survey Board members to determine the types of materials requested.
4.2.4 Based on feedback, develop materials that provide overview of BCE staff functions.
4.2.5 Provide Board program overview information to Board members.

4.3 Explore alternative ways to engage public participation in Board and committee meetings that leverage new technologies.

Objective Measurement
Increased public attendance and participation at Board Meetings.
Action Item
4.3.1 Establish a process that would encourage licensees to attend Board meetings (e.g., credit earned toward professional development).
4.3.2 Invite school representatives as guest speakers at Board meetings.
4.3.3 Send Board meeting calendar to schools, colleges, and associations to disseminate.
4.3.4 Ask professional associations to publicize Board meeting dates.
4.3.5 Work with DCA's Office of Public Affairs to regularly update Twitter, Facebook, and other social media channels to increase awareness of Board meeting dates.
4.3.6 Identify and implement methods to increase accessibility to Board meetings.

Goal 5: Public Relations and Outreach

Communicate with consumers, licensees and stakeholders about the current and evolving practice of chiropractic and regulation of the profession.

The objectives and action items to meet this goal are listed below in order of priority:

5.1 Partner with DCA to establish internal and external communication protocols.

Objective Measurement
Developed communication plan is approved by the Licensing, Continuing Education & Public Relations (LIC/CE/PR) Committee.
Action Item
5.1.1 Forward the DCA Board/Bureau/Program meeting schedule email to Board members.
5.1.2 Contact the DCA Office of Public Affairs for information on development of a BCE Communication Plan.
5.1.3 Identify DCA resources and examples for the communication plan.
5.1.4 Executive Officer shares the gathered information with the LIC/CE/PR Committee.
5.1.5 Establish Board communication protocols and best practices for the communication plan.
5.1.6 Develop the BCE Communication Plan.

5.2 Through the DCA Office of Publications, Design, and Editing, develop consumer education materials in different languages to assist consumers in making informed decisions.

Objective Measurement	
Consumer education material is created, approved by the Board, and distributed to stakeholders and target audiences.	
Action Item	
5.2.1A	Contact the DCA Office of Publications, Design, and Editing about creating publications to educate consumers, licensees, and students.
5.2.2A	Present samples from the DCA Office of Publications, Design, and Editing to the LIC/CE/PR Committee.
5.2.3A	LIC/CE/PR Committee Chair will form a task force to develop publication content.
5.2.4A	Convene the task force to develop a prototype for the LIC/CE/PR Committee's review.
5.2.5A	Present the prototype to the Board for approval.
5.2.6A	Prepare approved materials for electronic distribution to stakeholders and target audiences.

Objective Measurement	
Quarterly newsletter is created and distributed to stakeholders and target audiences.	
Action Item	
5.2.1B	Research areas of interest for quarterly newsletter articles and identify targeted consumers and licensees.
5.2.2B	Draft newsletter articles for the LIC/CE/PR Committee's review.
5.2.3B	DCA Office of Publications, Design, and Editing formats the newsletter.
5.2.4B	DCA Legal Affairs reviews the newsletter and BCE staff submit the newsletter for Board approval.
5.2.5B	Approved newsletter is prepared for electronic distribution to consumers and licensees.

5.3 Collaborate with DCA to optimize the Board's website.

Objective Measurement
Identified website enhancements are approved by the Board and updated on the BCE website.
Action Item
5.3.1 Conduct a needs assessment of the BCE website with Board members to identify gaps and areas of improvement.
5.3.2 Review the needs assessment findings and identify ideas for website enhancements.
5.3.3 Present recommendations to the Board for approval.
5.3.4 Consult with the Office of Publications, Design, and Editing web team to enhance the BCE website with the Board's approved enhancements.

Goal 6: Professional Advancement

The Board of Chiropractic Examiners embraces innovation and supports the advancement of the practice of chiropractic.

The objectives and action items to meet this goal are listed below in order of priority:

6.1 Embrace the non-surgical, non-pharmaceutical role of the Chiropractor to increase consumer access to healthcare.

Objective Measurement
Board Liaison is appointed by the Chair and reports bi-annual updates to the Board.
Action Item
6.1.1 Appoint a professional Board member to serve as a liaison to monitor national trends related to scope of practice and report information to the Board.
6.1.2 Update the Board member manual to reflect new duties and responsibilities of the Board Liaison.
6.1.3 Board Liaison regularly communicates with other health care organizations.
6.1.4 Report updates to the Board.

6.2 Evaluate trends in chiropractic care in other states to determine potential impact to regulations in California.

Objective Measurement
Bi-annual report of chiropractic care trends provided to the Board.
Action Item
6.2.1 Review chiropractic trends and identify what chiropractors can do within existing regulations.
6.2.2 Explore the possibility of amending the Chiropractic Act and Section 302 of regulations to clarify or expand the scope of practice and provide recommendations to the Board.
6.2.3 Monitor trends in chiropractic care and communicate with organizations to stay current.
6.2.4 Report to the Board on chiropractic care trends.

6.3 Embrace the role of the chiropractic specialties.

Objective Measurement
The Enforcement/SOP Committee provides recommendations to the Board.
Action Item
6.3.1 Explore the possibility of amending the Chiropractic Act or regulation to recognize chiropractic specialties.
6.3.2 Develop recommendations for the Board's decision of the next action items.

Goal 7: Government Affairs

Establish and maintain collaborative partnerships in government to ensure the Board of Chiropractic Examiners is well informed regarding priorities and initiatives.

The objectives and action items to meet this goal are listed below in order of priority:

7.1 Establish open lines of communication with government stakeholders to ensure the Board is well informed about information relevant to the chiropractic profession.

Objective Measurement	
Subscription and identification of regulatory notices impacting BCE.	
Action Item	
7.1.1	Subscribe to other DCA health care boards email subscriptions to receive email blasts of information updates.
7.1.2	Review email updates and identify important information to communicate to Board members.
7.1.3	Participate in the Executive Officer Roundtable Meeting and forward information to Board members.
7.1.4	Monitor the Office of Administrative Law regulatory notices of current and pending regulation packages, and disapprovals from other DCA health care programs and boards.
7.1.5	Report to the Board on regulatory notices impacting the BCE.

7.2 Partner with state and local government to participate in consumer related events to increase awareness of the Board's mission and consumer protection services.

Objective Measurement
Identified outreach events and implemented Board approved recommendations.
Action Item
7.2.1 Work with the Government Affairs & Strategic Planning Committee to identify target groups for outreach.
7.2.2 Research and work with the DCA Outreach Unit to identify events for outreach.
7.2.3 Provide recommendations to the Government Affairs & Strategic Planning Committee.
7.2.4 Provide recommendations to the Board.
7.2.5 Implement the Board approved recommendations to increase awareness.

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BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Update and Possible Action Regarding Legislation

Exhibit 4

BOARD of CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

State of California
Edmund G. Brown Jr., Governor

Agenda Item 4
June 9, 2016

Update and Possible Action Regarding Legislation

Purpose of the item

This agenda item has been included to provide the Committee with an update on the bills staff is tracking during the current two-year legislative session.

Action(s) requested

The Committee will be asked to review and discuss the bills provided below. If necessary, the Committee will have an opportunity to take a position on any new or previously discussed bills.

Background

Board staff is currently tracking multiple bills during 2016 legislative session.

Bills staff are tracking

Support

Bill	Author	Title	Status	Position
AB 1992	Jones	Pupil health: physical examinations	**Dead**: Failed in Asm. B&P and reconsideration refused.	Support
AB 2407	Chavez	Workers' compensation	**Dead:** Bill retained in committee and will be referred to a Committee for study.	Support
SB 1033	Hill	Medical professionals: probation	Passed in appropriations and sent to the Senate Floor for a vote.	Support

Neutral

Bill	Author	Title	Status	Position
SB 1155	Morrell	Professions and vocations: licenses: military service.	APPR: Hearing set for May 27th.	Comm: Neutral
SB 1217	Stone	Healing arts: reporting requirements: professional liability resulting in death or personal injury	**Dead:** Failed passage in B&P committee (4/18/16).	Comm: Neutral
AB 2744	Gordon	Healing arts: referrals	Referred to Senate Com. on B., P. & E.D.	Comm: Neutral

Watch

Bill	Author	Title	Status	Position
SB 1348	Cannella	Licensure applications: military experience	Passed in appropriations and sent to the Senate Floor for a vote.	Comm: Watch

Unreviewed Bill

Bill	Author	Title	Status	Position
SB 1195	Hill	Professions and vocations: board actions: competitive impact	Passed in appropriations and sent to the Senate Floor for a vote.	No position

Summary of Bills

Bill	Author	Summary	Amended
AB 1992	Jones	This bill would add chiropractors, naturopathic doctors, and nurse practitioners to the list of health care professionals authorized to perform a physical examination as a condition of participation in an interscholastic athletic program.	
AB 2407	Chavez	This bill would require medical providers treating injured workers with back injuries to assess the employee's level of risk for chronic back pain and determine if the criteria is met for a surgical consultation. This bill would specify that treatments that may be deemed appropriate after the assessment, including chiropractic manipulation.	4/27/16
AB 2744	Gordon	This bill would provide that payment or receipt of consideration for advertising, in which a licensee offers or sells prepaid services, is not referral of patients.	4/11/16
SB 1195	Hill	*This bill would grant authority to the Director of the Department of Consumer Affairs (DCA) to review decisions and other actions by boards within the Department to determine if the action restrains trade. The bill would require the Office of Administrative Law (OAL) to perform additional reviews of regulations proposed by boards within the Department. The bill would extend the statutory sunset of the Veterinary Medical Board*	4/6/16
SB 1033	Hill	This bill would require the Medical Board of California (Board) through regulation to require a licensee on probation, for specific serious offenses, to disclose his or her probationary status to patients before each visit throughout the duration of probation. The bill would also require the Board to place each licensee's probation summary on various public documents and the Board's webpages.	5/10/16
SB 1155	Morrell	The bill would require every Board within DCA, to grant a fee waiver for the application for and issuance of an initial license to an individual who has been honorably discharged from the United States Armed Forces.	3/28/16
SB 1217	Stone	This bill would increase the reporting requirements from three thousand ($3,000) dollars to ten thousand dollars ($10,000) for any judgement or settlement requiring payment of damages for death or personal injury caused by a licensee's negligence, error, or omission in practice. The bill would also require Board files on individual licensees to include reported judgements or settlements with damages over $10,000.	4/12/16
SB 1348	Cannella	This bill would require DCA licensing Board's that currently allow veterans to apply military experience and training toward licensing requirements, to modify their application to advise veterans about their ability to apply that military experience and training towards their licensure requirements.	

