

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## PROPOSED AMENDED REGULATORY LANGUAGE Title 16, Division 39, California Code of Regulations

Proposed amendments are shown by strikeout for deleted text and underline for new text.

### Article 7. Continuing Competency Requirements

#### § 4161. Continuing Competency.

(a) Effective January 1, 2006, each occupational therapy practitioner renewing a license or certificate under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed twenty-four (24) professional development units (PDUs) during the preceding renewal period, ~~twelve (12) PDUs for each twelve month period,~~ acquired through participation in professional development activities.

(1) One (1) hour of participation in a professional development activity qualifies for one PDU;

(2) One (1) academic credit equals 10 PDUs;

(3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.

(b) Professional development activities acceptable to the board include, but are not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution, provided that the coursework was completed subsequent to licensure ~~that is not part of a course of study leading to an academic degree;~~ or otherwise meets all of the following criteria:

(1) The program or activity contributes directly to professional knowledge, skill, and ability;

(2) The program or activity relates directly to the practice of occupational therapy; and

(3) The program or activity must be objectively measurable in terms of the hours involved.

(c) PDUs may also be obtained through any or a combination of the following:

(1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU, with a maximum of six (6) PDUs earned per renewal period.

(2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs, with a maximum of six (6) PDUs earned per renewal period.

(3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs, with a maximum of six (6) PDUs earned per renewal period.

(4) Supervising the fieldwork of Level II occupational therapist and occupational therapy assistant students. For each 60 hours of supervision, the practitioner will receive .5 PDU, with a maximum of eight (8) PDUs earned per renewal period.

(5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs, with a maximum of ten (10) PDUs earned per renewal period.

(6) Publication of an article in a peer-reviewed professional publication. Each article equals 10 PDUs, with a maximum of ten (10) PDUs earned per renewal period.

(7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs, with a maximum of ten (10) PDUs earned per renewal period.

(8) Making professional presentations at workshops, seminars and conferences. For each hour presenting, the practitioner will receive two (2) PDUs, with a maximum of six (6) PDUs earned per renewal period.

(9) Attending a meeting of the California Board of Occupational Therapy. Each meeting attended equals two (2) PDUs, with a maximum of six (6) PDUs earned per renewal period.

(10) Attending board outreach activities. Each presentation attended equals two (2) PDUs, with a maximum of four (4) PDUs earned per renewal period.

(d) Partial credit will not be given for the professional development activities listed in subsection (c).

(e) This section shall not apply to the first license or certificate renewal following issuance of the initial license or certificate.

(f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services and no more than XX (to be determined) PDUs may be earned for activities listed in subsection (c).

(1) The delivery of occupational therapy services may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

(g) Applicants who have not been actively engaged in the practice of occupational therapy within the past five years completing continuing competency pursuant to section 2570.14(a) of the Code to qualify for licensure/certification shall submit evidence of meeting the continuing competency requirements by having completed, during the two year period immediately preceding the date the application was received, forty (40) PDUs that meet the requirements of subsection (b). The forty PDUs shall include:

(1) Thirty-seven (37) PDUs directly related to the delivery of occupational therapy services, which may include the scope of practice or occupational therapy practice framework;

~~(2) One (1) PDU related to occupational therapy scope of practice;~~

~~(3) One (1) PDU related to occupational therapy framework;~~

~~(4) (2) One (1) Three (3) PDUs related to ethical standards of practice for an occupational therapist in occupational therapy.~~

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code.

Reference: Section 2570.10, Business and Professions Code.

## TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, in the Hearing Room, First Floor, 2005 Evergreen Street, Sacramento, CA 95815 at 10:15 am, on February 11, 2010.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 pm on February 8, 2010, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 2570.20 of the Business and Professions (B&P) Code, and to implement, interpret or make specific B&P Code Sections 2570.2 and 2570.3, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires an occupational therapist to complete post professional education and supervised on-the-job training in order to provide treatment to clients in the advanced practice areas of hand therapy, physical agent modalities, or swallowing assessment, evaluation, and intervention. Advanced practice approval is granted once a licensee demonstrates competence to the Board.

Amend Section 4150(c). The proposed language amends §4150(c) by modifying the current definition of post-professional education "contact hours" from fifty (50) minutes to sixty (60) minutes by making this definition consistent with current continuing competency activities and industry-accepted standards.

Amend Section 4150 by adding subsection (g). This added language clarifies the post-professional education requirements set forth in Section 2570.3(e)(1). The term "upper extremity" is used to identify a requirement for post-professional education required for hand therapy. This language specifies that the term "upper extremity" refers to courses "related to hand, wrist and forearm", and further clarifies Section 2570.3.

Amend Section 4150 by adding subsection (j) to prevent potential conflicts of interest resulting from specified relationships between advanced practice applicants and their supervisor(s). Current regulations require that the applicant complete a specified number of supervised training hours to satisfy the requirements of Sections 4151, 4152, and 4153. This amendment prohibits specified relationships, or any other relationship, that could interfere with the supervisor's professional judgment and objectivity relating to evaluation of the applicant's training hours.

Amend Section 4151(a)(1) by requiring the applicant to complete a minimum of 30 contact hours of the required post-professional education include courses specific to the rehabilitation of the hand, wrist and forearm. This amendment further clarifies the proposed amendment to Section 4150(g).

Amend Section 4152.1(b)(2) by adding language to clarify that only occupational therapists who are approved by the Board in the area of physical agent modalities may administer medication by the use of a physical agent modality.

Amend Section 4152.1(2) by adding subsection (c) to prohibit all occupational therapists or occupational therapy assistants from administering medication by injection.

Amend Section 4153(b)(2) to replace the term "certified" with the term "approved" to make consistent throughout Article 6.

Amend Section 4154 by deleting subsection (b) that restricts post-professional training to be conducted in specified clinical facilities. The deletion of the current language eliminates these restrictions.

Amend Section 4154(b) by adding new language that requires post-professional training be supervised. Existing requirements contained of Sections 4154(1), requiring a written agreement outlining a plan of supervision and training remains unchanged. This section is also re-numbered for internal continuity.

Amend Section 4155 as follows:

- requires of submission of an application, as specified in section 4155(a)(1), (2), and (3) and replaces the term "portfolio" with the term "documentation";
- adding Sections 4155(a)(1), (2) and (3) to identify the application form that must be submitted, specific to the advanced practice area;
- adding language to Section 4155(b)(1) that clarifies the documentation required to prove the completion of post-professional education courses;
- adding language to Section 4155(b)(2) to specify that evidence of the number of contact hours completed is only required for courses that are not approved by the Board;
- adding language to Section 4155(b)(3) to specify that an outline or course syllabus is only required for courses that are non-Board approved;
- adding Section 4155(b)(4) requiring that the applicant submit detailed information concerning each course submitted with the advanced practice application form relating to the advanced practice area
- re-numbering Section 4155(a)(4) to Section 4155(a)(5) for internal continuity;
- delete Section 4155(a)(5) requiring applicants to submit a "statements of learning."

The new application forms referred to in the section 4155 are incorporated by reference and can be found as exhibits in the rule-making file and are available on the Board's website or upon request. The applications are: Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev. 10/09), Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev. 10/09), and the Application for Advanced Practice Approval in Swallowing (Form APS, Rev. 10/09).

### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:  
None

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

None. These amendments only relate to the applicants who apply for advanced practice approval and define and clarify the documentation required to submit to the Board for review and evaluation. There is no increased cost to the applicants.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not impact small businesses because the regulations do not regulate, benefit or harm small businesses and do not require reports or any other compliance activities of small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing, from our website as listed below, or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Jim Schenk  
California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2050  
Sacramento, CA 95815  
(916) 263-2294  
(916) 263-2701 (FAX)  
cbot@dca.ca.gov

The backup contact person is:

Heather Martin  
California Board of Occupational Therapy  
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Website Access: All materials regarding this proposal can be found on-line at [www.bot.ca.gov](http://www.bot.ca.gov) > **Laws and Regulations** > **Proposed Regulations**.

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
**Title 16, Division 39, California Code of Regulations**

The California Board of Occupational Therapy hereby amends its regulations in Division 39 of Title 16 of the California Code of Regulations. Changes to the originally proposed language are shown by underline for new text and strikeout for deleted text.

**SPECIFIC LANGUAGE**

**§ 4150. Definitions**

For the purpose of this article:

(a) "ACOTE" means the Accreditation Council for Occupational Therapy Education.

(b) "Post professional education and training" means education and training obtained subsequent to the qualifying degree program or beyond current ACOTE standards for the qualifying degree program.

(c) "Contact hour" means ~~fifty (50)~~ sixty (60) minutes of coursework or classroom instruction.

(d) "Semester unit" means fifteen (15) contact hours.

(e) "Quarter unit" means ten (10) contact hours.

(f) "Rehabilitation of the hand, wrist, and forearm" as used in Code section 2570.2(l) refers to occupational therapy services performed as a result of surgery or injury to the hand, wrist, or forearm.

(g) "Upper extremity" as used in Code section 2570.3(e) includes education relating to the hand, wrist, or forearm.

~~(g)~~ (h) "Swallowing" as used in Code section 2570.3 is the passage of food, liquid, or medication through the pharyngeal and esophageal phases of the swallowing process.

~~(h)~~ (i) "Instrumental evaluation" is the assessment of any aspect of swallowing using imaging studies that include, but are not limited to, endoscopy and videofluoroscopy.

(1) "Endoscopic evaluation of swallowing" or "endoscopy" is the process of observing structures and function of the swallowing mechanism to include the nasopharynx, oropharynx, and hypopharynx.

(2) "Videofluoroscopic swallowing study" or "videofluoroscopy" is the fluoroscopic recording and videotaping of the anatomy and physiology of the oral cavity, pharynx, and upper esophagus using a variety of bolus consistencies to assess swallowing function. This procedure may also be known as videofluorography, modified barium study, oral-pharyngeal motility study and videoradiography.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

**§ 4151. Hand Therapy**

(a) Hand therapy services may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:

- (1) Education: Completion of 45 contact hours in the subjects listed in Code section 2570.3(e), including 30 hours specifically relating to the hand, wrist, and forearm.
- (2) Training: Completion of 480 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to hand therapy.
- (b) An occupational therapist providing hand therapy services using physical agent modalities must also comply with the requirements of section 4152. A maximum of 8 contact hours and 60 hours of supervised on-the-job training, clinical internship or affiliation, paid or voluntary, completed under section 4152 will be credited toward the requirements of this section.
- (c) An occupational therapist may provide only those hand therapy services he or she is competent to perform.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

### **§ 4152.1. Use of Topical Medications**

- ~~(a) An occupational therapist who is approved by the Board to perform advanced practices in physical agent modalities may administer topical medications to a patient directly or via iontophoresis or phonophoresis.~~
- ~~(b)~~ (a) As used in this section, "topical medications" means medications applied locally to the skin or underlying tissue where such medications require a prescription or order under federal or state law. The following medications are applicable to the practice of occupational therapy and may be used by an occupational therapist:
- (1) Bacteriocidal agents;
  - (2) Debriding agents;
  - (3) Topical anesthetic agents;
  - (4) Anti-inflammatory agents;
  - (5) Antispasmodic agents; and
  - (6) Adrenocortico-steroids.
- ~~(c)~~ (b) An occupational therapist shall apply or administer topical medications in accordance with this subsection.
- (1) Any topical medication applied or administered shall have been ordered on a specific or standing basis by a practitioner legally authorized to order or prescribe such medication pursuant to Business and Professions Code section 2571(a).
  - (2) An occupational therapist may administer a topical medication by the use of a physical agent modality, only if the occupational therapist is approved by the Board in the advanced practice area of physical agent modalities.
- ~~(2)~~ (3) An occupational therapist shall follow written protocols in applying or administering topical medications. The protocols shall:
- (A) Be prepared by the facility within which the topical medications are being applied or administered;
  - (B) Be approved by the medical director or equivalent of the facility;
  - (C) Include a description of each medication, its actions, its indications and contraindications, and the proper procedure and technique for application;
  - (D) Require that the administration be consistent with the manufacturer's guidelines for any equipment to be used in the administration of the topical medication; and



(E) Be based on research and evidence-based practice, pharmaceutical standards of practice and known desired outcomes.

~~(3)~~ (4) Supervision of the application or administration of topical medications by an occupational therapy assistant under this section shall be in accordance with Article 9.

(c) Under no circumstance does this section authorize an occupational therapist or occupational therapy assistant to administer a medication via injection.

NOTE: Authority cited: Sections ~~463.5~~ and 2570.20, Business and Professions Code. Reference: Section 2571, Business and Professions Code.

### **§ 4153. Swallowing Assessment, Evaluation, or Intervention**

(a) The role of an occupational therapist in instrumental evaluations is to observe structure and function of the swallowing mechanism in order to assess swallowing capability and determine swallowing interventions. The occupational therapist may not perform the physically invasive components of the instrumental evaluation.

(b) Swallowing assessment, evaluation or intervention may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:

(1) Education: Completion of 45 contact hours in the following subjects:

(A) Anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodigestive tract;

(B) The effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems;

(C) Interventions used to improve pharyngeal swallowing function.

(2) Training: Completion of 240 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to swallowing assessment, evaluation or intervention. An occupational therapist in the process of completing the training requirements of this section may practice swallowing assessment, evaluation or intervention under the supervision of an occupational therapist who has been ~~certified~~ approved under this article, a speech language pathologist with expertise in this area, or a physician and surgeon.

(c) An occupational therapist may provide only those swallowing assessment, evaluation or intervention services he or she is competent to perform.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

### **§ 4154. Post Professional Education and Training**

(a) Post professional education courses shall be obtained at any of the following:

(1) College or university degree programs accredited or approved by ACOTE;

(2) College or university degree programs accredited or approved by the Commission on Accreditation in Physical Therapy Education;

(3) Colleges or universities with Speech and Hearing Programs accredited or approved by the Council on Academic Accreditation in Audiology and Speech-Language Pathology;

(4) Any approved provider. To be approved by the Board the provider shall submit the following:

(A) A clear statement as to the relevance of the course to the advanced practice area.

(B) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.

(C) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise in the relevant subject matter), particularly as it relates to the advanced practice area.

(D) Information that shows the course provider's qualifications to offer the type of course being offered (e.g., the provider's background, history, experience, and similar courses previously offered by the provider), particularly as it relates to the advanced practice area; or

(5) A provider that has not been approved by the Board, if the applicant occupational therapist demonstrates that the course content meets the subject matter requirements set forth in sections 2570.3(e) or 2570.3(f) of the Code, or section 4153 of these regulations, and submits the following:

(A) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.

(B) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise in the relevant subject matter), particularly as it relates to the advanced practice area.

~~(b) Post professional training shall be supervised and obtained at either of the following:~~

~~(1) Clinical facilities affiliated with such colleges and universities described in subsection (a) or~~

~~(2) Hospital or community based clinical training programs.~~

~~(c) (b) Post professional training shall be supervised, training as it is used in subsection (b) above which means, at a minimum:~~

(1) The supervisor and occupational therapist have a written agreement, signed and dated by both parties prior to accruing the supervised experience, outlining the plan of supervision and training in the advanced practice area. The level of supervision is determined by the supervisor whose responsibility it is to ensure that the amount, degree, and pattern of supervision is consistent with the knowledge, skill and ability of the occupational therapist, and appropriate for the complexity of client needs and number of clients for whom the occupational therapist is providing advanced practice services.

(2) The supervisor is readily available in person or by telecommunication to the occupational therapist while the therapist is providing advanced practice services.

(3) The supervisor does not have a co-habitative, familial, intimate, business or other relationship that could interfere with professional judgment and objectivity necessary for effective supervision, or the violates the Ethical Standards of Practice.

~~(d)~~ (c) Post professional education and training must be completed within the five years immediately preceding application for certification in the advanced practice area.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

#### **§ 4155. Application for Approval in Advanced Practice Areas**

In order to provide the advanced practice services set forth in Code section 2570.3(d), an occupational therapist shall apply for and receive approval from the Board.

(a) To apply for approval, an occupational therapist shall submit to the Board, an application as specified in subsections (1), (2) or (3), along with a written portfolio the required documentation reflecting the requirements set forth in this article in the appropriate advanced practice area.

(1) Applicants seeking approval in the area of Hand Therapy shall submit the Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev 10/09);  
(2) Applicants seeking approval in the use of physical agent modalities, shall submit the Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev 10/09);

(3) Applicants seeking approval in the area of Swallowing Assessment, Evaluation, or Intervention, shall submit the Application for Advanced Practice Approval in Swallowing (Form APS, Rev 10/09);

(b) The ~~portfolio~~ documentation must ~~contain~~ include the following:

(1) Documented proof of attendance and completion of each course (i.e., certificate of completion or transcript).

(2) Evidence of the number of contact hours completed for each course for courses that are not Board approved.

(3) Outline or syllabus of each course for courses that are not Board approved.

(4) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) as it relates to the advanced practice area.

~~(4)~~ (5) Resume or credentials of each instructor for courses that are not Board approved.

~~(5) Statement of Learning for each course. Such statement shall reflect what the occupational therapist learned, how that knowledge would be applied in his or her practice, how it changed his or her practice or validated it, and how the occupational therapist became more competent because of the course.~~

(6) Verification of completion of supervised on-the-job training, clinical internship or affiliation reflecting the nature of the training and the number of hours. Such verification must be signed by the supervisor(s) under penalty of perjury.

(c) An advanced practice application not completed within six months of receipt or notification of deficiency, whichever is later, shall be deemed abandoned.

(d) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## INITIAL STATEMENT OF REASONS

### Subject Matter of Proposed Regulations: Advanced Practice

#### Sections Affected:

Title 16, Division 39, California Code of Regulations, Sections 4150, 4151, 4152.1, 4153, 4154 and 4155. Business and Professions Code, Division 2. Healing Arts, Chapter 5.6 Section 2570.2 and 2570.3.

#### SPECIFIC PURPOSE OF THE REGULATIONS:

Existing law, Business and Professions Code Division 2, Healing Arts, Chapter 5.6, Sections 2570 et. seq. delineates the requirements for the licensing and regulation of occupational therapy practice in the State of California. Advanced practice approval means that an occupational therapist has demonstrated to the California Board of Occupational Therapy that he or she has the knowledge, skill and ability to provide specialized treatment in the areas of hand therapy, physical agent modalities and swallowing assessment, evaluation and intervention.

The proposed regulatory action is intended to amend, establish, clarify, and simplify the requirements for occupational therapists to obtain Board approval to provide advanced practice services contained in Title 16, California Code of Regulations Sections 4150, 4151, 4152.1, 4153, 4154, and 4155.

#### FACTUAL BASIS/NECESSITY:

##### Proposed amendments to Section 4150 will:

- Changes the definition of an education “contact hour” from fifty (50) minutes to sixty (60) minutes to be consistent with the Board's continuing competency requirement, reflect industry standards, and avoid confusion;
- Establishes the meaning of “Upper Extremity” as used in Business and Professions Code Section 2570.3(e), and specifies the education pertaining to the hand, wrist, and forearm;

##### Proposed amendments to Section 4151 will:

- Establishes that within the forty five (45) contact hours of education required for hand therapy approval, thirty hours (30) hours must be specifically related to the hand, wrist and forearm. This will preclude a practitioner from completing all or a majority educational requirement in the area of the shoulder.

##### Proposed amendments to Section 4152(1) will:

- Deletes narrow and constrictive language regarding the administration of topical medications by striking specific references to iontophoresis and phonophoresis.

- Establishes that an occupational therapist may administer a topical medication by the use of a physical agent modality only if the practitioner is approved by the Board to use physical agent modalities, to clarify any potential practice issue.
- Clarifies that under no circumstance can an occupational therapist to administer a medication via injection, to clarify any potential practice issues.
- Provides renumbering of subsections for continuity;

Proposed amendment to Subsection 4153(b)(2) will replace the term “certified” with “approval” for consistency within this section.

Proposed amendment to Section 4154(b) will:

- expand the facilities where supervised on-the-job training may be obtained, rather than limit training to currently specified facilities;
- expand opportunities for advanced practice applicants to acquire supervised on-the-job training.
- add subsection 4154(b)(3) to further define post-professional supervised training to prohibit specified relationships that would interfere with the professional judgment and objectivity necessary for effective supervision;
- require that a written supervision agreement be signed and dated by both parties prior to accruing the supervised experience;
- clarify that a course syllabus and instructor’s credential are only required for courses that are not pre-approved by the Board.

Proposed amendments to Section 4155 will:

- add language to subsection (a) to require the use of specified Advanced Practice Application Forms;
- clarify in subsection 4155(b)(1) the type of acceptable documentation to prove the attendance and completion of post-professional education courses;
- add Section 4155(b)(3) to specify the documentation for courses that are not Board approved;
- delete subsection 4155(b)(5) requiring the submission “Statements of Learning” as not necessary; this requirement does not demonstrate the applicant’s competence;
- re-number existing subsection 4155(b)(4) to 4155(b)(5) for continuity;

#### UNDERLYING DATA:

The applications for Advanced Practice Approval, specifically: the Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev. 10/09); the Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev. 10/09); the Application for Advanced Practice Approval in Swallowing (Form APS, Rev. 10/09).

**BUSINESS IMPACT:**

This regulation will not have a significant adverse economic impact on business.

**SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment.

**CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.



**BOARD OF OCCUPATIONAL THERAPY**  
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**APPLICATION FOR ADVANCED PRACTICE APPROVAL –  
 HAND THERAPY**

**(Please read the *Information and Instruction Sheet* before completing the application. Print clearly or type all information.)**

**Section I: Personal Data (Please Complete All Boxes)**

A. Last Name		B. First Name		C. Middle Name
D. Residence Address (Street No., Apt No.)		City	State	Zip Code
E. OT License No.	F. Home Telephone No. ( )	G. Business Telephone No. ( )	H. E-Mail Address	
I. Current Employer		J. Supervisor First Name	K. Supervisor Last Name	

**Section II: Affidavit**

I hereby declare that I am the person named in this application and that I have read the complete application and know the contents thereof. **I declare, under penalty of perjury of the laws of the State of California, that all of the information contained herein and evidence or other credentials submitted herewith are true and correct.** I understand that falsification or misrepresentation of any item or response on this application or any attachment hereto, is sufficient grounds for denial, suspension or revocation of a license to practice as an occupational therapist in the State of California.

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Date

Information Collection and Access – The Board’s executive officer is the person responsible for information maintenance. Business and Professions Code section 2570.18 gives the Board authority to maintain information. All information is mandatory. Failure to provide any mandatory information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for advanced practice approval. Each individual has the right to review his or her file maintained by the agency subject to the provisions of the California Public Records Act.

**Approval in an advanced practice area demonstrates entry-level competency in the area approved. Approval does not represent expertise in this area and should not be misrepresented as such. Pursuant to Title 16, California Code of Regulations, Section 4170(f)(1) of the Ethical Standards of Practice, occupational therapists are required to accurately represent their credentials, qualifications, education, experience, training, and competency. Further, Section 4170(d) states that occupational therapists shall perform services only when they are qualified by education, training, and experience to do so.**





**Section IV: Post-Professional Education (Copy this form and use a separate form for each course.)**

Name of Course: \_\_\_\_\_

Number of Contact Hours: \_\_\_\_\_

Name of Course Provider: \_\_\_\_\_

Date Completed: \_\_\_\_\_

***Course(s) must have been completed within the past five (5) years.  
(Courses older than 5 years will not be counted toward the educational requirement)***

**Required content areas – Please indicate the areas covered by the above-named course:**

- Anatomy of the upper extremity and how it is altered by pathology.
- Histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue.
- Muscle, sensory, vascular, and connective tissue physiology.
- Kinesiology of the upper extremity, such as biomechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces.
- The effects of temperature and electrical currents on nerve and connective tissue.
- Surgical procedures of the upper extremity and their postoperative course.

**A Copy of Certificate of Completion must be attached for each course.**

**Section V: Post-Professional Training (Copy this form and use a separate form for each training and/or affiliation.)**

**NOTE TO SUPERVISOR:** You are being asked to provide information for an OT seeking approval to provide hand therapy. Please complete this form and return it to the OT so that it can be included in his/her application packet.

This training represents \_\_\_\_\_ hours of experience in **Hand Therapy** acquired between \_\_\_\_\_ (month/day/year) and \_\_\_\_\_ (month/day/year).

Supervisor's Name: \_\_\_\_\_  
First Last

License Type/Number: \_\_\_\_\_ Supervisor's Phone #: \_\_\_\_\_  
e.g., OT, PT, MD

Name and Address of Facility  
Where Training Occurred: \_\_\_\_\_  
\_\_\_\_\_

Is \_\_\_\_\_ **competent in providing hand therapy?**  
OT applicant's name

- YES, competence has been demonstrated in the area of hand therapy.
- NO, competence has not been demonstrated in the area of hand therapy.

Please identify the knowledge, skills and abilities demonstrated by the OT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*By signing below, YOU certify that you were the clinical supervisor for training hours noted above and that the timeframes and hours listed are true and correct.*

Supervisor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Note to Supervisor:**

- **Until the Board approves this applicant, you have continuing supervisory responsibility even if the "training" period has ended, IF the OT is providing hand therapy and you are both employed at the location named above.**



**APPLICATION FOR ADVANCED PRACTICE APPROVAL –  
 PHYSICAL AGENT MODALITIES**

**(Please read the *Information and Instruction Sheet* before completing the application.  
 Print clearly or type all information.)**

**Section I: Personal Data (Please Complete All Boxes)**

A. Last Name		B. First Name		C. Middle Name
D. Residence Address (Street No., Apt No.)		City	State	Zip Code
E. OT License No.	F. Home Telephone No. ( )	G. Business Telephone No. ( )	H. E-Mail Address	
I. Current Employer		J. Supervisor First Name	K. Supervisor Last Name	

**Section II: Affidavit**

I hereby declare that I am the person named in this application and that I have read the complete application and know the contents thereof. **I declare, under penalty of perjury of the laws of the State of California, that all of the information contained herein and evidence or other credentials submitted herewith are true and correct.** I understand that falsification or misrepresentation of any item or response on this application or any attachment hereto, is sufficient grounds for denial, suspension or revocation of a license to practice as an occupational therapist in the State of California.

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Date

Information Collection and Access – The Board's executive officer is the person responsible for information maintenance. Business and Professions Code section 2570.18 gives the Board authority to maintain information. All information is mandatory. Failure to provide any mandatory information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for advanced practice approval. Each individual has the right to review his or her file maintained by the agency subject to the provisions of the California Public Records Act.

**Approval in an advanced practice area demonstrates entry-level competency in the area approved. Approval does not represent expertise in this area and should not be misrepresented as such. Pursuant to Title 16, California Code of Regulations, Section 4170(f)(1) of the Ethical Standards of Practice, occupational therapists are required to accurately represent their credentials, qualifications, education, experience, training, and competency. Further, Section 4170(d) states that occupational therapists shall perform services only when they are qualified by education, training, and experience to do so.**

**Section III: POST PROFESSIONAL EDUCATION AND TRAINING SUMMARY SHEET –  
PHYSICAL AGENT MODALITIES:**

PHYSICAL AGENT MODALITIES EDUCATION (Minimum of 30 Contact Hours Required\*):

# of Hours:    Course Title:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ Total Contact Hours

PHYSICAL AGENT MODALITIES TRAINING (Minimum of 240 Supervised Hours Required\*):

# of Hours:    Name of Facility:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ Total Supervised Hours

\* Eight (8) hours of education and sixty (60) hours of supervised on the job training in physical agent modalities can be applied towards meeting the education and training requirements for hand therapy. No other courses or hours can count for advanced practice approval in both hand therapy and physical agent modalities.

**Section IV: Post-Professional Education (Copy this form and use a separate form for each course submitted.)**

Name of Course: \_\_\_\_\_

Number of Contact Hours: \_\_\_\_\_

Name of Course Provider: \_\_\_\_\_

Date Completed: \_\_\_\_\_

***Course(s) must have been completed within the past five (5) years.  
(Courses older than 5 years will not be counted toward the educational requirement)***

**Required content areas – Please indicate the areas covered by the above-named course:**

- Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
- Principles of chemistry and physics related to the selected modality.
- Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
- Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.
- Safety rules and precautions related to the selected modality.
- Methods for documenting immediate and long-term effects of treatment.
- Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.