Recommendation(s)

Any staff recommendations regarding Committee action are included on each individual bill's analysis.

Next Step

N/A

Attachment(s)

No attachments included

Board of Chiropractic Examiners
Bill Analysis

Bill Number: SB 1033
Author: Senator Jerry Hill
Bill Version: Amended May 10, 2016
Subject: Medical professionals: probation
Sponsor: Author
Status of Bill: Passed out of the Sen. Appropriations Committee. Sent to the Senate Floor.

Summary:

This bill would require various healing arts professionals including chiropractors, to disclose his or her probationary status to a patient prior to the patient's first visit following a probationary order.

Existing Law:

- Establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors.
- Authorizes various healing arts regulatory agencies to discipline its licensees by placing them on probation.

This Bill Would:

Amend Business and Professions Code Section 1006 to:

a) Require a licensee to disclose on a separate document his or her probationary status, the board's website, and the board's telephone number to patients or patient representatives, prior to a patient's first visit following the probationary order.
b) Bill text would apply for a licensee on probation in any of the following circumstances:
    1. The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge find that the licensee is implicated in any of the following:
        A. Gross negligence.
        B. Repeated negligent acts involving a departure from the standard of care with multiple patients.
        C. Drug or alcohol abuse that threatens to impair a licensee's ability to chiropractic safely, including practicing under the influence of drugs or alcohol.
        D. Felony conviction arising from or occurring during patient care or treatment.
        E. Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice chiropractic.
    2. The board ordered any of the following in conjunction with placing the licensee on probation:
        A. That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

B. That the licensee submits to drug testing as a result of drug or alcohol abuse.
C. That the licensee have a monitor.

3. The licensee has not successfully completed a training program or any associated examinations required by the board as a condition of probation.
4. The licensee has been on probation more than once.

b) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

c) The licensee shall not be required to provide the disclosure prior to the visit as required by subdivision (a) if the visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

d) By January 1, 2018, the board shall develop a standardized format for listing the following information pursuant to subdivision (e):

1. The listing of the causes for probation alleged in the accusation, the statement of issues, or the legal conclusions of an administrative law judge.
2. The length of the probation and the end date.
3. All practice restrictions placed on the licensee by the board.

e) By January 1, 2018, the board shall provide the information listed in subdivision (d) as follows:

1. To an inquiring member of the public.
2. On any board documents informing the public of probation orders and probationary licenses, including, but not limited to, newsletters
3. On the board's Internet Website

Background:

According to the author's office:

> In November 2015, the Medical Board of California (MBC) voted down a petition by Consumers Union that would have required doctors placed on probation to inform their patients verbally and in writing, of their probationary status. The MBC instead formed a task force to consider less "prescriptive" ways to notify patients when their doctor is on probation for medical misdeeds, including Web site enhancements and advertising campaigns, but not direct notification.
>
> On average, 500 to 600 of the 137,000 licensed physicians in California are on probation at any given time for serious offenses. This is less than half of one percent of the total active licensee population. The reasons for probation range from physicians whose mismanagement of medical records rose to the level of gross negligence to doctors whose treatment resulted in multiple patient deaths. One such case involved a physician whose practice was linked in a news investigation to fatal overdoses of 16 patients. The

MBC pursued two overdose cases against the doctor, who did not contest the charges, and was placed on five years of probation.

Fiscal Impact:

According the the Senate Appropriations Committee analysis, there will be ongoing costs of about $1 million per year for additional disciplinary hearings for physicians licensed by the Medical Board (Contingent Fund of the Medical Board of California). Also, they anticipate that there will be ongoing costs in the tens of thousands per year, on average, for additional disciplinary hearings by the Board of Chiropractic Examiners.

Support & Opposition:

Support:

Consumers Union
Californians for Patients' Rights
CALPIRG
Center for Public Interest Law
Consumer Federation of California
Consumers Union's Safe Patient Project
Consumer Watchdog

Opposition:

California Chapter of the American College of Emergency Room Physicians
California Medical Association

Arguments:

Pro:

- Consumers Union has argued, "Protection of the public is the MBC's paramount responsibility and gives the MBC authority to discipline physicians, including placing them on probation. Further, the MBC should exercise its authority and fulfill its responsibility by requiring that physicians on probation disclose their probation status to their patients."
- According to the author, California licensing boards post information on their websites related to licensee discipline, but patients may not know about this resource or have the ability to check the databases. These websites can be difficult to navigate and often people have to review complicated legal documents to find out why their doctor was placed on probation. SB 1033 would require a straightforward listing of the reasons for the probation order to be included on the regulatory boards' websites.

Con:

- While there is currently no opposition to SB 1033, the MBC has previously argued that the proposal is "too prescriptive" and that a more nuanced approach was possible with some additional work.
- The California Medical Association has voiced concern that a notification requirement would be bad for business. "This would put a burden on the physician-patient relationship and take time away from important patient appointments that are already limited," "This information is already public and available online and can be accessed by anyone. This is a duplicative burden that will interfere with patient care."

Staff's Recommended Position: MAINTAIN THE BOARD'S SUPPORT POSITION

The amended bill has included the BCE proposed technical amendments. These amendments will help ensure the proposed changes are consistent with the Chiropractic Initiative Act. With no other major changes to the substance of the bill, there is no need to change the board's position.

However, the BCE disputes the fiscal analysis provided by the legislature. The BCE was not consulted by the Senate Appropriations Committee and the data provided is not consistent with the fiscal impact determined by board staff. The BCE maintains that any additional administrative cost incurred by this bill would be minor and absorbable.

The bill as amended still would enhance consumer protection by requiring chiropractors to disclose their probationary status to a patient before the first visit following a probation order.

AMENDED IN SENATE MAY 10, 2016

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL **No. 1033**

Introduced by Senator Hill

February 12, 2016

An act to amend Sections *125.3,* 803.1, 2027, 2221, 2221.05, 2228, and 3663 of, and to add Sections 1006 and 4962 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1033, as amended, Hill. Medical ~~Board: disclosure of probationary status.~~ *professionals: probation.*

~~Existing~~

(1) Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic Medical Board of California to enforce the Medical Practice Act with respect to its licensees. Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee in the Osteopathic Medical Board of California for the licensing and regulation of naturopathic doctors. Existing law, the Chiropractic Act, enacted by an initiative measure, establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors. Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board for the

licensing and regulation of acupuncturists. Existing law authorizes each of these regulatory ~~agencies~~ *entities* to discipline its licensee by placing her or him on probation, as specified.

This ~~bill~~ *bill, on and after January 1, 2018,* would require these regulatory entities to require a licensee to disclose on a separate document her or his probationary ~~status~~ *status, certain information related to his or her probation, the address of his or her BreEze profile Internet Web page or a specified Internet Web site, and the regulatory entity's telephone number* to a patient, the patient's guardian, or the health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation under specified circumstances, including an accusation alleging, a statement of issues indicating, or an administrative law judge's legal conclusion finding the licensee committed gross negligence or the licensee having been on probation more than once, among others. The bill would require the licensee to obtain from the patient a signed receipt containing specified information following the disclosure. The bill would exempt a ~~licensee~~ *licensee, except for a licensed chiropractor,* from ~~disclosing her or his probationary status prior to a visit or treatment~~ *that disclosure requirement* if the patient is unable to comprehend the disclosure ~~or~~ *and* sign an acknowledgment and a guardian or health care surrogate is unavailable. The bill would require in that instance that the doctor disclose his or her status as soon as either the patient can comprehend and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt. *The bill would also exempt a licensee from that disclosure requirement if the visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.*

~~Existing~~

(2) Existing law requires the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine to disclose to an inquiring member of the public and to post on their Internet Web sites specified information concerning each licensee including revocations, suspensions, probations, or limitations on practice.

~~The~~

This bill would require the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the

Naturopathic Medicine Committee, and the Acupuncture Board by ~~July~~ *January* 1, 2018, to develop a standardized format for listing specified information related to the probation and to provide that information to an inquiring member of the public, on any documents informing the public of probation orders, and on a specified profile Internet Web page of each licensee subject to probation, *or an Internet Web site,* as specified.

(3) Existing law, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding unless the entity is the Medical Board of California, authorizes the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, as specified.

This bill would authorize the Medical Board of California to request and obtain from a physician and surgeon the investigation and prosecution costs for a disciplinary proceeding in which the physician and surgeon's license is placed on probation.

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

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

1 *SECTION 1. Section 125.3 of the Business and Professions*
2 *Code is amended to read:*
3 125.3. (a) Except as otherwise provided by law, in any order
4 issued in resolution of a disciplinary proceeding before any board
5 within the department or before the Osteopathic Medical Board,
6 upon request of the entity bringing the proceeding, the
7 administrative law judge may direct a licentiate found to have
8 committed a violation or violations of the licensing act to pay a
9 sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.
11 (b) In the case of a disciplined licentiate that is a corporation or
12 a partnership, the order may be made against the licensed corporate
13 entity or licensed partnership.
14 (c) A certified copy of the actual costs, or a good faith estimate
15 of costs where actual costs are not available, signed by the entity
16 bringing the proceeding or its designated representative shall be

prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

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

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

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

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

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and ~~surgeon,~~ *surgeon* investigation and prosecution costs for a disciplinary proceeding against the ~~licentiate.~~ *licentiate, except for a disciplinary proceeding in which the licentiate's license is placed on probation.* The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

~~SECTION 1.~~

SEC. 2. Section 803.1 of the Business and Professions Code is amended to read:

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

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

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

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

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

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

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

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

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

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

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

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

(4) Approved postgraduate training.