**A Copy of Certificate of Completion must be attached for each course.**

**Section V: Post-Professional Training (Copy this form and use a separate form for each training and/or affiliation.)**

**NOTE TO SUPERVISOR:** You are being asked to provide information for an OT seeking approval to provide Physical Agent Modalities. Please complete this form and return it to the OT so that it can be included in his/her application packet.

This training represents \_\_\_\_\_ hours of experience in **Physical Agent Modalities** acquired between \_\_\_\_\_ (month/day/year) and \_\_\_\_\_ (month/day/year).

Supervisor's Name: \_\_\_\_\_  
First Last

License Type/Number: \_\_\_\_\_ Supervisor's Phone #: \_\_\_\_\_  
e.g., OT, PT, MD

Name and Address of Facility  
Where Training Occurred: \_\_\_\_\_  
\_\_\_\_\_

Is \_\_\_\_\_ **competent in the use of Physical Agent Modalities?**  
OT applicant's name

- YES, competence has been demonstrated in the use of PAMs.
- NO, the OT has not demonstrated competence in the use of PAMs.

Please identify the knowledge, skills and abilities demonstrated by the OT:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*By signing below, YOU certify that you were the clinical supervisor for training hours noted above and that the timeframes and hours listed are true and correct.*

Supervisor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Note to Supervisor:**

➤ **Until the Board approves this applicant, you have continuing supervisory responsibility even if the "training" period has ended, IF the OT is providing physical agent modalities and you are both employed at the location named above.**



**APPLICATION FOR ADVANCED PRACTICE APPROVAL –  
 SWALLOWING ASSESSMENT, EVALUATION, OR INTERVENTION.**

**(Please read the *Information and Instruction Sheet* before completing the application.  
 Print clearly or type all information.)**

**Section I: Personal Data (Please Complete All Boxes)**

A. Last Name		B. First Name		C. Middle Name
D. Residence Address (Street No., Apt No.)		City	State	Zip Code
E. OT License No.	F. Home Telephone No. ( )	G. Business Telephone No. ( )	H. E-Mail Address	
I. Current Employer		J. Supervisor First Name	K. Supervisor Last Name	

**Section II: Affidavit**

I hereby declare that I am the person named in this application and that I have read the complete application and know the contents thereof. **I declare, under penalty of perjury of the laws of the State of California, that all of the information contained herein and evidence or other credentials submitted herewith are true and correct.** I understand that falsification or misrepresentation of any item or response on this application or any attachment hereto, is sufficient grounds for denial, suspension or revocation of a license to practice as an occupational therapist in the State of California.

\_\_\_\_\_

Signature of Applicant Date

Information Collection and Access – The Board’s executive officer is the person responsible for information maintenance. Business and Professions Code section 2570.18 gives the Board authority to maintain information. All information is mandatory. Failure to provide any mandatory information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for advanced practice approval. Each individual has the right to review his or her file maintained by the agency subject to the provisions of the California Public Records Act.

**Approval in an advanced practice area demonstrates entry-level competency in the area approved. Approval does not represent expertise in this area and should not be misrepresented as such. Pursuant to Title 16, California Code of Regulations, Section 4170(f)(1) of the Ethical Standards of Practice, occupational therapists are required to accurately represent their credentials, qualifications, education, experience, training, and competency. Further, Section 4170(d) states that occupational therapists shall perform services only when they are qualified by education, training, and experience to do so.**





**Section IV: Post-Professional Education (Copy this form and use a separate form for each course.)**

Name of Course: \_\_\_\_\_

Number of Contact Hours: \_\_\_\_\_

Name of Course Provider: \_\_\_\_\_

Date Completed: \_\_\_\_\_

***Course(s) must have been completed within the past five (5) years.***

*(Courses older than 5 years will not be counted toward the educational requirement)*

**Required content areas – Please indicate the areas covered by the above-named course:**

- Anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodigestive tract.
- The effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems.
- Interventions used to improve pharyngeal swallowing function.

A Copy of Certificate of Completion must be attached for each course.

**Section V: Post-Professional Training (Copy this form and use a separate form for each training and/or affiliation.)**

**NOTE TO SUPERVISOR:** You are being asked to provide information for an OT seeking approval to provide swallowing assessment, evaluation or intervention. Please complete this form and return it to the OT so that it can be included in his/her application packet.

This training represents \_\_\_\_\_ hours of experience in **swallowing assessment, evaluation or intervention** acquired between \_\_\_\_\_ (month/day/year) and \_\_\_\_\_ (month/day/year).

Supervisor's Name: \_\_\_\_\_  
First Last

License Type/Number: \_\_\_\_\_ Supervisor's Phone #: \_\_\_\_\_  
e.g., OT, SLP, MD

Name and Address of Facility  
Where Training Occurred: \_\_\_\_\_  
\_\_\_\_\_

Is \_\_\_\_\_ **competent in providing swallowing assessment, evaluation, or intervention?**  
OT applicant's name

- YES, competence has been demonstrated swallowing assessment, evaluation or intervention.
- NO, the OT has not demonstrated competence in swallowing assessment, evaluation or intervention.

Please identify the knowledge, skills and abilities demonstrated by the OT:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*By signing below, YOU certify that you were the clinical supervisor for training hours noted above and that the timeframes and hours listed are true and correct.*

Supervisor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Note to Supervisor:**

- Until the Board approves this applicant, you have continuing supervisory responsibility *even if the "training" period has ended*, IF the OT is providing swallowing assessment, evaluation or intervention, and you are both employed at the location named above.

Date: December 29, 2009

To: Jim Schenk  
California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2050  
Sacramento, CA 95815

**Exhibit 1**

Re: Proposed Rulemaking section 4150

- 1) typo last line page 4 change the to that
- 2) Question regarding business relationship 4154. 5 B 3.

Does this imply that as a supervisor or manager you may not supervise an applicant because you have an interest in the completion of the advanced practice to provide that service with fewer restrictions in your organization? If so I would not support this regulation. Also staff who are approved by the board at a facility, and are then requested to supervised applicants may interpret this as a conflict.

Thanks you for your time.

In addition I think the new forms should better facilitate documentation of learning.

Good work,

Luella Grangaard, MS, OTR, CHT  
PO Box 832  
Morongo Valley, CA  
92256

10/29/09 - Licensure Board - if worded this way,  
it may preclude me from giving (eg) insulin  
injections to a family member or pet. Margaret Phillips,  
MS, OTR/L, CHT  
218 EL Camino  
South Valley  
CA  
98066

- Establishes that an occupational therapist may administer a topical medication by the use of a physical agent modality only if the practitioner is approved by the Board to use physical agent modalities, to clarify any potential practice issue.
- Clarifies that under no circumstance can an occupational therapist to administer a medication via injection, to clarify any potential practice issues.
- Provides renumbering of subsections for continuity;

## Exhibit 2

Proposed amendment to Subsection 4153(b)(2) will replace the term "certified" with "approval" for consistency within this section.

Proposed amendment to Section 4154(b) will:

- expand the facilities where supervised on-the-job training may be obtained, rather than limit training to currently specified facilities;
- expand opportunities for advanced practice applicants to acquire supervised on-the-job training.
- add subsection 4154(b)(3) to further define post-professional supervised training to prohibit specified relationships that would interfere with the professional judgment and objectivity necessary for effective supervision;
- require that a written supervision agreement be signed and dated by both parties prior to accruing the supervised experience;
- clarify that a course syllabus and instructor's credential are only required for courses that are not pre-approved by the Board.

Proposed amendments to Section 4155 will:

- add language to subsection (a) to require the use of specified Advanced Practice Application Forms;
- clarify in subsection 4155(b)(1) the type of acceptable documentation to prove the attendance and completion of post-professional education courses;
- add Section 4155(b)(3) to specify the documentation for courses that are not Board approved;
- delete subsection 4155(b)(5) requiring the submission "Statements of Learning" as not necessary; this requirement does not demonstrate the applicant's competence;
- re-number existing subsection 4155(b)(4) to 4155(b)(5) for continuity;

UNDERLYING DATA:

The applications for Advanced Practice Approval, specifically: the Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev. 10/09); the Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev. 10/09); the Application for Advanced Practice Approval in Swallowing (Form APS, Rev. 10/09).

09 DEC 30 PM 3:46

RECEIVED



## Exhibit 3

January 20, 2010

California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2050  
Sacramento, California 95815

Dear California Board of Occupational Therapy,

Thank you for the opportunity to provide written comments regarding the proposed advanced practice regulation changes. The Occupational Therapy Association of California (OTAC) supports the changes in language with the exception of one item related to advanced practice supervision on page 4 of the proposed text, which currently reads:

- (3) The supervisor does not have a co-habitative, familial, intimate, **business** or other relationship that could interfere with professional judgment and objectivity necessary for effective supervision, or the violates the Ethical Standards of Practice.

In a small occupational therapy private practice or in a facility where there are a limited number of occupational therapy practitioners that have advanced practice approval, we are concerned that the issue of a "business" relationship could be misinterpreted and could limit the availability of qualified persons with advanced practice approval to provide the necessary supervision for those seeking advanced practice approval.

OTAC further believes that "co-habilitative, familial, intimate, or other relationship that could interfere with professional judgment and objectivity" sufficiently covers the range of potential challenges with professional objectivity and that the word "business" could be struck from the proposed regulatory language without negatively affecting the intent of the proposed regulations.

Thank you for providing the Occupational Therapy Association of California with the opportunity to provide written comments on the proposed advanced practice regulations. Feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Shawn Phipps'. The signature is written in a cursive, flowing style.

Shawn Phipps, MS, OTR/L  
President  
Occupational Therapy Association of California  
[pres@otaonline.org](mailto:pres@otaonline.org)

FILE IN REG. FOLDER 4150, 51, 52.5, 53, 54+5  
PUBLIC COMMENT REC'D 10/15/09



"Bolding, Deborah J"  
<DBolding@stanfordmed.org  
>

10/15/2009 05:39 PM

To James\_schenk@dca.ca.gov

cc

bcc

Subject FW: CA Board of OT changes

Hi, Jim,

Thanks for answering my questions this afternoon. Here is a copy of my comments.

Debby Bolding, MS, OTR/L  
Manager of Professional Development  
Rehabilitation and Respiratory Care Services  
650-498-7812  
[dbolding@stanfordmed.org](mailto:dbolding@stanfordmed.org)  
[www.rehabstudents.stanfordhospital.com](http://www.rehabstudents.stanfordhospital.com)

Jim Schenk  
California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2050  
Sacramento, CA 95815  
(916) 263-2294  
(916) 263-2701 (FAX)  
[cbot@dca.ca.gov](mailto:cbot@dca.ca.gov)

Dear Mr. Schenk:

I have a question regarding the changes to the following section of the CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

Title 16, Division 39, California Code of Regulations, Section 4154. The section states:

"(3) The supervisor does not have a co-habitative, familial, intimate, business or other relationship that could interfere with professional judgment and objectivity necessary for effective supervision, or the violates the Ethical Standards of Practice."

I'm assuming that a normal supervisory relationship, where more experienced therapists supervise a colleague or subordinate who work with them, would not be affected by this provision, but it wasn't completely clear whether or not a "business relationship" where one person is an employee would be excluded by this provision. Since many people get "on the job training", I think this should be clear in the regulations.

I have strong reservations about the following suggested change to § 4152.1. Use of Topical Medications:

(2) An occupational therapist may administer a topical medication by the use of a physical agent modality, only if the occupational therapist is approved by the Board in the advanced practice area of physical agent modalities.

This change appears to EXCLUDE therapists who are working on advanced skills in a supervisory relationship from obtaining practice hours in iontophoresis and phonophoresis. These are the very skills we want them to learn under supervision. This change would mean therapists working on an advanced certificate in modalities could practice ultrasound, biofeedback and e-stimulation under the supervision of a therapist, BUT not iontophoresis and phonophoresis. Yet as soon as the therapist obtains approval in

modalities, they would be able to use them WITHOUT supervision. This section needs to be reworded to permit therapists working to obtain approval in modalities to practice using topical medications under supervision.

I appreciate the opportunity for public comment about these changes.