(5) Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027. By ~~July~~ *January* 1, 2018, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall include the information described in subdivision (f) of Section 2228.

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

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

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not

sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

"Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor's specialty and the doctor's history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather than questions of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the doctor's specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high-quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

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

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

as how long the doctor has been in practice when considering malpractice averages.

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

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

You may wish to discuss information in this report and the general issue of malpractice with your ~~doctor."~~

~~(e)~~ *doctor."*

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

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

subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

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

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

(i) By ~~July~~ *January* 1, 2018, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall include the information listed in subdivision (f) of Section 2228 on any board documents informing the public of probation orders and probationary licenses, including, but not limited to, newsletters.

~~SEC. 2.~~

SEC. 3. Section 1006 is added to the Business and Professions Code, to read:

1006. (a) ~~Except~~ *On and after January 1, 2018, except* as provided by subdivision (c), the State Board of Chiropractic Examiners shall require a licensee to disclose on a separate document her or his probationary ~~status~~ *status, all of the information described in subdivision (d), the address of the board's Internet Web site, and the board's telephone number* to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation in any of the following circumstances:

(1) The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge find that the licensee is implicated in any of the following:

(A) Gross negligence.

(B) Repeated negligent acts involving a departure from the standard of care with multiple patients.

~~(C) Repeated acts of inappropriate and excessive prescribing of controlled substances, including, but not limited to, prescribing controlled substances without appropriate prior examination or without medical reason documented in medical records.~~

~~(D)~~

(C) Drug or alcohol abuse that threatens to impair a licensee's ability to practice ~~medicine~~ *chiropractic* safely, including practicing under the influence of drugs or alcohol.

~~(E)~~

(D) Felony conviction arising from or occurring during patient care or treatment.

~~(F)~~

(E) Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice ~~medicine.~~ *chiropractic.*

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

~~(D) Restricting the licensee totally or partially from prescribing controlled substances.~~

(3) The licensee has not successfully completed a ~~clinical~~ training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation more than once.

(b) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

(c) The licensee shall not be required to provide the disclosure prior to the visit as required by subdivision (a) if the ~~patient is unconscious or otherwise unable to comprehend the disclosure~~

~~and sign the receipt pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the receipt. In that instance, the licensee shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.~~ *visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.*

(d) By ~~July~~ *January* 1, 2018, the board shall develop a standardized format for listing the following information pursuant to subdivision (e):

(1) The listing of the causes for probation alleged in the accusation, the statement of issues, or the legal conclusions of an administrative law judge.

(2) The length of the probation and the end date.

(3) All practice restrictions placed on the ~~licenee~~ *licensee* by the ~~committee.~~ *board.*

(e) By ~~July~~ *January* 1, 2018, the board shall provide the information listed in subdivision (d) as follows:

(1) To an inquiring member of the public.

(2) On any board documents informing the public of probation orders and probationary licenses, including, but not limited to, newsletters.

(3) ~~Upon availability of a licensee's BreEZe profile Internet Web page on the BreEZe system pursuant to Section 210, in plain view on the BreEZe profile~~ *On the board's* Internet Web ~~page of a licensee subject to probation or a probationary license.~~ *site.*

~~SEC. 3.~~

SEC. 4. Section 2027 of the Business and Professions Code is amended to read:

2027. (a) The board shall post on its Internet Web site the following information on the current status of the license for all current and former licensees:

(1) Whether or not the licensee is presently in good standing.

(2) Current American Board of Medical Specialties certification or board equivalent as certified by the board.

(3) Any of the following enforcement actions or proceedings to which the licensee is actively subjected:

(A) Temporary restraining orders.

(B) Interim suspension orders.

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

(ii) By ~~July~~ *January* 1, 2018, the board, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall include, in plain view on the BreEZe profile Internet Web page of each licensee subject to probation or a probationary license, the information described in subdivision (f) of Section 2228. For purposes of this subparagraph, a BreEZe profile Internet Web page is a profile Internet Web page on the BreEZe system pursuant to Section 210.

(D) Current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, "current accusation" means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the board unless an appeal of that decision is pending.

(E) Citations issued that have not been resolved or appealed within 30 days.

(b) The board shall post on its Internet Web site all of the following historical information in its possession, custody, or control regarding all current and former licensees:

(1) Approved postgraduate training.

(2) Any final revocations and suspensions, or other equivalent actions, taken against the licensee by the board or the board of another state or jurisdiction or the surrender of a license by the licensee in relation to a disciplinary action or investigation, including the operative accusation resulting in the license surrender or discipline by the board.

(3) Probation or other equivalent action ordered by the board, or the board of another state or jurisdiction, completed or terminated, including the operative accusation resulting in the discipline by the board.

(4) Any felony convictions. Upon receipt of a certified copy of an expungement order granted pursuant to Section 1203.4 of the Penal Code from a licensee, the board shall, within six months of receipt of the expungement order, post notification of the expungement order and the date thereof on its Internet Web site.

(5) Misdemeanor convictions resulting in a disciplinary action or accusation that is not subsequently withdrawn or dismissed. Upon receipt of a certified copy of an expungement order granted pursuant to Section 1203.4 of the Penal Code from a licensee, the board shall, within six months of receipt of the expungement order, post notification of the expungement order and the date thereof on its Internet Web site.

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

(7) Except as provided in subparagraphs (A) and (B), a summary of any final hospital disciplinary actions that resulted in the termination or revocation of a licensee's hospital staff privileges for a medical disciplinary cause or reason. The posting shall provide any additional explanatory or exculpatory information submitted by the licensee pursuant to subdivision (f) of Section 805. The board shall also post on its Internet Web site a factsheet that explains and provides information on the reporting requirements under Section 805.

(A) If a licensee's hospital staff privileges are restored and the licensee notifies the board of the restoration, the information pertaining to the termination or revocation of those privileges shall remain posted on the Internet Web site for a period of 10 years from the restoration date of the privileges, and at the end of that period shall be removed.

(B) If a court finds, in a final judgment, that peer review resulting in a hospital disciplinary action was conducted in bad faith and the licensee notifies the board of that finding, the information concerning that hospital disciplinary action posted on the Internet Web site shall be immediately removed. For purposes of this subparagraph, "peer review" has the same meaning as defined in Section 805.

(8) Public letters of reprimand issued within the past 10 years by the board or the board of another state or jurisdiction, including the operative accusation, if any, resulting in discipline by the board.

(9) Citations issued within the last three years that have been resolved by payment of the administrative fine or compliance with the order of abatement.

(10) All settlements within the last five years in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last five years, and for a licensee in the high-risk category if there are four or more settlements for that licensee within the last five years. Classification of a licensee in either a "high-risk category" or a "low-risk" category depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the board pursuant to subdivision (f) of Section 803.1.

(A) For the purposes of this paragraph, "settlement" means a settlement in an amount of thirty thousand dollars ($30,000) or more of any claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(B) For the purposes of this paragraph, "settlement" does not include a settlement by a licensee, regardless of the amount paid, when (i) the settlement is made as a part of the settlement of a class claim, (ii) the amount paid in settlement of the class claim is the same amount paid by the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case for which the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action.

(C) The board shall not disclose the actual dollar amount of a settlement, but shall disclose settlement information in the same manner and with the same disclosures required under subparagraph (B) of paragraph (2) of subdivision (b) of Section 803.1.

(11) Appropriate disclaimers and explanatory statements to accompany the information described in paragraphs (1) to (10), inclusive, including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the board and shall be adopted by regulation.

(c) The board shall provide links to other Internet Web sites that provide information on board certifications that meet the requirements of subdivision (h) of Section 651. The board may

also provide links to any other Internet Web sites that provide information on the affiliations of licensed physicians and surgeons. The board may provide links to other Internet Web sites on the Internet that provide information on health care service plans, health insurers, hospitals, or other facilities.

~~SEC. 4.~~

SEC. 5. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license.

(b) The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

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

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

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

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

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

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

(10) Disclosing probationary license status to patients, pursuant to subdivision (b) of Section 2228.

(c) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee; however, the provisions of subdivision (b) of Section 2228 are mandatory with any probationary licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

(d) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(e) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

~~SEC. 5.~~

SEC. 6. Section 2221.05 of the Business and Professions Code is amended to read:

2221.05. (a) Notwithstanding subdivisions (a) and (b) of Section 2221, the board may issue a physician's and surgeon's certificate to an applicant who has committed minor violations that the board deems, in its discretion, do not merit the denial of a certificate or require probationary status under Section 2221, and may concurrently issue a public letter of reprimand.

(b) A public letter of reprimand issued concurrently with a physician's and surgeon's certificate shall be purged three years from the date of issuance.

(c) A public letter of reprimand issued pursuant to this section shall be disclosed to an inquiring member of the public and shall be posted on the board's Internet Web site.

(d) Nothing in this section shall be construed to affect the board's authority to issue an unrestricted license.

~~SEC. 6.~~

SEC. 7. Section 2228 of the Business and Professions Code is amended to read:

2228. (a) The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(1) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(2) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(3) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(4) Providing the option of alternative community service in cases other than violations relating to quality of care.

(b) ~~The~~ *On and after January 1, 2018, except as provided by subdivision (d), the* board or the California Board of Podiatric Medicine shall require a licensee to disclose on a separate document her or his probationary ~~status~~ *status, all of the information described in subdivision (f), the address of his or her BreEZe profile Internet Web page, and the telephone number of the board, if the probation was imposed by the board, or the California Board of Podiatric Medicine, if the probation was imposed by the California Board of Podiatric Medicine,* to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation in any of the following circumstances:

(1) The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge ~~finds~~ *find* that the licensee is implicated in any of the following:

(A) Gross negligence.

(B) Repeated negligent acts involving a departure from the standard of care with multiple patients.

(C) Repeated acts of inappropriate and excessive prescribing of controlled substances, including, but not limited to, prescribing controlled substances without appropriate prior examination or without medical reason documented in medical records.

(D) Drug or alcohol abuse that threatens to impair a licensee's ability to practice medicine safely, including practicing under the influence of drugs or alcohol.

(E) Felony conviction arising from or occurring during patient care or treatment.

(F) Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice medicine.

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

(D) Restricting *the licensee* totally or partially ~~the licensee~~ from prescribing controlled substances.

(3) The licensee has not successfully completed a ~~clinical~~ training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation more than once.

(c) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

(d) ~~A~~*The* licensee shall not be required to provide the disclosure prior to ~~a~~ *the* visit as required by subdivision (b) if ~~the~~ *either of the following applies:*

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the receipt pursuant to subdivision (c) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the receipt. In that instance, the licensee shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

(2) The visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(e) Section 2314 shall not apply to subdivision (b), (c), or (d).

(f) By ~~July~~ *January* 1, 2018, the board shall develop a standardized format for listing the following information pursuant to paragraph (5) of subdivision (b) of Section 803.1, subdivision (i) of Section 803.1, and clause (ii) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 2027:

(1) The listing of the causes for probation alleged in the accusation, the statement of issues, or the legal conclusions of an administrative law judge.

(2) The length of the probation and the end date.

(3) All practice restrictions placed on the licensee by the board.

~~SEC. 7.~~

SEC. 8. Section 3663 of the Business and Professions Code is amended to read:

3663. (a) The committee shall have the responsibility for reviewing the quality of the practice of naturopathic medicine carried out by persons licensed as naturopathic doctors pursuant to this chapter.

(b) The committee may discipline a naturopathic doctor for unprofessional conduct. After a hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), the committee may deny, suspend, revoke, or place on probation the license of, or reprimand, censure, or otherwise discipline a naturopathic doctor in accordance with Division 1.5 (commencing with Section 475).

(c) ~~Except~~ *On and after January 1, 2018, except* as provided by subdivision (e), the committee shall require a naturopathic doctor to disclose on a separate document her or his probationary ~~status~~ *status, all of the information described in subdivision (f), the address of his or her BreEZe profile Internet Web page, and the committee's telephone number* to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the naturopathic doctor is on probation in any of the following circumstances:

(1) The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge find that the naturopathic doctor is implicated in any of the following:

(A) Gross negligence.

(B) Repeated negligent acts involving a departure from the standard of care with multiple patients.

(C) Repeated acts of inappropriate and excessive prescribing of controlled substances, including, but not limited to, prescribing controlled substances without appropriate prior examination or without medical reason documented in medical records.

(D) Drug or alcohol abuse that threatens to impair a naturopathic doctor's ability to practice medicine safely, including practicing under the influence of drugs or alcohol.

(E) Felony conviction arising from or occurring during patient care or treatment.

(F) Mental illness or other cognitive impairment that impedes a naturopathic doctor's ability to safely practice medicine.

(2) The committee ordered any of the following in conjunction with placing the naturopathic doctor on probation:

(A) That a third-party chaperone be present when the naturopathic doctor examines patients as a result of sexual misconduct.

(B) That the naturopathic doctor submit to drug testing as a result of drug or alcohol abuse.

(C) That the naturopathic doctor have a monitor.

(D) Restricting the naturopathic doctor totally or partially from prescribing controlled substances.

(3) The naturopathic doctor has not successfully completed a ~~clinical~~ training program or any associated examinations required by the committee as a condition of probation.

(4) The naturopathic doctor has been on probation more than once.

(d) The naturopathic doctor shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the naturopathic doctor's probation on the committee's Internet Web site.

(e) The naturopathic doctor shall not be required to provide the disclosure prior to the visit as required by subdivision (c) if ~~the~~ *either of the following applies:*

(1) The patient is unconscious or otherwise unable to comprehend the disclosure ~~or~~ *and* sign the receipt pursuant to subdivision (d) and a guardian or health care surrogate is unavailable to comprehend the disclosure ~~or~~ *and* sign the receipt. In ~~such an~~ *that* instance, the naturopathic doctor shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

(2) The visit occurs in an emergency room and the naturopathic doctor who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(f) By ~~July~~ *January* 1, 2018, the committee shall develop a standardized format for listing the following information pursuant ~~to:~~ *to subdivision (g):*

(1) The listing of the causes for probation alleged in the accusation, the statement of issues, or the legal conclusions of an administrative law judge.

(2) The length of the probation and the end date.

(3) All practice restrictions placed on the naturopathic doctor by the committee.

(g) By ~~July~~ *January* 1, 2018, the committee shall provide the information listed in subdivision (f) as follows:

(1) To an inquiring member of the public.

(2) On any committee documents informing the public of probation orders and probationary licenses, including, but not limited to, newsletters.

(3) In plain view on the BreEZe profile Internet Web page of a naturopathic doctor subject to probation or a probationary license.

~~SEC. 8.~~

SEC. 9. Section 4962 is added to the Business and Professions Code, to read:

4962. (a) ~~Except~~ *On and after January 1, 2018, except* as provided by subdivision (c), the board shall require a licensee to disclose on a separate document her or his probationary ~~status~~ *status, all of the information described in subdivision (e), the address of his or her BreEZe profile Internet Web page, and the board's telephone number* to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation in any of the following circumstances:

(1) The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge find that the licensee is implicated in any of the following:

(A) Gross negligence.

(B) Repeated negligent acts involving a departure from the standard of care with multiple patients.

(C) Drug or alcohol abuse that threatens to impair a licensee's ability to practice acupuncture safely, including practicing under the influence of drugs or alcohol.

(D) Felony conviction arising from or occurring during patient care or treatment.

(E) Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice acupuncture.

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

(3) The licensee has not successfully completed a training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation more than once.

(b) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

(c) The licensee shall not be required to provide the disclosure prior to the visit as required by subdivision (a) if ~~the~~ *either of the following applies:*

(1) The patient is unconscious or otherwise unable to comprehend the disclosure ~~or~~ *and* sign the receipt pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure ~~or~~ *and* sign the receipt. In ~~such an~~ *that* instance, the licensee shall disclose her or his status as soon as either the patient can comprehend the disclosure and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt.

(2) The visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(d) Section 4935 shall not apply to subdivision ~~(a) or (b).~~ *(a), (b), or (c).*

(e) By ~~July~~ *January* 1, 2018, the ~~committee~~ *board* shall develop a standardized format for listing the following information pursuant to subdivision (f):

(1) The listing of the causes for probation alleged in the accusation, the statement of issues, or the legal conclusions of an administrative law judge.

(2) The length of the probation and the end date.

(3) All practice restrictions placed on the ~~licenee~~ *licensee* by the ~~committee.~~ *board.*

(f) By ~~July~~ *January* 1, 2018, the board shall provide the information listed in subdivision (e) as follows:

(1) To an inquiring member of the public.

(2) On any board documents informing the public of probation orders and probationary licenses, including, but not limited to, newsletters.

(3) Upon availability of a licensee's BreEZe profile Internet Web page on the BreEZe system pursuant to Section 210, in plain view on the BreEZe profile Internet Web page of a licensee subject to probation or a probationary license.

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Board of Chiropractic Examiners
Bill Analysis

Bill Number: SB 1195
Author: Senator Jerry Hill
Bill Version: Amended April 6, 2016
Subject: Professions and vocations: board actions: competitive impact
Sponsor: Author
Status of Bill: Appropriation hearing scheduled for May 27, 2016.

Summary:

This bill would authorize the Department of Consumer Affairs (DCA) Director to review a decision or other action of a board within the DCA to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action. The bill would establish an additional standard to follow prior to board submission of regulatory packages to the Office of Administrative Law (OAL). This bill would extend the sunset date for the Veterinary Medical Board until January 1, 2021.

Existing Law:

- Provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction.
- Makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs.
- Authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case.
- Requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation.
- Authorizes the director to contract for services of experts and consultants where necessary.
- Requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation.
- Prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This Bill Would:

1. Authorize the Director, upon his or her own initiative, or upon the request of a consumer or licensee, to review a decision or action, of a board within the DCA to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action.
2. Require the Director to post on the DCA's website his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee.
3. Clarify that the review described shall not apply when an individual seeks review of disciplinary or other action pertaining solely to that individual.
4. Commencing on March 1, 2017, would require the Director to annually report to the chairs of Senate and Assembly Business and Professions Committees information regarding the Director's disapprovals, modifications, or findings from any audit, review or monitoring and evaluation.
5. Authorize the Director to seek, designate, employ, or contract for services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints of trade.
6. Require the Director to review and approve any regulation promulgated by a board within the DCA, as specified, and would authorize the Director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect.
7. Prohibit any rule or regulation from having any force or effect if the Director does not approve the regulation because it has an impermissible anticompetitive effect.
8. Extend the sunset date for the VMB and Executive Officer of the Board until January 1, 2021.

Background:

According to the author's office:

> In 2010, the Federal Trade Commission (FTC) brought an administrative complaint against the North Carolina State Board of Dental Examiners (Board) for excluding non-dentists from the practice of teeth whitening. The FTC alleged that the Board's decision was anticompetitive under the FTC Act because the Board was not acting as a state agent. The Board appealed to the Supreme Court, arguing that it was acting on behalf of the government and should be afforded immunity from antitrust lawsuits.
>
> The Supreme Court ruled in the FTC's favor, stating that regulatory bodies comprised of active market participants in the occupation regulated may invoke state-action antitrust immunity only if it is subject to active supervision by the State.

In order to establish "active supervision," this bill authorizes the DCA Director to review discretionary board decisions made pursuant to clearly articulated and affirmatively expressed state law in order to ensure such decisions conform with state policy. This bill also ensures that DCA board members are not personally liable in the event they are successfully sued in an antitrust matter related to their board service, and prohibits board executive officers from being an active member of the profession the board regulates.