Debby Bolding, MS, OTR/L  
Manager of Professional Development  
Rehabilitation and Respiratory Care Services  
650-498-7812  
[dbolding@stanfordmed.org](mailto:dbolding@stanfordmed.org)  
[www.rehabstudents.stanfordhospital.com](http://www.rehabstudents.stanfordhospital.com)

# REGULATION UPDATE REPORT

Rulemaking File Subject	Sec.	Status	Date to OAL for publishing	Close of public comment period	Date Pkg Sent to DCA	Date Pkg Rtn'd from DCA	Final Pkg Due to OAL	Actual Submit Date To OAL	Date language goes into effect
Definitions Substantial Relationship Criteria	4100	Published May 1, 2009. Second Modified Text to be adopted at December 2009 Board meeting.	04/21/09	06/15/09	unavailable	unavailable	04/30/10	01/22/10	
Renewal of License Certificate	4120	Published May 1, 2009, and adopted June 18, 2009.	04/21/09	06/15/09	unavailable	unavailable	04/30/10	1/11/10	03/26/10
Definitions	4180	Published May 1, 2009; adopted June 18, 2009.	04/21/09	06/15/09	01/21/10		04/30/10		
Minimum Standards for Infection Control	4175	Published July 24, 2009. Notice to Not Proceed filed August 25, 2009.	07/14/09	09/08/09	n/a	n/a	n/a	n/a	n/a
Minimum Standards for Infection Control	4175	Published September 4, 2009; adopted October 26, 2009.	08/25/09	10/19/09	1/21/10		09/03/10		
Advanced Practices	4150, et al	Draft language approved at October 2009 Board meeting. Hearing held February 11, 2010.	12/15/09	2/8/10					
Limited Permit and Representation	4123, 4125	Draft language approved at December 2009 Board meeting. Hearing held February 11, 2010.	12/15/09	2/8/10					
Issuance of Citations	4140, et al	Draft language to be presented for consideration at July 2010 Board meeting.							
Disciplinary Guidelines	4144	Draft language to be presented for consideration at July 2010 Board meeting.							
Ethical Standards of Practice	4170	Draft language to be presented for consideration at July 2010 Board meeting							



**CALIFORNIA REGULATORY NOTICE REGISTER  
PUBLICATION SCHEDULE  
2010**

<i>Date to OAL</i>	<i>Publication Date</i>	<i>Minimum 45-day comment period/public hearing deadline</i>
January 5, 2010	January 15, 2010	March 1, 2010
January 12, 2010	January 22, 2010	March 8, 2010
January 19, 2010	January 29, 2010	March 15, 2010
January 26, 2010	February 5, 2010	March 22, 2010
February 2, 2010	February 12, 2010	March 29, 2010
February 9, 2010	February 19, 2010	April 5, 2010
February 16, 2010	February 26, 2010	April 12, 2010
February 23, 2010	March 5, 2010	April 19, 2010
March 2, 2010	March 12, 2010	April 26, 2010
March 9, 2010	March 19, 2010	May 3, 2010
March 16, 2010	March 26, 2010	May 10, 2010
March 23, 2010	April 2, 2010	May 17, 2010
March 30, 2010	April 9, 2010	May 24, 2010
April 6, 2010	April 16, 2010	May 31, 2010
April 13, 2010	April 23, 2010	June 7, 2010
April 20, 2010	April 30, 2010	June 14, 2010
April 27, 2010	May 7, 2010	June 21, 2010
May 4, 2010	May 14, 2010	June 28, 2010
May 11, 2010	May 21, 2010	July 5, 2010
May 18, 2010	May 28, 2010	July 12, 2010
May 25, 2010	June 4, 2010	July 19, 2010
June 1, 2010	June 11, 2010	July 26, 2010
June 8, 2010	June 18, 2010	August 2, 2010
June 15, 2010	June 25, 2010	August 9, 2010
June 22, 2010	July 2, 2010	August 16, 2010
June 29, 2010	July 9, 2010	August 23, 2010
July 6, 2010	July 16, 2010	August 30, 2010
July 13, 2010	July 23, 2010	September 6, 2010
July 20, 2010	July 30, 2010	September 13, 2010
July 27, 2010	August 6, 2010	September 20, 2010
August 3, 2010	August 13, 2010	September 27, 2010
August 10, 2010	August 20, 2010	October 4, 2010
August 17, 2010	August 27, 2010	October 11, 2010
August 24, 2010	September 3, 2010	October 18, 2010
August 31, 2010	September 10, 2010	October 25, 2010
September 7, 2010	September 17, 2010	November 1, 2010
September 14, 2010	September 24, 2010	November 8, 2010

**ASSEMBLY BILL**

**No. 416**

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**Introduced by Assembly Member Block**

February 23, 2009

---

An act to add Section 4640.4 to the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 416, as introduced, Block. Developmental services: consumer abuse registry.

Existing law, the Lanterman Developmental Disabilities Services Act, grants persons with developmental disabilities the right to receive treatment and services to meet their needs, regardless of age or degree of handicap, at each stage of life. Existing law requires that the state pay for these services through contracts with various private nonprofit corporations for the operation of regional centers for the developmentally disabled, and requires regional centers to develop an individual program plan (IPP) for each consumer that sets forth the treatment and services to be provided for the consumer.

This bill would require a provider, as defined, to report a substantiated case of abuse of a consumer by a direct service worker to the appropriate investigating agencies, as defined. The bill would also require investigating agencies to report abuse of a consumer by a direct service worker to the State Department of Developmental Services. The bill would require the department to establish a registry of direct service workers or others against whom one or more substantiated reports of abuse of a consumer have been reported, and to make the registry available, pursuant to a release protocol established by the department in consultation with program stakeholders, to specified persons. The

bill would require providers to access the registry before hiring a direct service worker and would prohibit providers from hiring or contracting with a direct service worker who is included in the registry. The bill would also require the department to coordinate with the State Department of Public Health and the State Department of Social Services to share information about direct service workers, and would require the department to adopt regulations to implement the bill's provisions by July 1, 2010.

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 4640.4 is added to the Welfare and  
2 Institutions Code, to read:  
3 4640.4. (a) Every provider shall report any evidence of abuse  
4 of a consumer by a direct service worker to the appropriate  
5 investigating agencies.  
6 (b) Investigating agencies shall report substantiated cases of  
7 abuse of a consumer to the department.  
8 (c) The department shall establish a registry of direct service  
9 workers or other persons against whom one or more substantiated  
10 reports of abuse of a consumer have been reported. The registry  
11 shall not contain confidential consumer information. The  
12 department shall adopt a protocol that will provide procedures for  
13 all of the following:  
14 (1) The addition of a person to the registry based on a  
15 substantiated report submitted by an investigating agency.  
16 (2) The notification of, and the timely appeal by, a person added  
17 to the registry. The procedure shall include the addition of a person  
18 to a pending appeal category for no longer than a specified period  
19 of time.  
20 (3) The enabling of a person listed on the registry to petition  
21 for immediate removal from the registry.  
22 (4) Authorization for the following individuals or agencies to  
23 contact the department to determine whether an employee or  
24 contractor, or a prospective employee or contractor, is included in  
25 the registry:  
26 (A) Representatives of regional centers.

- 1 (B) Providers of services to persons with developmental  
2 disabilities.
- 3 (C) State and local law enforcement agencies.
- 4 (D) District attorneys.
- 5 (E) Representatives of county child protective services and adult  
6 protective services agencies.
- 7 (F) The office of the Attorney General.
- 8 (G) The state long-term care ombudsperson.
- 9 (H) Consumers seeking to hire direct service workers.
- 10 (I) The family of a person with developmental disabilities.
- 11 (J) Licensing agencies.
- 12 (K) The State Department of Social Services.
- 13 (L) The California Department of Aging.
- 14 (M) The State Department of Mental Health.
- 15 (5) Update the registry content on a regular basis.
- 16 (d) In developing the protocols required under subdivision (c),  
17 the department shall consult with program stakeholders, including,  
18 but not limited to, representatives from regional centers, providers  
19 of services to persons with developmental disabilities, state and  
20 local law enforcement agencies, district attorneys, representatives  
21 of county child protective services and adult protective services  
22 agencies, the office of the Attorney General, the state long-term  
23 care ombudsperson, the state's designated protection and advocacy  
24 agency described in subdivision (i) of Section 4900, other  
25 advocates for persons with disabilities, the REACH Coalition,  
26 consumers, families of persons with developmental disabilities,  
27 licensing agencies, the State Department of Developmental  
28 Services, the State Department of Social Services, the California  
29 Department of Aging, the State Department of Mental Health, and  
30 civil rights organizations.
- 31 (e) Notwithstanding any provision of law to the contrary, neither  
32 the department nor any person or entity who relies on the registry,  
33 shall incur any liability for their participation in developing the  
34 registry or for using or relying on information contained in the  
35 registry.
- 36 (f) Before a provider hires or contracts with a direct service  
37 worker, the provider shall access the registry to determine whether  
38 the direct service worker is included in the registry. A provider  
39 shall not hire or contract for services with a person included in the

1 registry. This subdivision shall not apply to consumers and families  
2 hiring caregivers.

3 (g) The department shall adopt regulations to implement this  
4 section by July 1, 2010. These regulations shall include penalties  
5 for the hiring by providers of persons on the registry in violation  
6 of the prohibition contained in subdivision (f).

7 (h) The department shall coordinate with the State Department  
8 of Public Health and the State Department of Social Services to  
9 share information about direct service workers, or other persons  
10 providing services to consumers, against whom one or more reports  
11 of abuse of a consumer have been substantiated for inclusion in  
12 the registry in accordance with the protocols developed pursuant  
13 to subdivision (c).

14 (i) This section shall not be interpreted to alter or amend any  
15 existing child, elder, or dependent adult abuse or neglect reporting  
16 requirement, including, but not limited to, Section 1418.91 of the  
17 Health and Safety Code, Article 2.5 (commencing with Section  
18 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or  
19 Article 3 (commencing with Section 15630) of Chapter 11 of Part  
20 3 of Division 9.

21 (j) For the purposes of this section, the following definitions  
22 shall apply:

23 (1) "Abuse" means an act or failure to act that would constitute  
24 abuse as defined by Section 15610.07 or Sections 11165.2 and  
25 11165.6 of the Penal Code.

26 (2) "Direct service worker" means a person who provides direct  
27 care for a person with a developmental disability.

28 (3) "Investigating agency" means any agency with a statutory  
29 responsibility to report incidents of abuse or neglect, including,  
30 but not limited to, adult protective services, child protective  
31 services, community care licensing, the State Department of Health  
32 Care Services, the State Department of Public Health, and the State  
33 Department of Developmental Services.

34 (4) "Provider" means both licensed and unlicensed individuals  
35 or agencies that provide residential or nonresidential services to  
36 people with developmental disabilities, including, but not limited  
37 to, all of the following:

38 (A) Day program services, including activity centers, adult  
39 developmental centers, adult day care, behavior management

- 1 services, camping services, independent living services, infant  
2 development services, and social recreation services.
- 3 (B) Transportation services.
- 4 (C) Work activity and supported employment services.
- 5 (D) Counseling and therapy services.
- 6 (E) Medical and dental services.
- 7 (F) Case management services and professional conservatorship  
8 and guardianship services.
- 9 (G) Attendant or personal assistance services.
- 10 (H) Residential services, including community care facilities,  
11 long-term care facilities, developmental centers, and supported  
12 living services.
- 13 (5) "Substantiated report" means a report of abuse, as defined  
14 in paragraph (1), that is provided by an investigating agency where  
15 that agency has determined that it is more likely than not that abuse  
16 occurred.

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Introduced by Senator Walters

February 9, 2010

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An act to amend Section 2570.19 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 999, as introduced, Walters. Occupational therapy.

Existing law provides for the licensure and regulation of occupational therapists by the California Board of Occupational Therapy, which consists of seven members, including 3 public members. Existing law prohibits the public members from being licensees of the board, the State Board of Chiropractic Examiners, or the Osteopathic Medical Board of California.

This bill would also prohibit the public members from being licensees of any other healing arts board and would delete certain obsolete language.

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

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

- 1 SECTION 1. Section 2570.19 of the Business and Professions
- 2 Code is amended to read:
- 3 2570.19. (a) There is hereby created a California Board of
- 4 Occupational Therapy, hereafter referred to as the board. The board
- 5 shall enforce and administer this chapter.
- 6 (b) The members of the board shall consist of the following:
- 7 (1) Three occupational therapists who shall have practiced
- 8 occupational therapy for five years.

1 (2) One occupational therapy assistant who shall have assisted  
2 in the practice of occupational therapy for five years.

3 (3) Three public members who shall not be licentiates of the  
4 board, *of any other board under this division*, or of any board  
5 referred to in Section 1000 or 3600.

6 (c) The Governor shall appoint the three occupational therapists  
7 and one occupational therapy assistant to be members of the board.  
8 The Governor, the Senate ~~Rules Committee~~ *Committee on Rules*,  
9 and the Speaker of the Assembly shall each appoint a public  
10 member. Not more than one member of the board shall be  
11 appointed from the full-time faculty of any university, college, or  
12 other educational institution.

13 (d) All members shall be residents of California at the time of  
14 their appointment. The occupational therapist and occupational  
15 therapy assistant members shall have been engaged in rendering  
16 occupational therapy services to the public, teaching, or research  
17 in occupational therapy for at least five years preceding their  
18 appointments.

19 (e) The public members may not be or have ever been  
20 occupational therapists or occupational therapy assistants or in  
21 training to become occupational therapists or occupational therapy  
22 assistants. The public members may not be related to, or have a  
23 household member who is, an occupational therapist or an  
24 occupational therapy assistant, and may not have had, within two  
25 years of the appointment, a substantial financial interest in a person  
26 regulated by the board.

27 (f) The Governor shall appoint two board members for a term  
28 of one year, two board members for a term of two years, and one  
29 board member for a term of three years. Appointments made  
30 thereafter shall be for four-year terms, but no person shall be  
31 appointed to serve more than two consecutive terms. Terms shall  
32 begin on the first day of the calendar year and end on the last day  
33 of the calendar year or until successors are appointed, except for  
34 the first appointed members who shall serve through the last  
35 calendar day of the year in which they are appointed, before  
36 commencing the terms prescribed by this section. Vacancies shall  
37 be filled by appointment for the unexpired term. The board shall  
38 annually elect one of its members as president.

39 (g) The board shall meet and hold at least one regular meeting  
40 annually in the Cities of Sacramento, Los Angeles, and San



1 Francisco. The board may convene from time to time until its  
2 business is concluded. Special meetings of the board may be held  
3 at any time and place designated by the board.

4 (h) Notice of each meeting of the board shall be given in  
5 accordance with the Bagley-Keene Open Meeting Act (Article 9  
6 (commencing with Section 11120) of Chapter 1 of Part 1 of  
7 Division 3 of Title 2 of the Government Code).

8 (i) Members of the board shall receive no compensation for  
9 their services, but shall be entitled to reasonable travel and other  
10 expenses incurred in the execution of their powers and duties in  
11 accordance with Section 103.

12 (j) The appointing power shall have the power to remove any  
13 member of the board from office for neglect of any duty imposed  
14 by state law, for incompetency, or for unprofessional or  
15 dishonorable conduct.

16 ~~(k) A loan is hereby authorized from the General Fund to the  
17 Occupational Therapy Fund on or after July 1, 2000, in an amount  
18 of up to one million dollars (\$1,000,000) to fund operating,  
19 personnel, and other startup costs of the board. Six hundred ten  
20 thousand dollars (\$610,000) of this loan amount is hereby  
21 appropriated to the board to use in the 2000-01 fiscal year for the  
22 purposes described in this subdivision. In subsequent years, funds  
23 from the Occupational Therapy Fund shall be available to the board  
24 upon appropriation by the Legislature in the annual Budget Act.  
25 The loan shall be repaid to the General Fund over a period of up  
26 to five years, and the amount paid shall also include interest at the  
27 rate accruing to moneys in the Pooled Money Investment Account.  
28 The loan amount and repayment period shall be minimized to the  
29 extent possible based upon actual board financing requirements  
30 as determined by the Department of Finance.~~

31 ~~(†)~~

32 (k) This section shall become inoperative on July 1, 2013, and,  
33 as of January 1, 2014, is repealed, unless a later enacted statute  
34 that is enacted before January 1, 2014, deletes or extends the dates  
35 on which it becomes inoperative and is repealed. The repeal of  
36 this section renders the board subject to the review required by  
37 Division 1.2 (commencing with Section 473).