Fiscal Impact:

According to a fiscal analysis completed by the Senate Appropriations Committee, SB 1195 will have one-time costs of $600,000 and ongoing costs of $570,000 per year for the DCA to establish an Anti-Trust Unit to review board actions for their impacts on trade. The costs would be paid by DCA boards and bureaus.

Support & Opposition:

Support:

University of California, Davis, School of Veterinary Medicine

Opposition:

No opposition on file

Arguments:

Pro:

- This bill is necessary to ensure compliance with the recent US Supreme Court Decision in North Carolina State Board of Dental Examiners v. FTC, which determined that the Board was not acting as a state agent and could be sued for its actions.
- This bill would establish a review process that could be initiated by DCA's Director or by any member of the public who believes a board action constitutes an unreasonable restraint of trade.
- The bill would authorize the Director to utilize the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints of trade, thereby ensuring an objective review of the Board action..
- By authorizing the Director to disapprove regulations that would have anticompetitive marketplace impacts, which are not substantiated by state policy, this bill would ensure DCA Boards have appropriate "State Supervision." This will limit the potential liability of individual Board members by ensuring Boards are acting pursuant to state policy. As such, the Board Members will be indemnified by the state for antitrust violations in the same way they are for other types of lawsuits.

Con:

- This bill would have projected one-time costs of $600,000 and ongoing costs of $570,000 per year for the DCA to establish an Anti-Trust Unit to review board actions for their impacts on trade. This cost would be passed on to DCAs boards and bureaus through their pro rata fees to the Department.
- It could be argued that this bill interferes with the autonomy of DCA's regulatory Boards by granting the Director authority to overrule a Board's policy decisions and enforcement actions.

Staff Recommended Position: NEUTRAL

This bill is necessary to ensure compliance with the recent US Supreme Court Decision in North Carolina State Board of Dental Examiners v. FTC, which determined that the Board was not acting as a state agent and could be sued for its actions.

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL **No. 1195**

Introduced by Senator Hill

February 18, 2016

An act to amend Sections ~~4800 and 4804.5 of~~ *109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, 4825.1, 4830, and 4846.5 of, and to add Sections 4826.3, 4826.5, 4826.7, 4848.1, and 4853.7 to,* the Business and Professions Code, *and to amend Sections 825, 11346.5, 11349, and 11349.1 of the Government Code,* relating to ~~healing arts.~~ *professional regulation, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. ~~Veterinary Medical Board: executive officer.~~ *Professions and vocations: board actions: competitive impact.*

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary.

Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified. The bill would require the director to post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the request of a consumer or licensee. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect. The bill would prohibit any rule or regulation from having any force or effect if the director does not approve the regulation because it has an impermissible anticompetitive effect.

(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

This bill would instead prohibit the executive officer from being a licensee of the board.

~~The~~

(3) The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. *That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.*

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. *The bill would authorize a veterinarian and registered veterinary technician who is under the direct supervision of a veterinarian with a current and active license to compound a drug for anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified. The bill would authorize the California State Board of Pharmacy and the board to ensure compliance with these requirements. The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences while engaged in the performance of specified duties to be licensed as a veterinarian in the state or hold a university license issued by the board. The bill would require an applicant for a university license to meet certain requirements, including that the applicant passes a specified exam. The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. By requiring*

additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation. By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.

(4) Existing law, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board.

(5) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.

This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants

in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy.

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

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

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

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

1 *SECTION 1. Section 109 of the Business and Professions Code*
2 *is amended to read:*
3 ~~109. (a) The decisions of any of the boards comprising the~~
4 ~~department with respect to setting standards, conducting~~
5 ~~examinations, passing candidates, and revoking licenses, are not~~
6 ~~subject to review by the director, but are final within the limits~~
7 ~~provided by this code which are applicable to the particular board,~~
8 ~~except as provided in this section.~~
9 ~~(b)~~
10 *109. (a)* The director may initiate an investigation of any
11 allegations of misconduct in the preparation, administration, or
12 scoring of an examination which is administered by a board, or in
13 the review of qualifications which are a part of the licensing process
14 of any board. A request for investigation shall be made by the
15 director to the Division of Investigation through the chief of the
16 division or to any law enforcement agency in the jurisdiction where
17 the alleged misconduct occurred.
18 ~~(c)~~
19 *(b) (1)* The director may intervene in any matter of any board
20 where an investigation by the Division of Investigation discloses
21 probable cause to believe that the conduct or activity of a board,
22 or its members or employees constitutes a violation of criminal
23 law.
24 ~~The~~

(2) The term "intervene," as used in paragraph ~~(c) of this section~~ *(1)* may include, but is not limited to, an application for a restraining order or injunctive relief as specified in Section 123.5, or a referral or request for criminal prosecution. For purposes of this section, the director shall be deemed to have standing under Section 123.5 and shall seek representation of the Attorney General, or other appropriate counsel in the event of a conflict in pursuing that action.

(c) The director may, upon his or her own initiative, and shall, upon request by a consumer or licensee, review any board decision or other action to determine whether it unreasonably restrains trade. Such a review shall proceed as follows:

(1) The director shall assess whether the action or decision reflects a clearly articulated and affirmatively expressed state law. If the director determines that the action or decision does not reflect a clearly articulated and affirmatively expressed state law, the director shall disapprove the board action or decision and it shall not go into effect.

(2) If the action or decision is a reflection of clearly articulated and affirmatively expressed state law, the director shall assess whether the action or decision was the result of the board's exercise of ministerial or discretionary judgment. If the director finds no exercise of discretionary judgment, but merely the direct application of statutory or constitutional provisions, the director shall close the investigation and review of the board action or decision.

(3) If the director concludes under paragraph (2) that the board exercised discretionary judgment, the director shall review the board action or decision as follows:

(A) The director shall conduct a full review of the board action or decision using all relevant facts, data, market conditions, public comment, studies, or other documentary evidence pertaining to the market impacted by the board's action or decision and determine whether the anticompetitive effects of the action or decision are clearly outweighed by the benefit to the public. The director may seek, designate, employ, or contract for the services of independent antitrust or economic experts pursuant to Section 307. These experts shall not be active participants in the market affected by the board action or decision.

(B) If the board action or decision was not previously subject to a public comment period, the director shall release the subject matter of his or her investigation for a 30-day public comment period and shall consider all comments received.

(C) If the director determines that the action or decision furthers the public protection mission of the board and the impact on competition is justified, the director may approve the action or decision.

(D) If the director determines that the action furthers the public protection mission of the board and the impact on competition is justified, the director may approve the action or decision. If the director finds the action or decision does not further the public protection mission of the board or finds that the action or decision is not justified, the director shall either refuse to approve it or shall modify the action or decision to ensure that any restraints of trade are related to, and advance, clearly articulated state law or public policy.

(4) The director shall issue, and post on the department's Internet Web site, his or her final written decision approving, modifying, or disapproving the action or decision with an explanation of the reasons and rationale behind the director's decision within 90 days from receipt of the request from a consumer or licensee. Notwithstanding any other law, the decision of the director shall be final, except if the state or federal constitution requires an appeal of the director's decision.

(d) The review set forth in paragraph (3) of subdivision (c) shall not apply when an individual seeks review of disciplinary or other action pertaining solely to that individual.

(e) The director shall report to the Chairs of the Senate Business, Professions, and Economic Development Committee and the Assembly Business and Professions Committee annually, commencing March 1, 2017, regarding his or her disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation conducted pursuant to this section. That report shall be submitted in compliance with Section 9795 of the Government Code.

(f) If the director has already reviewed a board action or decision pursuant to this section or Section 313.1, the director shall not review that action or decision again.

(g) This section shall not be construed to affect, impede, or delay any disciplinary actions of any board.

SEC. 2. Section 116 of the Business and Professions Code is amended to read:

116. (a) The director may audit and review, upon his or her own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by ~~the Medical Board of California, the allied health professional boards, and the California Board of Podiatric Medicine. The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both.~~ *any board or bureau within the department.*

(b) The director shall report to the ~~Chairpersons~~ *Chairs* of the Senate ~~Business and Professions~~ *Business, Professions, and Economic Development* Committee and the Assembly ~~Health~~ *Business and Professions* Committee annually, commencing March 1, ~~1995,~~ *2017,* regarding his or her findings from any audit, review, or monitoring and evaluation conducted pursuant to this section. *This report shall be submitted in compliance with Section 9795 of the Government Code.*

SEC. 3. Section 153 of the Business and Professions Code is amended to read:

153. The director may investigate the work of the several boards in his department and may obtain a copy of all records and full and complete data in all official matters in possession of the boards, their members, officers, or ~~employees, other than examination questions prior to submission to applicants at scheduled examinations.~~ *employees.*

SEC. 4. Section 307 of the Business and Professions Code is amended to read:

307. The director may contract for the services of experts and consultants where necessary to carry out ~~the provisions of~~ this chapter and may provide compensation and reimbursement of expenses for ~~such~~ *those* experts and consultants in accordance with state law.

SEC. 5. Section 313.1 of the Business and Professions Code is amended to read:

313.1. (a) Notwithstanding any other ~~provision of~~ law to the contrary, no rule or ~~regulation, except those relating to examinations and qualifications for licensure,~~ *regulation* and no fee change proposed or promulgated by any of the boards, commissions, or committees within the department, shall take effect pending compliance with this section.

(b) The director shall be formally notified of and shall ~~be provided a full opportunity to~~ review, in accordance with the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, *the requirements in subdivision (c) of Section 109,* and this section, all of the following:

(1) All notices of proposed action, any modifications and supplements thereto, and the text of proposed regulations.

(2) Any notices of sufficiently related changes to regulations previously noticed to the public, and the text of proposed regulations showing modifications to the text.

(3) Final rulemaking records.

(4) All relevant facts, data, public comments, market conditions, studies, or other documentary evidence pertaining to the market impacted by the proposed regulation. This information shall be included in the written decision of the director required under paragraph (4) of subdivision (c) of Section 109.