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**Introduced by Senator Negrete McLeod**February 17, 2010

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

## LEGISLATIVE COUNSEL'S DIGEST

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

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

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

This bill would additionally require specified healing arts boards to disclose on the Internet information on their respective licensees, as

specified. The bill would also declare the intent of the Legislature that the department establish an information technology system to create and update healing arts license information and track enforcement cases pertaining to these licensees.

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

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

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

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

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

This bill would authorize healing arts boards to proceed pursuant to an alternative adjudication process, as specified.

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging

a felony against the licensee or he or she has been convicted of a felony or misdemeanor.

This bill would expand that requirement to a licensee of any healing arts board, as specified, would require those licensees to submit a written report, and would further require a report upon the arrest of the licensee or when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state.

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

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

(2) Under existing law, healing arts licensees are regulated by various healing arts boards and these boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their laws and regulations. Existing law requires or authorizes a healing arts board to appoint an executive officer or an executive director to, among other things, perform duties delegated by the board.

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

Upon receipt of evidence that a licensee of a healing arts board has engaged in conduct that poses an imminent risk of harm to the public

health, safety, or welfare, or has failed to comply with a request to inspect or copy records, the bill would authorize the executive officer of the healing arts board to petition the director or his or her designee to issue a temporary order that the licensee cease all practice and activities under his or her license. The bill would require the executive officer to provide notice to the licensee of the hearing at least one hour prior to the hearing and would provide a mechanism for the presentation of evidence and oral or written arguments. The bill would allow for the permanent revocation of the license if the director makes a determination that the action is necessary to protect the public health, safety, or welfare.

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

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

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

The bill would authorize the Attorney General and his or her investigative agents and the healing arts boards to inquire into any alleged violation of the laws under the board's jurisdiction and to inspect

documents subject to specified procedures. The bill would also set forth procedures related to the inspection of patient records and patient confidentiality. The bill would require cooperation between state agencies and healing arts boards when investigating a licensee, and would require a state agency to provide to the board all records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide records to a healing arts board upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

The bill would require the healing arts boards to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of consumer calls received by the board, the total number of complaint forms received by the board, the total number of convictions reported to the board, and the total number of licensees in diversion or on probation for alcohol or drug abuse. The bill would require the healing arts boards to search specified national databases prior to licensure of an applicant or licensee who holds a license in another state, and would authorize a healing arts board to charge a fee for the cost of conducting the search.

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

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

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

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

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

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

This bill would authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Medical Board of California or provided by the Department of Justice. The bill would also provide within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.

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

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

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



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

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

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

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

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

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

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Consumer Health Protection Enforcement Act.
- 3 SEC. 2. (a) The Legislature finds and declares the following:
- 4 (1) In recent years, it has been reported that many of the healing
- 5 arts boards within the Department of Consumer Affairs take, on
- 6 average, more than three years to investigate and prosecute
- 7 violations of law, a timeframe that does not adequately protect
- 8 consumers.
- 9 (2) The excessive amount of time that it takes healing arts boards
- 10 to investigate and prosecute licensed professionals who have

1 violated the law has been caused, in part, by legal and procedural  
2 impediments to the enforcement programs.

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

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

13 (c) It is further the intent of the Legislature that the changes  
14 made by this act will provide the healing arts boards within the  
15 Department of Consumer Affairs with the regulatory tools and  
16 authorities necessary to reduce the average timeframe for  
17 investigating and prosecuting violations of law by healing arts  
18 practitioners to between 12 and 18 months.

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

21 27. (a) ~~Each~~ Every entity specified in subdivision (b) shall  
22 provide on the Internet information regarding the status of every  
23 license issued by that entity in accordance with the California  
24 Public Records Act (Chapter 3.5 (commencing with Section 6250)  
25 of Division 7 of Title 1 of the Government Code) and the  
26 Information Practices Act of 1977 (Chapter 1 (commencing with  
27 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).  
28 The public information to be provided on the Internet shall include  
29 information on suspensions and revocations of licenses issued by  
30 the entity and other related enforcement action taken by the entity  
31 relative to persons, businesses, or facilities subject to licensure or  
32 regulation by the entity. In providing information on the Internet,  
33 each entity shall comply with the Department of Consumer Affairs  
34 Guidelines for Access to Public Records. The information may  
35 not include personal information, including home telephone  
36 number, date of birth, or social security number. Each entity shall  
37 disclose a licensee's address of record. However, each entity shall  
38 allow a licensee to provide a post office box number or other  
39 alternate address, instead of his or her home address, as the address  
40 of record. This section shall not preclude an entity from also

1 requiring a licensee, who has provided a post office box number  
2 or other alternative mailing address as his or her address of record,  
3 to provide a physical business address or residence address only  
4 for the entity's internal administrative use and not for disclosure  
5 as the licensee's address of record or disclosure on the Internet.

6 (b) Each of the following entities within the Department of  
7 Consumer Affairs shall comply with the requirements of this  
8 section:

9 (1) The Acupuncture Board shall disclose information on its  
10 licensees.

11 (2) The Board of Behavioral Sciences shall disclose information  
12 on its licensees, including marriage and family therapists, licensed  
13 clinical social workers, and licensed educational psychologists.

14 (3) The Dental Board of California shall disclose information  
15 on its licensees.

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

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

22 (6) The Structural Pest Control Board shall disclose information  
23 on its licensees, including applicators, field representatives, and  
24 operators in the areas of fumigation, general pest and wood  
25 destroying pests and organisms, and wood roof cleaning and  
26 treatment.

27 (7) The Bureau of Automotive Repair shall disclose information  
28 on its licensees, including auto repair dealers, smog stations, lamp  
29 and brake stations, smog check technicians, and smog inspection  
30 certification stations.

31 (8) The Bureau of Electronic and Appliance Repair shall disclose  
32 information on its licensees, including major appliance repair  
33 dealers, combination dealers (electronic and appliance), electronic  
34 repair dealers, service contract sellers, and service contract  
35 administrators.

36 (9) The Cemetery and Funeral Bureau shall disclose information  
37 on its licensees, including cemetery brokers, cemetery salespersons,  
38 cemetery managers, crematory managers, cemetery authorities,  
39 crematories, cremated remains disposers, embalmers, funeral  
40 establishments, and funeral directors.

1 (10) The Professional Fiduciaries Bureau shall disclose  
2 information on its licensees.

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

9 (12) The Board of Psychology shall disclose information on its  
10 licensees, including psychologists, psychological assistants, and  
11 registered psychologists.

12 (13) The Bureau for Private Postsecondary Education shall  
13 disclose information on private postsecondary institutions under  
14 its jurisdiction, including disclosure of notices to comply issued  
15 pursuant to Section 94935 of the Education Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (b) The director shall report to the Chairpersons of the Senate  
17 Business and Professions Committee and the Assembly Health  
18 Committee annually, ~~commencing March 1, 1995,~~ regarding his  
19 or her findings from any audit, review, or monitoring and  
20 evaluation conducted pursuant to this section.

21 SEC. 5. Section 125.3 of the Business and Professions Code,  
22 as amended by Section 2 of Chapter 223 of the Statutes of 2006,  
23 is amended to read:

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

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

1 *administrative law judge with a good faith estimate of the probation*  
2 *monitoring costs at the time of the request.*

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

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

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

23 (e) If an order for recovery of costs is made ~~and~~, *payment is due*  
24 *and payable 30 days after the effective date of the order. If timely*  
25 *payment is not made as directed in the board's decision, the board*  
26 *may enforce the order for repayment in any appropriate court. This*  
27 *right of enforcement shall be in addition to any other rights the*  
28 *board may have as to any licentiate to pay costs.*

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

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

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

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

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

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

12 (k) Notwithstanding the provisions of this section, the Medical  
13 Board of California shall not request nor obtain from a physician  
14 and surgeon, investigation and prosecution costs for a disciplinary  
15 proceeding against the licentiate. The board shall ensure that this  
16 subdivision is revenue neutral with regard to it and that any loss  
17 of revenue or increase in costs resulting from this subdivision is  
18 offset by an increase in the amount of the initial license fee and  
19 the biennial renewal fee, as provided in subdivision (e) of Section  
20 2435.

21 *(l) For purposes of this chapter, costs of prosecution shall*  
22 *include, but not be limited to, costs of attorneys, expert consultants,*  
23 *witnesses, any administrative filing and service fees, and any other*  
24 *cost associated with the prosecution of the case.*

25 SEC. 6. Section 125.3 of the Business and Professions Code,  
26 as added by Section 1 of Chapter 1059 of the Statutes of 1992, is  
27 repealed.

28 ~~125.3. (a) Except as otherwise provided by law, in any order~~  
29 ~~issued in resolution of a disciplinary proceeding before any board~~  
30 ~~within the department or before the Osteopathic Medical Board,~~  
31 ~~upon request of the entity bringing the proceeding may request the~~  
32 ~~administrative law judge to direct a licentiate found to have~~  
33 ~~committed a violation or violations of the licensing act to pay a~~  
34 ~~sum not to exceed the reasonable costs of the investigation and~~  
35 ~~enforcement of the case.~~

36 ~~(b) In the case of a disciplined licentiate that is a corporation or~~  
37 ~~a partnership, the order may be made against the licensed corporate~~  
38 ~~entity or licensed partnership.~~

39 ~~(c) A certified copy of the actual costs, or a good faith estimate~~  
40 ~~of costs where actual costs are not available, signed by the entity~~

1 bringing the proceeding or its designated representative shall be  
2 prima facie evidence of reasonable costs of investigation and  
3 prosecution of the case. The costs shall include the amount of  
4 investigative and enforcement costs up to the date of the hearing,  
5 including, but not limited to, charges imposed by the Attorney  
6 General.

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

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

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

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

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

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

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



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

4 SEC. 7. Section 125.4 is added to the Business and Professions  
5 Code, to read:

6 125.4. Notwithstanding any other provision of law, a board  
7 may contract with a collection agency for the purpose of collecting  
8 outstanding fees, fines, or cost recovery amounts from any person  
9 who owes that money to the board, and, for those purposes, may  
10 provide to the collection agency the personal information of that  
11 person, including his or her birth date, telephone number, and  
12 social security number. The contractual agreement shall provide  
13 that the collection agency may use or release personal information  
14 only as authorized by the contract, and shall provide safeguards  
15 to ensure that the personal information is protected from  
16 unauthorized disclosure. The contractual agreement shall hold the  
17 collection agency liable for the unauthorized use or disclosure of  
18 personal information received or collected under this section.

19 SEC. 8. Section 125.9 of the Business and Professions Code  
20 is amended to read:

21 125.9. (a) Except with respect to persons regulated under  
22 Chapter 11 (commencing with Section 7500), and Chapter 11.6  
23 (commencing with Section 7590) of Division 3, any board, bureau,  
24 ~~or~~ commission, ~~or committee~~ within the department, the board  
25 created by the Chiropractic Initiative Act, and the Osteopathic  
26 Medical Board of California, may establish, by regulation, a system  
27 for the issuance to a licensee of a citation ~~which~~ *that* may contain  
28 an order of abatement or an order to pay an administrative fine  
29 assessed by the board, bureau, ~~or~~ commission, ~~or committee~~ where  
30 the licensee is in violation of the applicable licensing act or any  
31 regulation adopted pursuant thereto.

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

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

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

38 (3) In no event shall the administrative fine assessed by the  
39 board, bureau, ~~or~~ commission, ~~or committee~~ exceed five thousand  
40 dollars (\$5,000) for each inspection or each investigation made

1 with respect to the violation, or five thousand dollars (\$5,000) for  
2 each violation or count if the violation involves fraudulent billing  
3 submitted to an insurance company, the Medi-Cal program, or  
4 Medicare. In assessing a fine, the board, bureau, ~~or~~ commission,  
5 *or committee* shall give due consideration to the appropriateness  
6 of the amount of the fine with respect to factors such as the gravity  
7 of the violation, the good faith of the licensee, and the history of  
8 previous violations.

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

20 (5) (A) *If the healing arts board is a board or committee, the*  
21 *executive officer and two members of that board or committee*  
22 *shall hear the appeal and issue a citation decision. A licensee*  
23 *desiring to appeal the citation decision shall file a written appeal*  
24 *of the citation decision with the board or committee within 30 days*  
25 *of issuance of the decision. The appeal shall be considered by the*  
26 *board or committee itself and shall issue a written decision on the*  
27 *appeal. The members of the board or committee who issued the*  
28 *citation decision shall not participate in the appeal before the*  
29 *board or committee unless one or both of the members are needed*  
30 *to establish a quorum to act on the appeal.*

31 (B) *If the healing arts board is a bureau, the director shall*  
32 *appoint a designee to hear the appeal and issue a citation decision.*  
33 *A licensee desiring to appeal the citation decision shall file a*  
34 *written appeal of the citation decision with the bureau within 30*  
35 *days of issuance of the decision. The appeal shall be considered*  
36 *by the director or his or her designee who shall issue a written*  
37 *decision on the appeal.*

38 (C) *The hearings specified in this paragraph are not subject to*  
39 *the provisions of Chapter 5 (commencing with Section 11500) of*  
40 *Part 1 of Division 3 of Title 2 of the Government Code.*

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

3 ~~(5)~~

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

11 (c) The system may contain the following provisions:

12 (1) A citation may be issued without the assessment of an  
13 administrative fine.

14 (2) Assessment of administrative fines may be limited to only  
15 particular violations of the applicable licensing act.

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

20 (e) Administrative fines collected pursuant to this section shall  
21 be deposited in the special fund of the particular board, bureau, ~~or~~  
22 commission, *or committee*.

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

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

30 (b) It is the intent of the Legislature that inspectors used by  
31 boards, bureaus, or commissions in the department shall not be  
32 required to be employees of the Division of Investigation, but may  
33 either be employees of, or under contract to, the boards, bureaus,  
34 or commissions. Contracts for services shall be consistent with  
35 Article 4.5 (commencing with Section 19130) of Chapter 6 of Part  
36 2 of Division 5 of Title 2 of the Government Code. All civil service  
37 employees currently employed as inspectors whose functions are  
38 transferred as a result of this section shall retain their positions,  
39 status, and rights in accordance with Section 19994.10 of the  
40 Government Code and the State Civil Service Act (Part 2

1 (commencing with Section 18500) of Division 5 of Title 2 of the  
2 Government Code).