(c) The submission of all notices and final rulemaking records to the director and the ~~completion of the~~ director's ~~review,~~ *approval,* as authorized by this section, shall be a precondition to the filing of any rule or regulation with the Office of Administrative Law. The Office of Administrative Law shall have no jurisdiction to review a rule or regulation subject to this section until after the ~~completion of the~~ director's review and ~~only then if the director has not disapproved it.~~ *approval.* The filing of any document with the Office of Administrative Law shall be accompanied by a certification that the board, commission, or committee has complied with the requirements of this section.

(d) Following the receipt of any final rulemaking record subject to subdivision (a), the director shall have the authority for a period of 30 days to *approve a proposed rule or regulation or* disapprove a proposed rule or regulation on the ground that it is injurious to the public health, safety, or ~~welfare.~~ *welfare, or has an impermissible anticompetitive effect. The director may modify a*

rule or regulation as a condition of approval. Any modifications to regulations by the director shall be subject to a 30-day public comment period before the director issues a final decision regarding the modified regulation. If the director does not approve the rule or regulation within the 30-day period, the rule or regulation shall not be submitted to the Office of Administrative Law and the rule or regulation shall have no effect.

(e) Final rulemaking records shall be filed with the director within the one-year notice period specified in Section 11346.4 of the Government Code. If necessary for compliance with this section, the one-year notice period may be extended, as specified by this subdivision.

(1) In the event that the one-year notice period lapses during the director's 30-day review period, or within 60 days following the notice of the director's disapproval, it may be extended for a maximum of 90 days.

(2) If the director approves the final rulemaking ~~record or declines to take action on it within 30 days,~~ *record,* the board, commission, or committee shall have five days from the receipt of the record from the director within which to file it with the Office of Administrative Law.

(3) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. *This paragraph shall not apply to any decision disapproved by the director under subdivision (c) of Section 109.*

(f) ~~Nothing in this~~ *This* section shall *not* be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6. Section 2708 of the Business and Professions Code is amended to read:

2708. (a) The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.

(b) The executive officer shall *not* be a ~~nurse currently licensed~~ *licensee* under this chapter and shall possess other qualifications as determined by the board.

(c) The executive officer shall not be a member of the board.

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

~~SECTION 1.~~

SEC. 7. Section 4800 of the Business and Professions Code is amended to read:

4800. (a) There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of the following members:

(1) Four licensed veterinarians.

(2) One registered veterinary technician.

(3) Three public members.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to those issues identified by the appropriate policy committees of the Legislature and shall not involve the preparation or submission of a sunset review document or evaluative questionnaire.

~~SEC. 2.~~

SEC. 8. Section 4804.5 of the Business and Professions Code is amended to read:

4804.5. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 9. Section 4825.1 of the Business and Professions Code is amended to read:

4825.1. These definitions shall govern the construction of this chapter as it applies to veterinary medicine.

(a) "Diagnosis" means the act or process of identifying or determining the health status of an animal through examination and the opinion derived from that examination.

(b) "Animal" means any member of the animal kingdom other than humans, and includes fowl, fish, and reptiles, wild or domestic, whether living or dead.

(c) "Food animal" means any animal that is raised for the production of an edible product intended for consumption by humans. The edible product includes, but is not limited to, milk, meat, and eggs. Food animal includes, but is not limited to, cattle (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

(d) "Livestock" includes all animals, poultry, aquatic and amphibian species that are raised, kept, or used for profit. It does not include those species that are usually kept as pets such as dogs, cats, and pet birds, or companion animals, including equines.

(e) "Compounding," for the purposes of veterinary medicine, shall have the same meaning given in Section 1735 of Title 16 of the California Code of Regulations, except that every reference therein to "pharmacy" and "pharmacist" shall be replaced with "veterinary premises" and "veterinarian," and except that only a licensed veterinarian or a licensed registered veterinarian technician under direct supervision of a veterinarian may perform compounding and shall not delegate to or supervise any part of the performance of compounding by any other person.

SEC. 10. Section 4826.3 is added to the Business and Professions Code, to read:

4826.3. (a) Notwithstanding Section 4051, a veterinarian or registered veterinarian technician under the direct supervision of a veterinarian with a current and active license may compound a drug for anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board and only under the following conditions:

(1) Where there is no FDA-approved animal or human drug that can be used as labeled or in an appropriate extralabel manner

to properly treat the disease, symptom, or condition for which the drug is being prescribed.

(2) Where the compounded drug is not available from a compounding pharmacy, outsourcing facility, or other compounding supplier in a dosage form and concentration to appropriately treat the disease, symptom, or condition for which the drug is being prescribed.

(3) Where the need and prescription for the compounded medication has arisen within an established veterinarian-client-patient relationship as a means to treat a specific occurrence of a disease, symptom, or condition observed and diagnosed by the veterinarian in a specific animal that threatens the health of the animal or will cause suffering or death if left untreated.

(4) Where the quantity compounded does not exceed a quantity demonstrably needed to treat a patient with which the veterinarian has a current veterinarian-client-patient relationship.

(5) Except as specified in subdivision (c), where the compound is prepared only with commercially available FDA-approved animal or human drugs as active ingredients.

(b) A compounded veterinary drug may be prepared from an FDA-approved animal or human drug for extralabel use only when there is no approved animal or human drug that, when used as labeled or in an appropriate extralabel manner will, in the available dosage form and concentration, treat the disease, symptom, or condition. Compounding from an approved human drug for use in food-producing animals is not permitted if an approved animal drug can be used for compounding.

(c) A compounded veterinary drug may be prepared from bulk drug substances only when:

(1) The drug is compounded and dispensed by the veterinarian to treat an individually identified animal patient under his or her care.

(2) The drug is not intended for use in food-producing animals.

(3) If the drug contains a bulk drug substance that is a component of any marketed FDA-approved animal or human drug, there is a change between the compounded drug and the comparable marketed drug made for an individually identified animal patient that produces a clinical difference for that individually identified animal patient, as determined by the

veterinarian prescribing the compounded drug for his or her patient.

(4) There are no FDA-approved animal or human drugs that can be used as labeled or in an appropriate extralabel manner to properly treat the disease, symptom, or condition for which the drug is being prescribed.

(5) All bulk drug substances used in compounding are manufactured by an establishment registered under Section 360 of Title 21 of the United States Code and are accompanied by a valid certificate of analysis.

(6) The drug is not sold or transferred by the veterinarian compounding the drug, except that the veterinarian shall be permitted to administer the drug to a patient under his or her care or dispense it to the owner or caretaker of an animal under his or her care.

(7) Within 15 days of becoming aware of any product defect or serious adverse event associated with any drug compounded by the veterinarian from bulk drug substances, the veterinarian shall report it to the federal Food and Drug Administration on Form FDA 1932a.

(8) In addition to any other requirements, the label of any veterinary drug compounded from bulk drug substances shall indicate the species of the intended animal patient, the name of the animal patient, and the name of the owner or caretaker of the patient.

(d) Each compounded veterinary drug preparation shall meet the labeling requirements of Section 4076 and Sections 1707.5 and 1735.4 of Title 16 of the California Code of Regulations, except that every reference therein to "pharmacy" and "pharmacist" shall be replaced by "veterinary premises" and "veterinarian," and any reference to "patient" shall be understood to refer to the animal patient. In addition, each label on a compounded veterinary drug preparation shall include withdrawal and holding times, if needed, and the disease, symptom, or condition for which the drug is being prescribed. Any compounded veterinary drug preparation that is intended to be sterile, including for injection, administration into the eye, or inhalation, shall in addition meet the labeling requirements of Section 1751.2 of Title 16 of the California Code of Regulations, except that every reference therein to "pharmacy" and "pharmacist" shall be replaced by "veterinary premises" and

"veterinarian," and any reference to "patient" shall be understood to refer to the animal patient.

(e) Any veterinarian, registered veterinarian technician who is under the direct supervision of a veterinarian, and veterinary premises engaged in compounding shall meet the compounding requirements for pharmacies and pharmacists stated by the provisions of Article 4.5 (commencing with Section 1735) of Title 16 of the California Code of Regulations, except that every reference therein to "pharmacy" and "pharmacist" shall be replaced by "veterinary premises" and "veterinarian," and any reference to "patient" shall be understood to refer to the animal patient:

(1) Section 1735.1 of Title 16 of the California Code of Regulations.

(2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of Section 1735.2 of Title 16 of the California Code of Regulations.

(3) Section 1735.3 of Title 16 of the California Code of Regulations, except that only a licensed veterinarian or registered veterinarian technician may perform compounding and shall not delegate to or supervise any part of the performance of compounding by any other person.

(4) Section 1735.4 of Title 16 of the California Code of Regulations.

(5) Section 1735.5 of Title 16 of the California Code of Regulations.

(6) Section 1735.6 of Title 16 of the California Code of Regulations.

(7) Section 1735.7 of Title 16 of the California Code of Regulations.

(8) Section 1735.8 of Title 16 of the California Code of Regulations.

(f) Any veterinarian, registered veterinarian technician under the direct supervision of a veterinarian, and veterinary premises engaged in sterile compounding shall meet the sterile compounding requirements for pharmacies and pharmacists under Article 7 (commencing with Section 1751) of Title 16 of the California Code of Regulations, except that every reference therein to "pharmacy" and "pharmacist" shall be replaced by "veterinary premises" and "veterinarian," and any reference to "patient" shall be understood to refer to the animal patient.

(g) The California State Board of Pharmacy shall have authority with the board to ensure compliance with this section and shall have the right to inspect any veterinary premises engaged in compounding, along with or separate from the board, to ensure compliance with this section. The board is specifically charged with enforcing this section with regard to its licensees.

SEC. 11. Section 4826.5 is added to the Business and Professions Code, to read:

4826.5. Failure by a licensed veterinarian, registered veterinarian technician, or veterinary premises to comply with the provisions of this article shall be deemed unprofessional conduct and constitute grounds for discipline.