3 (c) *Investigators used by any healing arts board, as defined in*  
4 *Section 720, shall not be required to be employees of the Division*  
5 *of Investigation and the healing arts board may contract for*  
6 *investigative services provided by the Medical Board of California*  
7 *or provided by the Department of Justice.*

8 (e)

9 (d) Nothing in this section limits the authority of, or prohibits,  
10 investigators in the Division of Investigation in the conduct of  
11 inspections or investigations of any licensee, or in the conduct of  
12 investigations of any officer or employee of a board or the  
13 department at the specific request of the director or his or her  
14 designee.

15 SEC. 10. Section 159.5 of the Business and Professions Code  
16 is amended to read:

17 159.5. There is in the department the Division of Investigation.  
18 The division is in *the* charge of a person with the title of chief of  
19 the division. *There is in the division the Health Quality*  
20 *Enforcement Unit. The primary responsibility of the unit is to*  
21 *investigate complaints against licensees and applicants within the*  
22 *jurisdiction of the healing arts boards specified in Section 720.*

23 Except as provided in Section 16 of Chapter 1394 of the Statutes  
24 of 1970, all positions for the personnel necessary to provide  
25 investigative services, as specified in Section 160 of this code and  
26 in subdivision (b) of Section 830.3 of the Penal Code, ~~to the~~  
27 ~~agencies in the department~~ shall be in the division and the  
28 personnel shall be appointed by the director. ~~However, if, pursuant~~  
29 ~~to the Governor's Reorganization Plan No. 2 of the 1970 Regular~~  
30 ~~Session, any agency has any investigative, inspectional, or auditing~~  
31 ~~positions of its own, the agency shall retain those positions until~~  
32 ~~the director determines, after consultation with, and consideration~~  
33 ~~of, the views of the particular agency concerned, that the positions~~  
34 ~~should be transferred to the division in the interests of efficient,~~  
35 ~~economical, and effective service to the public, at which time they~~  
36 ~~shall be so transferred.~~

37 SEC. 11. Section 160 of the Business and Professions Code is  
38 amended to read:

39 160. (a) The Chief and ~~all~~ *designated* investigators of the  
40 Division of Investigation of the department ~~and all, designated~~

1 investigators of the Medical Board of California ~~and, designated~~  
2 ~~investigators of the Dental Board of Dental Examiners California,~~  
3 ~~and designated investigators of the Board of Registered Nursing~~  
4 have the authority of peace officers while engaged in exercising  
5 the powers granted or performing the duties imposed upon them  
6 or the division in investigating the laws administered by the various  
7 boards comprising the department or commencing directly or  
8 indirectly any criminal prosecution arising from any investigation  
9 conducted under these laws. All persons herein referred to shall  
10 be deemed to be acting within the scope of employment with  
11 respect to all acts and matters in this section set forth.

12 *(b) The Division of Investigation, the Medical Board of*  
13 *California, the Dental Board of California, and the Board of*  
14 *Registered Nursing may employ investigators who are not peace*  
15 *officers to provide investigative services.*

16 SEC. 12. Article 10.1 (commencing with Section 720) is added  
17 to Chapter 1 of Division 2 of the Business and Professions Code,  
18 to read:

19

20 Article 10.1. Healing Arts Licensing Enforcement

21

22 720. (a) Unless otherwise provided, as used in this article, the  
23 term "healing arts board" shall include all of the following:

- 24 (1) The Dental Board of California.
- 25 (2) The Medical Board of California.
- 26 (3) The State Board of Optometry.
- 27 (4) The California State Board of Pharmacy.
- 28 (5) The Board of Registered Nursing.
- 29 (6) The Board of Behavioral Sciences.
- 30 (7) The Board of Vocational Nursing and Psychiatric  
31 Technicians of the State of California.
- 32 (8) The Respiratory Care Board of California.
- 33 (9) The Acupuncture Board.
- 34 (10) The Board of Psychology.
- 35 (11) The California Board of Podiatric Medicine.
- 36 (12) The Physical Therapy Board of California.
- 37 (13) The Physician Assistant Committee of the Medical Board  
38 of California.
- 39 (14) The Speech-Language Pathology and Audiology and  
40 Hearing Aid Dispensers Board.

1 (15) The California Board of Occupational Therapy.

2 (16) The Osteopathic Medical Board of California.

3 (17) The Naturopathic Medicine Committee of the Osteopathic  
4 Medical Board of California.

5 (18) The Dental Hygiene Committee of California.

6 (19) The Veterinary Medical Board.

7 (b) Unless otherwise provided, as used in this article, “board”  
8 means all healing arts boards described under subdivision (a) and  
9 “licensee” means a licensee of a healing arts board described in  
10 subdivision (a).

11 720.2. (a) The executive officer or executive director of a  
12 healing arts board may adopt a proposed default decision where  
13 an administrative action to revoke a license has been filed and the  
14 licensee has failed to file a notice of defense or to appear at the  
15 hearing and a proposed default decision revoking the license has  
16 been issued.

17 (b) The executive officer or executive director of a healing arts  
18 board may adopt a proposed settlement agreement where an  
19 administrative action to revoke a license has been filed by the  
20 healing arts board and the licensee has agreed to surrender his or  
21 her license.

22 720.4. (a) Notwithstanding Section 11415.60 of the  
23 Government Code, a healing arts board may enter into a settlement  
24 with a licensee or applicant prior to the board’s issuance of an  
25 accusation or statement of issues against that licensee or applicant,  
26 as applicable.

27 (b) No person who enters a settlement pursuant to this section  
28 may petition to modify the terms of the settlement or petition for  
29 early termination of probation, if probation is part of the settlement.

30 (c) Any settlement executed pursuant to this section shall be  
31 considered discipline and a public record and shall be posted on  
32 the applicable board’s Internet Web site.

33 720.6. (a) Notwithstanding any other provision of law, upon  
34 receipt of evidence that a licensee of a healing arts board has  
35 engaged in conduct that poses an imminent risk of serious harm  
36 to the public health, safety, or welfare, or has failed to comply  
37 with a request to inspect or copy records made pursuant to Section  
38 720.16, the executive officer of that board may petition the director  
39 to issue a temporary order that the licensee cease all practice and  
40 activities that require a license by that board.

1 (b) (1) The executive officer of the healing arts board shall, to  
2 the extent practicable, provide telephonic, electronic mail, message,  
3 or facsimile written notice to the licensee of a hearing on the  
4 petition at least 24 hours prior to the hearing. The licensee and his  
5 or her counsel and the executive officer or his or her designee shall  
6 have the opportunity to present oral or written argument before  
7 the director. After presentation of the evidence and consideration  
8 of any arguments presented, the director may issue an order that  
9 the licensee cease all practice and activities that require a license  
10 by that board when, in the opinion of the director, the action is  
11 necessary to protect the public health, safety, or welfare.

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

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

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

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

1 (f) Any petition and order to cease practice shall be displayed  
2 on the Internet Web site of the applicable healing arts board, except  
3 that if the petition is not granted or the director vacates the  
4 suspension order pursuant to subdivision (e), the petition and order  
5 shall be removed from the respective board's Internet Web site.

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

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

13 720.8. (a) The license of a licensee of a healing arts board  
14 shall be suspended automatically during any time that the licensee  
15 is incarcerated after conviction of a felony, regardless of whether  
16 the conviction has been appealed. The healing arts board shall,  
17 immediately upon receipt of the certified copy of the record of  
18 conviction, determine whether the license of the licensee has been  
19 automatically suspended by virtue of his or her incarceration, and  
20 if so, the duration of that suspension. The healing arts board shall  
21 notify the licensee of the license suspension and of his or her right  
22 to elect to have the issue of penalty heard as provided in  
23 subdivision (d).

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

33 (c) Notwithstanding subdivision (b), a conviction of a charge  
34 of violating any federal statute or regulation or any statute or  
35 regulation of this state, regulating dangerous drugs or controlled  
36 substances, or a conviction of Section 187, 261, 262, or 288 of the  
37 Penal Code, shall be conclusively presumed to be substantially  
38 related to the qualifications, functions, or duties of a licensee and  
39 no hearing shall be held on this issue. However, upon its own  
40 motion or for good cause shown, the healing arts board may decline



1 to impose or may set aside the suspension when it appears to be  
2 in the interest of justice to do so, with due regard to maintaining  
3 the integrity of, and confidence in, the practice regulated by the  
4 healing arts board.

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

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

30 (e) The record of the proceedings resulting in a conviction,  
31 including a transcript of the testimony in those proceedings, may  
32 be received in evidence.

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

36 720.10. Except as otherwise provided, any proposed decision  
37 or decision issued under this article in accordance with the  
38 procedures set forth in Chapter 5 (commencing with Section 11500)  
39 of Part 1 of Division 3 of Title 2 of the Government Code, that  
40 contains any finding of fact that the licensee or registrant engaged

1 in any act of sexual contact, as defined in subdivision (c) of Section  
2 729, with a patient, or has committed an act or been convicted of  
3 a sex offense as defined in Section 44010 of the Education Code,  
4 shall contain an order of revocation. The revocation shall not be  
5 stayed by the administrative law judge. Unless otherwise provided  
6 in the laws and regulations of the healing arts board, the patient  
7 shall no longer be considered a patient of the licensee when the  
8 order for medical services and procedures provided by the licensee  
9 is terminated, discontinued, or not renewed by the prescribing  
10 physician and surgeon.

11 720.12. (a) Except as otherwise provided, with regard to an  
12 individual who is required to register as a sex offender pursuant  
13 to Section 290 of the Penal Code, or the equivalent in another state  
14 or territory, under military law, or under federal law, the healing  
15 arts board shall be subject to the following requirements:

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

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

26 (3) The healing arts board shall not reinstate or reissue the  
27 individual's license. The healing arts board shall not issue a stay  
28 of license denial and place the license on probation.

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

30 (1) An individual who has been relieved under Section 290.5  
31 of the Penal Code of his or her duty to register as a sex offender,  
32 or whose duty to register has otherwise been formally terminated  
33 under California law or the law of the jurisdiction that requires his  
34 or her registration as a sex offender.

35 (2) An individual who is required to register as a sex offender  
36 pursuant to Section 290 of the Penal Code solely because of a  
37 misdemeanor conviction under Section 314 of the Penal Code.  
38 However, nothing in this paragraph shall prohibit the healing arts  
39 board from exercising its discretion to discipline a licensee under

1 any other provision of state law based upon the licensee's  
2 conviction under Section 314 of the Penal Code.

3 (3) Any administrative adjudication proceeding under Chapter  
4 5 (commencing with Section 11500) of Part 1 of Division 3 of  
5 Title 2 of the Government Code that is fully adjudicated prior to  
6 January 1, 2008. A petition for reinstatement of a revoked or  
7 surrendered license shall be considered a new proceeding for  
8 purposes of this paragraph, and the prohibition against reinstating  
9 a license to an individual who is required to register as a sex  
10 offender shall be applicable.

11 720.14. (a) A licensee of a healing arts board shall not include  
12 or permit to be included any of the following provisions in an  
13 agreement to settle a civil dispute arising from his or her practice,  
14 whether the agreement is made before or after the filing of an  
15 action:

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

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

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

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

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

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

29 720.16. (a) Notwithstanding any other provision of law making  
30 a communication between a licensee of a healing arts board and  
31 his or her patients a privileged communication, those provisions  
32 shall not apply to investigations or proceedings conducted by a  
33 healing arts board. Members of a healing arts board, deputies,  
34 employees, agents, the office of the Attorney General, and  
35 representatives of the board shall keep in confidence during the  
36 course of investigations the names of any patients whose records  
37 are reviewed and may not disclose or reveal those names, except  
38 as is necessary during the course of an investigation, unless and  
39 until proceedings are instituted. The authority under this  
40 subdivision to examine records of patients in the office of a licensee

1 is limited to records of patients who have complained to the healing  
2 arts board about that licensee.

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

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

13 (2) Any document relevant to the business operations of a  
14 licensee, and not involving medical records attributable to  
15 identifiable patients, may be inspected and copied where relevant  
16 to an investigation of a licensee.

17 (c) In all cases where documents are inspected or copies of those  
18 documents are received, their acquisition or review shall be  
19 arranged so as not to unnecessarily disrupt the medical and business  
20 operations of the licensee or of the facility where the records are  
21 kept or used.

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

36 (e) Searches conducted of the office or medical facility of any  
37 licensee shall not interfere with the recordkeeping format or  
38 preservation needs of any licensee necessary for the lawful care  
39 of patients.

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

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

7 720.18. (a) (1) Notwithstanding any other provision of law,  
8 a licensee who fails or refuses to comply with a request for the  
9 certified medical records of a patient, that is accompanied by that  
10 patient's written authorization for release of records to a healing  
11 arts board, within 10 days of receiving the request and  
12 authorization, shall pay to the healing arts board a civil penalty of  
13 one thousand dollars (\$1,000) per day for each day that the  
14 documents have not been produced after the 10th day, up to one  
15 hundred thousand dollars (\$100,000), unless the licensee is unable  
16 to provide the documents within this time period for good cause.

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

35 (b) (1) A licensee who fails or refuses to comply with a court  
36 order, issued in the enforcement of a subpoena, mandating the  
37 release of records to a healing arts board, shall pay to the healing  
38 arts board a civil penalty of up to one thousand dollars (\$1,000)  
39 per day for each day that the documents have not been produced  
40 after the date by which the court order requires the documents to

1 be produced, unless it is determined that the order is unlawful or  
2 invalid. Any statute of limitations applicable to the filing of an  
3 accusation by the healing arts board shall be tolled during the  
4 period the licensee is out of compliance with the court order and  
5 during any related appeals.

6 (2) Any licensee who fails or refuses to comply with a court  
7 order, issued in the enforcement of a subpoena, mandating the  
8 release of records to a board is guilty of a misdemeanor punishable  
9 by a fine payable to the board not to exceed five thousand dollars  
10 (\$5,000). The fine shall be added to the licensee's renewal fee if  
11 it is not paid by the next succeeding renewal date. Any statute of  
12 limitations applicable to the filing of an accusation by a healing  
13 arts board shall be tolled during the period the licensee is out of  
14 compliance with the court order and during any related appeals.