SEC. 12. Section 4826.7 is added to the Business and Professions Code, to read:

4826.7. The board may adopt regulations to implement the provisions of this article.

SEC. 13. Section 4830 of the Business and Professions Code is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

~~(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.~~

~~(5)~~

(4) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in

diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

~~(6)~~

(5) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

~~(7)~~

(6) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) (1) For purposes of paragraph (3) of subdivision (a), a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency, as defined in Section 31606 of the Food and Agricultural Code, to attend to cases that are a part of an investigation of an alleged violation of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from the licensing requirements of this chapter if the law enforcement agency or animal control agency determines that it is necessary to call the veterinarian in order for the agency or officer to conduct the investigation in a timely, efficient, and effective manner. In determining whether it is necessary to call a veterinarian from another state, consideration shall be given to the availability of veterinarians in this state to attend to these cases. An agency, department, or officer that calls a veterinarian pursuant to this subdivision shall notify the board of the investigation.

(2) Notwithstanding any other provision of this chapter, a regularly licensed veterinarian in good standing who is called from another state to attend to cases that are a part of an investigation

described in paragraph (1) may provide veterinary medical care for animals that are affected by the investigation with a temporary shelter facility, and the temporary shelter facility shall be exempt from the registration requirement of Section 4853 if all of the following conditions are met:

(A) The temporary shelter facility is established only for the purpose of the investigation.

(B) The temporary shelter facility provides veterinary medical care, shelter, food, and water only to animals that are affected by the investigation.

(C) The temporary shelter facility complies with Section 4854.

(D) The temporary shelter facility exists for not more than 60 days, unless the law enforcement agency or animal control agency determines that a longer period of time is necessary to complete the investigation.

(E) Within 30 calendar days upon completion of the provision of veterinary health care services at a temporary shelter facility established pursuant to this section, the veterinarian called from another state by a law enforcement agency or animal control agency to attend to a case shall file a report with the board. The report shall contain the date, place, type, and general description of the care provided, along with a listing of the veterinary health care practitioners who participated in providing that care.

(c) For purposes of paragraph (3) of subdivision (a), the board may inspect temporary facilities established pursuant to this section.

SEC. 14. Section 4846.5 of the Business and Professions Code is amended to read:

4846.5. (a) Except as provided in this section, the board shall issue renewal licenses only to those applicants that have completed a minimum of 36 hours of continuing education in the preceding two years.

(b) (1) Notwithstanding any other law, continuing education hours shall be earned by attending courses relevant to veterinary medicine and sponsored or cosponsored by any of the following:

(A) American Veterinary Medical Association (AVMA) accredited veterinary medical colleges.

(B) Accredited colleges or universities offering programs relevant to veterinary medicine.

(C) The American Veterinary Medical Association.

(D) American Veterinary Medical Association recognized specialty or affiliated allied groups.

(E) American Veterinary Medical Association's affiliated state veterinary medical associations.

(F) Nonprofit annual conferences established in conjunction with state veterinary medical associations.

(G) Educational organizations affiliated with the American Veterinary Medical Association or its state affiliated veterinary medical associations.

(H) Local veterinary medical associations affiliated with the California Veterinary Medical Association.

(I) Federal, state, or local government agencies.

(J) Providers accredited by the Accreditation Council for Continuing Medical Education (ACCME) or approved by the American Medical Association (AMA), providers recognized by the American Dental Association Continuing Education Recognition Program (ADA CERP), and AMA or ADA affiliated state, local, and specialty organizations.

(2) Continuing education credits shall be granted to those veterinarians taking self-study courses, which may include, but are not limited to, reading journals, viewing video recordings, or listening to audio recordings. The taking of these courses shall be limited to no more than six hours biennially.

(3) The board may approve other continuing veterinary medical education providers not specified in paragraph (1).

(A) The board has the authority to recognize national continuing education approval bodies for the purpose of approving continuing education providers not specified in paragraph (1).

(B) Applicants seeking continuing education provider approval shall have the option of applying to the board or to a board-recognized national approval body.

(4) For good cause, the board may adopt an order specifying, on a prospective basis, that a provider of continuing veterinary medical education authorized pursuant to paragraph (1) or (3) is no longer an acceptable provider.

(5) Continuing education hours earned by attending courses sponsored or cosponsored by those entities listed in paragraph (1) between January 1, 2000, and January 1, 2001, shall be credited toward a veterinarian's continuing education requirement under this section.

(c) Every person renewing his or her license issued pursuant to Section 4846.4, or any person applying for relicensure or for reinstatement of his or her license to active status, shall submit proof of compliance with this section to the board certifying that he or she is in compliance with this section. Any false statement submitted pursuant to this section shall be a violation subject to Section 4831.

(d) This section shall not apply to a veterinarian's first license renewal. This section shall apply only to second and subsequent license renewals granted on or after January 1, 2002.

(e) The board shall have the right to audit the records of all applicants to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a period of four years and shall make these records available to the board for auditing purposes upon request. If the board, during this audit, questions whether any course reported by the veterinarian satisfies the continuing education requirement, the veterinarian shall provide information to the board concerning the content of the course; the name of its sponsor and cosponsor, if any; and specify the specific curricula that was of benefit to the veterinarian.

(f) A veterinarian desiring an inactive license or to restore an inactive license under Section 701 shall submit an application on a form provided by the board. In order to restore an inactive license to active status, the veterinarian shall have completed a minimum of 36 hours of continuing education within the last two years preceding application. The inactive license status of a veterinarian shall not deprive the board of its authority to institute or continue a disciplinary action against a licensee.

(g) Knowing misrepresentation of compliance with this article by a veterinarian constitutes unprofessional conduct and grounds for disciplinary action or for the issuance of a citation and the imposition of a civil penalty pursuant to Section 4883.

(h) The board, in its discretion, may exempt from the continuing education requirement any veterinarian who for reasons of health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted on a form provided by the board.

(i) The administration of this section may be funded through professional license and continuing education provider fees. The

fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

(j) For those continuing education providers not listed in paragraph (1) of subdivision (b), the board or its recognized national approval agent shall establish criteria by which a provider of continuing education shall be approved. The board shall initially review and approve these criteria and may review the criteria as needed. The board or its recognized agent shall monitor, maintain, and manage related records and data. The board may impose an application fee, not to exceed two hundred dollars ($200) biennially, for continuing education providers not listed in paragraph (1) of subdivision (b).

(k) (1) ~~On or after~~ *Beginning* January 1, 2018, a licensed veterinarian who renews his or her license shall complete a minimum of one credit hour of continuing education on the judicious use of medically important antimicrobial drugs every four years as part of his or her continuing education requirements.

(2) For purposes of this subdivision, "medically important antimicrobial drug" means an antimicrobial drug listed in Appendix A of the federal Food and Drug Administration's Guidance for Industry #152, including critically important, highly important, and important antimicrobial drugs, as that appendix may be amended.

SEC. 15. Section 4848.1 is added to the Business and Professions Code, to read:

4848.1. (a) A veterinarian engaged in the practice of veterinary medicine, as defined in Section 4826, employed by the University of California while engaged in the performance of duties in connection with the School of Veterinary Medicine or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine shall be licensed in California or shall hold a university license issued by the board.

(b) An applicant is eligible to hold a university license if all of the following are satisfied:

(1) The applicant is currently employed by the University of California or Western University of Health Sciences as defined in subdivision (a).

(2) Passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the board, pursuant to subparagraph (C) of paragraph (2) of subdivision (a) of Section 4848.

(3) Successfully completes the approved educational curriculum described in paragraph (5) of subdivision (b) of Section 4848 on regionally specific and important diseases and conditions.

(c) A university license:

(1) Shall be numbered as described in Section 4847.

(2) Shall cease to be valid upon termination of employment by the University of California or by the Western University of Health Sciences.

(3) Shall be subject to the license renewal provisions in Section 4846.4.

(4) Shall be subject to denial, revocation, or suspension pursuant to Sections 4875 and 4883.

(d) An individual who holds a University License is exempt from satisfying the license renewal requirements of Section 4846.5.

SEC. 16. Section 4853.7 is added to the Business and Professions Code, to read:

4853.7. A premise registration that is not renewed within five years after its expiration may not be renewed and shall not be restored, reissued, or reinstated thereafter. However, an application for a new premise registration may be submitted and obtained if both of the following conditions are met:

(a) No fact, circumstance, or condition exists that, if the premise registration was issued, would justify its revocation or suspension.

(b) All of the fees that would be required for the initial premise registration are paid at the time of application.

SEC. 17. Section 825 of the Government Code is amended to read:

825. (a) Except as otherwise provided in this section, if an employee or former employee of a public entity requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity and the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or

any compromise or settlement of the claim or action to which the public entity has agreed.

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

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

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

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

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

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

As used in this subdivision with respect to an entity of state government, "a decision of the governing body" means the approval of the Legislature for payment of that part of a judgment that is for punitive damages or exemplary damages, upon recommendation of the appointing power of the employee or former employee, based upon the finding by the Legislature and the appointing authority of the existence of the three conditions

for payment of a punitive or exemplary damages claim. The provisions of subdivision (a) of Section 965.6 shall apply to the payment of any claim pursuant to this subdivision.