15 (3) A health care facility that fails or refuses to comply with a  
16 court order, issued in the enforcement of a subpoena, mandating  
17 the release of patient records to a healing arts board, that is  
18 accompanied by a notice citing this section and describing the  
19 penalties for failure to comply with this section, shall pay to the  
20 healing arts board a civil penalty of up to one thousand dollars  
21 (\$1,000) per day for each day that the documents have not been  
22 produced, up to one hundred thousand dollars (\$100,000), after  
23 the date by which the court order requires the documents to be  
24 produced, unless it is determined that the order is unlawful or  
25 invalid. Any statute of limitations applicable to the filing of an  
26 accusation by the board against a licensee shall be tolled during  
27 the period the health care facility is out of compliance with the  
28 court order and during any related appeals.

29 (4) Any health care facility that fails or refuses to comply with  
30 a court order, issued in the enforcement of a subpoena, mandating  
31 the release of records to a healing arts board is guilty of a  
32 misdemeanor punishable by a fine payable to the board not to  
33 exceed five thousand dollars (\$5,000). Any statute of limitations  
34 applicable to the filing of an accusation by the healing arts board  
35 against a licensee shall be tolled during the period the health care  
36 facility is out of compliance with the court order and during any  
37 related appeals.

38 (c) Multiple acts by a licensee in violation of subdivision (b)  
39 shall be punishable by a fine not to exceed five thousand dollars  
40 (\$5,000) or by imprisonment in a county jail not exceeding six

1 months, or by both that fine and imprisonment. Multiple acts by  
2 a health care facility in violation of subdivision (b) shall be  
3 punishable by a fine not to exceed five thousand dollars (\$5,000),  
4 shall be reported to the State Department of Public Health, and  
5 shall be considered as grounds for disciplinary action with respect  
6 to licensure, including suspension or revocation of the license or  
7 certificate.

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

13 (e) Imposition of the civil penalties authorized by this section  
14 shall be in accordance with the Administrative Procedure Act  
15 (Chapter 5 (commencing with Section 11500) of Division 3 of  
16 Title 2 of the Government Code). Any civil penalties paid to, or  
17 received by, a healing arts board pursuant to this section shall be  
18 deposited into the fund administered by the healing arts board.

19 (f) For purposes of this section, “certified medical records”  
20 means a copy of the patient’s medical records authenticated by the  
21 licensee or health care facility, as appropriate, on a form prescribed  
22 by the licensee’s board.

23 (g) For purposes of this section, a “health care facility” means  
24 a clinic or health facility licensed or exempt from licensure  
25 pursuant to Division 2 (commencing with Section 1200) of the  
26 Health and Safety Code.

27 (h) If a board complies with Section 1684.5, 2225.5, or 2969,  
28 that board shall not be subject to the requirements of this section.

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

31 720.20. (a) Notwithstanding any other provision of law, a state  
32 agency shall, upon receiving a request in writing from a healing  
33 arts board, immediately provide to the healing arts board all records  
34 in the custody of the state agency, including, but not limited to,  
35 confidential records, medical records, and records related to closed  
36 or open investigations.

37 (b) If a state agency has knowledge that a person it is  
38 investigating is licensed by a healing arts board, the state agency  
39 shall notify the healing arts board that it is conducting an  
40 investigation against one of its licentiates. The notification of

1 investigation to the healing arts board is to include the name,  
2 address, and, if known, the professional licensure type and license  
3 number of the person being investigated and the name and address  
4 or telephone number of a person who can be contacted for further  
5 information about the investigation. The state agency shall  
6 cooperate with the healing arts board in providing any requested  
7 information.

8 720.22. Notwithstanding any other provision of law, all local  
9 and state law enforcement agencies, state and local governments,  
10 state agencies, licensed health care facilities, and employers of a  
11 licensee of a healing arts board shall provide records to the healing  
12 arts board upon request prior to receiving payment from the board.

13 720.24. (a) Any employer of a health care licensee shall report  
14 to the board the suspension or termination for cause, or any  
15 resignation in lieu of suspension or termination for cause, of any  
16 health care licensee in its employ within five business days. The  
17 report shall not be made until after the conclusion of the review  
18 process specified in Section 52.3 of Title 2 of the California Code  
19 of Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d  
20 194, for public employees. This required reporting shall not  
21 constitute a waiver of confidentiality of medical records. The  
22 information reported or disclosed shall be kept confidential except  
23 as provided in subdivision (c) of Section 800 and shall not be  
24 subject to discovery in civil cases.

25 (b) For purposes of the section, “suspension or termination for  
26 cause” is defined as suspension or termination from employment  
27 for any of the following reasons:

28 (1) Use of controlled substances or alcohol to the extent that it  
29 impairs the licensee’s ability to safely practice.

30 (2) Unlawful sale of a controlled substance or other prescription  
31 items.

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

34 (4) Falsification of medical records.

35 (5) Gross negligence or incompetence.

36 (6) Theft from a patient or client, any other employee, or the  
37 employer.

38 (c) Failure of an employer to make a report required by this  
39 section is punishable by an administrative fine not to exceed one  
40 hundred thousand dollars (\$100,000) per violation.



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

4 (e) This section shall not apply to any of the reporting  
5 requirements under Section 805.

6 720.26. (a) Each healing arts board shall report annually to  
7 the department and the Legislature, not later than October 1 of  
8 each year, the following information:

9 (1) The total number of consumer calls received by the board  
10 and the number of consumer calls or letters designated as  
11 discipline-related complaints.

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

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

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

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

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

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

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

26 (9) The total number of complaints and reports referred for  
27 formal investigation.

28 (10) The total number of accusations filed and the final  
29 disposition of accusations through the board and court review,  
30 respectively.

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

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

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

39 (14) The average and median time in processing complaints,  
40 from original receipt of the complaint by the board, for all cases,

1 at each stage of the disciplinary process and court review,  
2 respectively.

3 (15) The total number of licensees in diversion or on probation  
4 for alcohol or drug abuse or mental disorder, and the number of  
5 licensees successfully completing diversion programs or probation,  
6 and failing to do so, respectively.

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

9 (17) The total number of petitions for reinstatement, and their  
10 dispositions.

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

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

17 (c) If a board complies with Section 2313, that board shall not  
18 be subject to the requirements of this section.

19 720.28. Unless otherwise provided, on or after July 1, 2013,  
20 every healing arts board shall post on the Internet the following  
21 information in its possession, custody, or control regarding every  
22 licensee for which the board licenses:

23 (a) With regard to the status of every healing arts license,  
24 whether or not the licensee is in good standing, subject to a  
25 temporary restraining order, subject to an interim suspension order,  
26 subject to a restriction or cease practice ordered pursuant to Section  
27 23 of the Penal Code, or subject to any of the enforcement actions  
28 described in Section 803.1.

29 (b) With regard to prior discipline of a licensee, whether or not  
30 the licensee has been subject to discipline by the healing arts board  
31 or by the board of another state or jurisdiction, as described in  
32 Section 803.1.

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

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

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

4 (f) Any hospital disciplinary action imposed against a licensee  
5 that resulted in the termination or revocation of a licensee's hospital  
6 staff privileges for a medical disciplinary cause or reason pursuant  
7 to Section 720.18 or 805.

8 (g) Any misdemeanor conviction of a licensee that results in a  
9 withdrawn or dismissed.

10 (h) Appropriate disclaimers and explanatory statements to  
11 accompany the above information, including an explanation of  
12 what types of information are not disclosed. These disclaimers and  
13 statements shall be developed by the healing arts board and shall  
14 be adopted by regulation.

15 720.30. (a) The office of the Attorney General shall serve, or  
16 submit to a healing arts board for service, an accusation within 60  
17 calendar days of receipt from the healing arts board.

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

22 (c) The office of the Attorney General shall set a hearing date  
23 within three days of receiving a notice of defense, unless the  
24 healing arts board gives the office of the Attorney General  
25 instruction otherwise.

26 720.32. (a) Whenever it appears that an applicant for a license,  
27 certificate, or permit from a healing arts board may be unable to  
28 practice his or her profession safely because the applicant's ability  
29 to practice would be impaired due to mental illness, or physical  
30 illness affecting competency, the healing arts board may order the  
31 applicant to be examined by one or more physicians and surgeons  
32 or psychologists designated by the healing arts board. The report  
33 of the examiners shall be made available to the applicant and may  
34 be received as direct evidence in proceedings conducted pursuant  
35 to Chapter 2 (commencing with Section 480) of Division 1.5.

36 (b) An applicant's failure to comply with an order issued under  
37 subdivision (a) shall authorize the board to deny an applicant a  
38 license, certificate, or permit.  
39

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

7 720.34. (a) An applicant for a license, certificate, or permit  
8 from a healing arts board who is otherwise eligible for that license  
9 but is unable to practice some aspects of his or her profession  
10 safely due to a disability may receive a limited license if he or she  
11 does both of the following:

12 (1) Pays the initial licensure fee.

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

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

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

23 720.35. (a) Each healing arts board shall conduct a search on  
24 the National Practitioner Data Bank and the Healthcare Integrity  
25 and Protection Data Bank prior to granting or renewing a license,  
26 certificate, or permit to an applicant who is licensed by another  
27 state.

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

30 720.36. Unless it is otherwise expressly provided, any person,  
31 whether licensed pursuant to this division or not, who violates any  
32 provision of this article is guilty of a misdemeanor and shall be  
33 punished by a fine of not less than two hundred dollars (\$200) nor  
34 more than one thousand two hundred dollars (\$1,200), or by  
35 imprisonment for a term of not less than 60 days nor no more than  
36 180 days, or by both the fine and imprisonment.

37 SEC. 13. Section 726 of the Business and Professions Code is  
38 amended to read:

39 726. (a) The commission of any act of sexual abuse,  
40 misconduct, or relations with a patient, client, or customer

1 constitutes unprofessional conduct and grounds for disciplinary  
2 action for any person licensed under this division, *and* under any  
3 initiative act referred to in this division ~~and under Chapter 17~~  
4 ~~(commencing with Section 9000) of Division 3.~~

5 *(b) For purposes of Division 1.5 (commencing with Section*  
6 *475), and the licensing laws and regulations of a healing arts*  
7 *board, as defined in Section 720, the commission of, and conviction*  
8 *for, any act of sexual abuse, sexual misconduct, or attempted sexual*  
9 *misconduct, whether or not with a patient, or conviction of a felony*  
10 *requiring registration pursuant to Section 290 of the Penal Code*  
11 *shall be considered a crime substantially related to the*  
12 *qualifications, functions, or duties of a licensee of a healing arts*  
13 *board.*

14 ~~This~~

15 *(c) This* section shall not apply to sexual contact between a  
16 physician and surgeon and his or her spouse or person in an  
17 equivalent domestic relationship when that physician and surgeon  
18 provides medical treatment, other than psychotherapeutic treatment,  
19 to his or her spouse or person in an equivalent domestic  
20 relationship.

21 SEC. 14. Section 734 is added to the Business and Professions  
22 Code, to read:

23 734. (a) The conviction of a charge of violating any federal  
24 statute or regulation or any statute or regulation of this state  
25 regulating dangerous drugs or controlled substances constitutes  
26 unprofessional conduct. The record of the conviction is conclusive  
27 evidence of the unprofessional conduct. A plea or verdict of guilty  
28 or a conviction following a plea of nolo contendere is deemed to  
29 be a conviction within the meaning of this section.

30 (b) Discipline may be ordered against a licensee in accordance  
31 with the laws and regulations of the healing arts board or the board  
32 may order the denial of the license when the time for appeal has  
33 elapsed, or the judgment of conviction has been affirmed on appeal,  
34 or when an order granting probation is made suspending the  
35 imposition of sentence, irrespective of a subsequent order under  
36 the provisions of Section 1203.4 of the Penal Code allowing that  
37 person to withdraw his or her plea of guilty and to enter a plea of  
38 not guilty, or setting aside the verdict of guilty, or dismissing the  
39 accusation, complaint, information, or indictment.

1 SEC. 15. Section 735 is added to the Business and Professions  
2 Code, to read:

3 735. A violation of any federal statute or federal regulation or  
4 any of the statutes or regulations of this state regulating dangerous  
5 drugs or controlled substances constitutes unprofessional conduct.

6 SEC. 16. Section 736 is added to the Business and Professions  
7 Code, to read:

8 736. (a) The use or prescribing for or administering to himself  
9 or herself of any controlled substance; or the use of any of the  
10 dangerous drugs specified in Section 4022, or of alcoholic  
11 beverages, to the extent or in such a manner as to be dangerous or  
12 injurious to the licensee, or to any other person or to the public,  
13 or to the extent that the use impairs the ability of the licensee to  
14 practice safely; or any misdemeanor or felony involving the use,  
15 consumption, or self-administration of any of the substances  
16 referred to in this section, or any combination thereof, constitutes  
17 unprofessional conduct. The record of the conviction is conclusive  
18 evidence of the unprofessional conduct.

19 (b) A plea or verdict of guilty or a conviction following a plea  
20 of nolo contendere is deemed to be a conviction within the meaning  
21 of this section. Discipline may be ordered against a licensee in  
22 accordance with the laws and regulations of the healing arts board  
23 or the board may order the denial of the license when the time for  
24 appeal has elapsed or the judgment of conviction has been affirmed  
25 on appeal or when an order granting probation is made suspending  
26 imposition of sentence, irrespective of a subsequent order under  
27 the provisions of Section 1203.4 of the Penal Code allowing that  
28 person to withdraw his or her plea of guilty and to enter a plea of  
29 not guilty, or setting aside the verdict of guilty, or dismissing the  
30 accusation, complaint, information, or indictment.

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

35 SEC. 17. Section 737 is added to the Business and Professions  
36 Code, to read:

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

1 (a) Furnish information in a timely manner to the healing arts  
2 board or the board's investigators or representatives if legally  
3 requested by the board.