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

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

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

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

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

(f) (1) Except as provided in paragraph (2), a public entity shall not pay a judgment, compromise, or settlement arising from a claim or action against an elected official, if the claim or action is based on conduct by the elected official by way of tortiously intervening or attempting to intervene in, or by way of tortiously influencing or attempting to influence the outcome of, any judicial action or proceeding for the benefit of a particular party by contacting the trial judge or any commissioner, court-appointed arbitrator, court-appointed mediator, or court-appointed special

1 referee assigned to the matter, or the court clerk, bailiff, or marshal
2 after an action has been filed, unless he or she was counsel of
3 record acting lawfully within the scope of his or her employment
4 on behalf of that party. Notwithstanding Section 825.6, if a public
5 entity conducted the defense of an elected official against such a
6 claim or action and the elected official is found liable by the trier
7 of fact, the court shall order the elected official to pay to the public
8 entity the cost of that defense.
9 (2) If an elected official is held liable for monetary damages in
10 the action, the plaintiff shall first seek recovery of the judgment
11 against the assets of the elected official. If the elected official's
12 assets are insufficient to satisfy the total judgment, as determined
13 by the court, the public entity may pay the deficiency if the public
14 entity is authorized by law to pay that judgment.
15 (3) To the extent the public entity pays any portion of the
16 judgment or is entitled to reimbursement of defense costs pursuant
17 to paragraph (1), the public entity shall pursue all available
18 creditor's remedies against the elected official, including
19 garnishment, until that party has fully reimbursed the public entity.
20 (4) This subdivision shall not apply to any criminal or civil
21 enforcement action brought in the name of the people of the State
22 of California by an elected district attorney, city attorney, or
23 attorney general.
24 *(g) Notwithstanding subdivision (a), a public entity shall pay*
25 *for a judgment or settlement for treble damage antitrust awards*
26 *against a member of a regulatory board for an act or omission*
27 *occurring within the scope of his or her employment as a member*
28 *of a regulatory board.*
29 *SEC. 18. Section 11346.5 of the Government Code is amended*
30 *to read:*
31 11346.5. (a) The notice of proposed adoption, amendment, or
32 repeal of a regulation shall include the following:
33 (1) A statement of the time, place, and nature of proceedings
34 for adoption, amendment, or repeal of the regulation.
35 (2) Reference to the authority under which the regulation is
36 proposed and a reference to the particular code sections or other
37 provisions of law that are being implemented, interpreted, or made
38 specific.

(3) An informative digest drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills. The informative digest shall include the following:

(A) A concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and of the effect of the proposed action.

(B) If the proposed action differs substantially from an existing comparable federal regulation or statute, a brief description of the significant differences and the full citation of the federal regulations or statutes.

(C) A policy statement overview explaining the broad objectives of the regulation and the specific benefits anticipated by the proposed adoption, amendment, or repeal of a regulation, including, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

(D) An evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.

(4) Any other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this paragraph, "cost or savings" means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.

(7) If a state agency, in proposing to adopt, amend, or repeal any administrative regulation, makes an initial determination that

the action may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall include the following information in the notice of proposed action:

(A) Identification of the types of businesses that would be affected.

(B) A description of the projected reporting, recordkeeping, and other compliance requirements that would result from the proposed action.

(C) The following statement: "The (name of agency) has made an initial determination that the (adoption/amendment/repeal) of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

(ii) Consolidation or simplification of compliance and reporting requirements for businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for businesses."

(8) If a state agency, in adopting, amending, or repealing any administrative regulation, makes an initial determination that the action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect in the notice of proposed action. In making this declaration, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support its initial determination.

An agency's initial determination and declaration that a proposed adoption, amendment, or repeal of a regulation may have or will not have a significant, adverse impact on businesses, including the

ability of California businesses to compete with businesses in other states, shall not be grounds for the office to refuse to publish the notice of proposed action.

(9) A description of all cost impacts, known to the agency at the time the notice of proposed action is submitted to the office, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

If no cost impacts are known to the agency, it shall state the following:

"The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action."

(10) A statement of the results of the economic impact assessment required by subdivision (b) of Section 11346.3 or the standardized regulatory impact analysis if required by subdivision (c) of Section 11346.3, a summary of any comments submitted to the agency pursuant to subdivision (f) of Section 11346.3 and the agency's response to those comments.

(11) The finding prescribed by subdivision (d) of Section 11346.3, if required.

(12) (A) A statement that the action would have a significant effect on housing costs, if a state agency, in adopting, amending, or repealing any administrative regulation, makes an initial determination that the action would have that effect.

(B) The agency officer designated in paragraph ~~(14)~~ *(15)* shall make available to the public, upon request, the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs.

(C) The statement described in subparagraph (A) shall also include the estimated costs of compliance and potential benefits of a building standard, if any, that were included in the initial statement of reasons.

(D) For purposes of model codes adopted pursuant to Section 18928 of the Health and Safety Code, the agency shall comply with the requirements of this paragraph only if an interested party has made a request to the agency to examine a specific section for purposes of estimating the costs of compliance and potential benefits for that section, as described in Section 11346.2.

(13) If the regulatory action is submitted by a state board on which a controlling number of decisionmakers are active market

participants in the market the board regulates, a statement that the adopting agency has evaluated the impact of the proposed regulation on competition, and that the proposed regulation furthers a clearly articulated and affirmatively expressed state law to restrain competition.

~~(13)~~

(14) A statement that the adopting agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. For a major regulation, as defined by Section 11342.548, proposed on or after November 1, 2013, the statement shall be based, in part, upon the standardized regulatory impact analysis of the proposed regulation, as required by Section 11346.3, as well as upon the benefits of the proposed regulation identified pursuant to subparagraph (C) of paragraph (3).

~~(14)~~

(15) The name and telephone number of the agency representative and designated backup contact person to whom inquiries concerning the proposed administrative action may be directed.

~~(15)~~

(16) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

~~(16)~~

(17) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

~~(17)~~

(18) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may

request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

~~(18)~~

(19) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

~~(19)~~

(20) A statement explaining how to obtain a copy of the final statement of reasons once it has been prepared pursuant to subdivision (a) of Section 11346.9.

~~(20)~~

(21) If the agency maintains an Internet Web site or other similar forum for the electronic publication or distribution of written material, a statement explaining how materials published or distributed through that forum can be accessed.

~~(21)~~

(22) If the proposed regulation is subject to Section 11346.6, a statement that the agency shall provide, upon request, a description of the proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

(b) The agency representative designated in paragraph ~~(14)~~ *(15)* of subdivision (a) shall make available to the public upon request the express terms of the proposed action. The representative shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action. If the representative receives an inquiry regarding the proposed action that the representative cannot answer, the representative shall refer the inquiry to another person in the agency for a prompt response.

(c) This section shall not be construed in any manner that results in the invalidation of a regulation because of the alleged inadequacy of the notice content or the summary or cost estimates, or the alleged inadequacy or inaccuracy of the housing cost estimates, if there has been substantial compliance with those requirements.

SEC. 19. Section 11349 of the Government Code is amended to read:

11349. The following definitions govern the interpretation of this chapter:

(a) "Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

(e) "Reference" means the statute, court decision, or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

(f) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit state agencies from printing relevant portions of enabling legislation in regulations when the duplication is necessary to satisfy the clarity standard in paragraph (3) of subdivision (a) of Section 11349.1. This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

(g) "Competitive impact" means that the record of the rulemaking proceeding or other documentation demonstrates that the regulation is authorized by a clearly articulated and affirmatively expressed state law, that the regulation furthers the public protection mission of the state agency, and that the impact on competition is justified in light of the applicable regulatory rationale for the regulation.

SEC. 20. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The office shall review all regulations adopted, amended, or repealed pursuant to the procedure specified in Article 5 (commencing with Section 11346) and submitted to it for publication in the California Code of Regulations Supplement and for transmittal to the Secretary of State and make determinations using all of the following standards:

(1) Necessity.

(2) Authority.

(3) Clarity.

(4) Consistency.

(5) Reference.

(6) Nonduplication.

(7) For those regulations submitted by a state board on which a controlling number of decisionmakers are active market participants in the market the board regulates, the office shall review for competitive impact.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking ~~proceeding.~~ *except as directed in subdivision (h).* The office shall approve the regulation or order of repeal if it complies with the standards set forth in this section and with this chapter.

(b) In reviewing proposed regulations for the criteria in subdivision (a), the office may consider the clarity of the proposed regulation in the context of related regulations already in existence.

(c) The office shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(d) The office shall return any regulation subject to this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not

included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The agency has not complied with Section 11346.3. "Noncompliance" means that the agency failed to complete the economic impact assessment or standardized regulatory impact analysis required by Section 11346.3 or failed to include the assessment or analysis in the file of the rulemaking proceeding as required by Section 11347.3.

(3) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts.

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts.

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation.

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(4) The proposed regulation conflicts with an existing state regulation and the agency has not identified the manner in which the conflict may be resolved.

(5) The agency did not make the alternatives determination as required by paragraph (4) of subdivision (a) of Section 11346.9.

(6) The office decides that the record of the rulemaking proceeding or other documentation for the proposed regulation does not demonstrate that the regulation is authorized by a clearly articulated and affirmatively expressed state law, that the regulation does not further the public protection mission of the state agency, or that the impact on competition is not justified in light of the applicable regulatory rationale for the regulation.

(e) The office shall notify the Department of Finance of all regulations returned pursuant to subdivision (d).

(f) The office shall return a rulemaking file to the submitting agency if the file does not comply with subdivisions (a) and (b) of Section 11347.3. Within three state working days of the receipt of a rulemaking file, the office shall notify the submitting agency of any deficiency identified. If no notice of deficiency is mailed to the adopting agency within that time, a rulemaking file shall be deemed submitted as of the date of its original receipt by the office. A rulemaking file shall not be deemed submitted until each deficiency identified under this subdivision has been corrected.

(g) Notwithstanding any other law, return of the regulation to the adopting agency by the office pursuant to this section is the exclusive remedy for a failure to comply with subdivision (c) of Section 11346.3 or paragraph (10) of subdivision (a) of Section 11346.5.

(h) The office may designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. When reviewing a regulation for competitive impact, the office shall do all of the following:

(1) If the Director of Consumer Affairs issued a written decision pursuant to subdivision (c) of Section 109 of the Business and Professions Code, the office shall review and consider the decision and all supporting documentation in the rulemaking file.

(2) Consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits.

(3) Provide a written opinion setting forth the office's findings and substantive conclusions under paragraph (2), including, but not limited to, whether rejection or modification of the proposed regulation is necessary to ensure that restraints of trade are related

1 *to and advance the public policy underlying the applicable*
2 *regulatory rationale.*
3 *SEC. 21. No reimbursement is required by this act pursuant*
4 *to Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*

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