4 (b) Cooperate and participate in any disciplinary investigation  
5 or other regulatory or disciplinary proceeding pending against  
6 himself or herself. However, this subdivision shall not be construed  
7 to deprive a licensee of any privilege guaranteed by the Fifth  
8 Amendment to the Constitution of the United States, or any other  
9 constitutional or statutory privileges. This subdivision shall not  
10 be construed to require a licensee to cooperate with a request that  
11 requires him or her to waive any constitutional or statutory  
12 privilege or to comply with a request for information or other  
13 matters within an unreasonable period of time in light of the time  
14 constraints of the licensee's practice. Any exercise by a licensee  
15 of any constitutional or statutory privilege shall not be used against  
16 the licensee in a regulatory or disciplinary proceeding against him  
17 or her.

18 SEC. 18. Section 802.1 of the Business and Professions Code  
19 is amended to read:

20 802.1. (a) (1) ~~A physician and surgeon, osteopathic physician~~  
21 ~~and surgeon, and a doctor of podiatric medicine~~ *A licensee of a*  
22 *healing arts board defined under Section 720 shall submit a written*  
23 *report either of any of the following to the entity that issued his or*  
24 *her license:*

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

27 (B) *The arrest of the licensee.*

28 ~~(B)~~

29 (C) The conviction of the licensee, including any verdict of  
30 guilty, or plea of guilty or no contest, of any felony or  
31 misdemeanor.

32 (D) *Any disciplinary action taken by another licensing entity*  
33 *or authority of this state or of another state.*

34 (2) The report required by this subdivision shall be made in  
35 writing within 30 days of the date of the bringing of the indictment  
36 ~~or information or of the charging of a felony, the arrest, the~~  
37 ~~conviction, or the disciplinary action.~~

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

1 SEC. 19. Section 803 of the Business and Professions Code is  
2 amended to read:

3 803. (a) Except as provided in subdivision (b), within 10 days  
4 after a judgment by a court of this state that a person who holds a  
5 license, certificate, or other similar authority from ~~the Board of~~  
6 ~~Behavioral Sciences or from an agency mentioned in subdivision~~  
7 ~~(a) of Section 800 (except a person licensed pursuant to Chapter~~  
8 ~~3 (commencing with Section 1200)) a healing arts board defined~~  
9 ~~in Section 720~~, has committed a crime, or is liable for any death  
10 or personal injury resulting in a judgment for an amount in excess  
11 of thirty thousand dollars (\$30,000) caused by his or her  
12 negligence, error or omission in practice, or his or her rendering  
13 unauthorized professional services, the clerk of the court that  
14 rendered the judgment shall report that fact to the agency that  
15 issued the license, certificate, or other similar authority.

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

23 SEC. 20. Section 803.5 of the Business and Professions Code  
24 is amended to read:

25 803.5. (a) The district attorney, city attorney, or other  
26 prosecuting agency shall notify ~~the Medical Board of California,~~  
27 ~~the Osteopathic Medical Board of California, the California Board~~  
28 ~~of Podiatric Medicine, the State Board of Chiropractic Examiners,~~  
29 ~~or other appropriate allied health board,~~ *healing arts board defined*  
30 *in Section 720* and the clerk of the court in which the charges have  
31 been filed, of any filings against a licensee of that board charging  
32 a felony immediately upon obtaining information that the defendant  
33 is a licensee of the board. The notice shall identify the licensee  
34 and describe the crimes charged and the facts alleged. The  
35 prosecuting agency shall also notify the clerk of the court in which  
36 the action is pending that the defendant is a licensee, and the clerk  
37 shall record prominently in the file that the defendant holds a  
38 license from one of the boards described above.

39 (b) The clerk of the court in which a licensee of one of the  
40 boards is convicted of a crime shall, within 48 hours after the



1 conviction, transmit a certified copy of the record of conviction  
2 to the applicable board.

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

5 803.6. (a) The clerk of the court shall transmit any felony  
6 preliminary hearing transcript concerning a defendant licensee to  
7 ~~the Medical Board or other appropriate allied health board, as~~  
8 ~~applicable, the appropriate healing arts boards defined in Section~~  
9 720 where the total length of the transcript is under 800 pages and  
10 shall notify the appropriate board of any proceeding where the  
11 transcript exceeds that length.

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

16 SEC. 22. Section 803.7 is added to the Business and Professions  
17 Code, to read:

18 803.7. The Department of Justice shall ensure that subsequent  
19 reports authorized to be issued to any board identified in Section  
20 101 are submitted to that board within 30 days from notification  
21 of subsequent arrests, convictions, or other updates.

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

25  
26 Article 15. Healing Arts Licensing Fees  
27

28 870. (a) Notwithstanding any provision of law establishing a  
29 fee or a fee range in this division, the department may annually  
30 establish a maximum fee amount for each healing arts board, as  
31 defined in Section 720, adjusted consistent with the California  
32 Consumer Price Index.

33 (b) The department shall promulgate regulations pursuant to  
34 the Administrative Procedures Act to establish the maximum fee  
35 amount calculated pursuant to subdivision (a).

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

1 SEC. 24. Article 16 (commencing with Section 880) is added  
2 to Chapter 1 of Division 2 of the Business and Professions Code,  
3 to read:

4

5

Article 16. Unlicensed Practice

6

7 880. (a) (1) It is a public offense, punishable by a fine not to  
8 exceed one hundred thousand dollars (\$100,000), by imprisonment  
9 in a county jail not to exceed one year, or by both that fine and  
10 imprisonment, for a person to do any of the following:

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

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

17 (C) Any person who represents himself or herself as engaging  
18 or authorized to engage in a healing art of this division who is not  
19 authorized to do so.

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

24 (b) Notwithstanding any other provision of law, any person who  
25 is licensed under this division, but who is not authorized to provide  
26 some or all services of another healing art, who practices or  
27 supervises the practice of those unauthorized services, is guilty of  
28 a public crime, punishable by a fine not to exceed one hundred  
29 thousand dollars (\$100,000), by imprisonment in a county jail not  
30 to exceed one year, or by both that fine and imprisonment.

31 SEC. 25. Section 1699.2 is added to the Business and  
32 Professions Code, to read:

33 1699.2. This article shall remain in effect only until January  
34 1, 2013, and as of that date is repealed, unless a later enacted  
35 statute, that is enacted before January 1, 2013, deletes or extends  
36 that date.

37 SEC. 26. Section 2372 is added to the Business and Professions  
38 Code, to read:

1 2372. This article shall remain in effect only until January 1,  
2 2013, and as of that date is repealed, unless a later enacted statute,  
3 that is enacted before January 1, 2013, deletes or extends that date.

4 SEC. 27. Section 2669.2 is added to the Business and  
5 Professions Code, to read:

6 2669.2. This article shall remain in effect only until January  
7 1, 2013, and as of that date is repealed, unless a later enacted  
8 statute, that is enacted before January 1, 2013, deletes or extends  
9 that date.

10 SEC. 28. Section 2715 of the Business and Professions Code  
11 is amended to read:

12 2715. The board shall prosecute all persons guilty of violating  
13 the provisions of this chapter.

14 ~~Except as provided by Section 159.5, the~~

15 *The board, in accordance with the provisions of the Civil Service*  
16 *Law, may employ ~~such~~ investigators, nurse consultants, and other*  
17 *personnel as it deems necessary to carry into effect the provisions*  
18 *of this chapter. *Investigators employed by the board shall be**  
19 *provided special training in investigating nursing practice*  
20 *activities.*

21 The board shall have and use a seal bearing the name “Board of  
22 Registered Nursing.” The board may adopt, amend, or repeal, in  
23 accordance with the provisions of Chapter 4.5 (commencing with  
24 ~~Section 11371~~; 11371) of Part 1, 1 of Division 3, 3 of Title 2 of  
25 the Government Code, such rules and regulations as may be  
26 reasonably necessary to enable it to carry into effect the provisions  
27 of this chapter.

28 SEC. 29. Section 2770.18 is added to the Business and  
29 Professions Code, to read:

30 2770.18. This article shall remain in effect only until January  
31 1, 2013, and as of that date is repealed, unless a later enacted  
32 statute, that is enacted before January 1, 2013, deletes or extends  
33 that date.

34 SEC. 30. Section 3534.12 is added to the Business and  
35 Professions Code, to read:

36 3534.12. This article shall remain in effect only until January  
37 1, 2013, and as of that date is repealed, unless a later enacted  
38 statute, that is enacted before January 1, 2013, deletes or extends  
39 that date.

1 SEC. 31. Section 4375 is added to the Business and Professions  
2 Code, to read:

3 4375. This article shall remain in effect only until January 1,  
4 2013, and as of that date is repealed, unless a later enacted statute,  
5 that is enacted before January 1, 2013, deletes or extends that date.

6 SEC. 32. Section 4873.2 is added to the Business and  
7 Professions Code, to read:

8 4873.2. This article shall remain in effect only until January  
9 1, 2013, and as of that date is repealed, unless a later enacted  
10 statute, that is enacted before January 1, 2013, deletes or extends  
11 that date.

12 SEC. 33. Section 12529 of the Government Code, as amended  
13 by Section 8 of Chapter 505 of the Statutes of 2009, is amended  
14 to read:

15 12529. (a) There is in the Department of Justice the Health  
16 Quality Enforcement Section. The primary responsibility of the  
17 section is to investigate and prosecute proceedings against licensees  
18 and applicants within the jurisdiction of the Medical Board of  
19 California, the California Board of Podiatric Medicine, the Board  
20 of Psychology, ~~or~~ any committee under the jurisdiction of the  
21 Medical Board of California, *or any other healing arts board, as*  
22 *defined in Section 720 of the Business and Professions Code, as*  
23 *requested by the executive officer of that board.*

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

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

37 (d) Funding for the Health Quality Enforcement Section shall  
38 be budgeted in consultation with the Attorney General from the  
39 special funds financing the operations of the Medical Board of  
40 California, the California Board of Podiatric Medicine, the Board

1 of Psychology, ~~and~~ the committees under the jurisdiction of the  
2 Medical Board of California, *and any other healing arts board,*  
3 *as defined in Section 720 of the Business and Professions Code,*  
4 with the intent that the expenses be proportionally shared as to  
5 services rendered.

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

9 SEC. 34. Section 12529 of the Government Code, as amended  
10 by Section 9 of Chapter 505 of the Statutes of 2009, is amended  
11 to read:

12 12529. (a) There is in the Department of Justice the Health  
13 Quality Enforcement Section. The primary responsibility of the  
14 section is to prosecute proceedings against licensees and applicants  
15 within the jurisdiction of the Medical Board of California, the  
16 California Board of Podiatric Medicine, the Board of Psychology,  
17 ~~or~~ any committee under the jurisdiction of the Medical Board of  
18 California, *or any other healing arts board, as defined in Section*  
19 *720 of the Business and Professions Code, as requested by the*  
20 *executive officer of that board,* and to provide ongoing review of  
21 the investigative activities conducted in support of those  
22 prosecutions, as provided in subdivision (b) of Section 12529.5.

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

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

36 (d) Funding for the Health Quality Enforcement Section shall  
37 be budgeted in consultation with the Attorney General from the  
38 special funds financing the operations of the Medical Board of  
39 California, the California Board of Podiatric Medicine, the Board  
40 of Psychology, ~~and~~ the committees under the jurisdiction of the

1 Medical Board of California, *and any other healing arts board,*  
2 *as defined in Section 720 of the Business and Professions Code,*  
3 *with the intent that the expenses be proportionally shared as to*  
4 *services rendered.*

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

6 SEC. 35. Section 12529.5 of the Government Code, as amended  
7 by Section 10 of Chapter 505 of the Statutes of 2009, is amended  
8 to read:

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

17 (b) The Senior Assistant Attorney General of the Health Quality  
18 Enforcement Section shall assign attorneys to work on location at  
19 the intake unit of the ~~boards described in subdivision (d) of Section~~  
20 ~~12529~~ *Medical Board of California, the California Board of*  
21 *Podiatric Medicine, or the Board of Psychology, and shall assign*  
22 *attorneys to work on location at the Health Quality Enforcement*  
23 *Unit of the Division of Investigation of the Department of*  
24 *Consumer Affairs to assist in evaluating and screening complaints*  
25 *and to assist in developing uniform standards and procedures for*  
26 *processing complaints.*

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

33 (d) The determination to bring a disciplinary proceeding against  
34 a licensee of the boards shall be made by the executive officer of  
35 the boards or committees as appropriate in consultation with the  
36 senior assistant.

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

1 SEC. 36. Section 12529.5 of the Government Code, as amended  
2 by Section 11 of Chapter 505 of the Statutes of 2009, is amended  
3 to read:

4 12529.5. (a) All complaints or relevant information concerning  
5 licensees that are within the jurisdiction of the Medical Board of  
6 California, the California Board of Podiatric Medicine, or the  
7 Board of Psychology shall be made available to the Health Quality  
8 Enforcement Section. *Complaints or relevant information may be*  
9 *referred to the Health Quality Enforcement Section as determined*  
10 *by the executive officer of any other healing arts board, as defined*  
11 *in Section 720 of the Business and Professions Code.*

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

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

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

38 (d) The determination to bring a disciplinary proceeding against  
39 a licensee of the boards shall be made by the executive officer of

1 the boards or committees as appropriate in consultation with the  
2 senior assistant.

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

4 SEC. 37. Section 12529.6 of the Government Code is amended  
5 to read:

6 12529.6. (a) The Legislature finds and declares that the  
7 ~~Medical Board of California~~ *healing arts boards, as defined in*  
8 *Section 720 of the Business and Professions Code*, by ensuring  
9 the quality and safety of ~~medical~~ *health care, performs perform*  
10 one of the most critical functions of state government. Because of  
11 the critical importance of ~~the~~ *a board's* public health and safety  
12 function, the complexity of cases involving alleged misconduct  
13 by ~~physicians and surgeons~~ *health care practitioners*, and the  
14 evidentiary burden in ~~the~~ *a healing arts board's* disciplinary cases,  
15 the Legislature finds and declares that using a vertical enforcement  
16 and prosecution model for those investigations is in the best  
17 interests of the people of California.

18 (b) Notwithstanding any other provision of law, ~~as of January~~  
19 ~~1, 2006~~, each complaint that is referred to a district office of the  
20 ~~board~~ *Medical Board of California, the California Board of*  
21 *Podiatric Medicine, the Board of Psychology, or the Health Quality*  
22 *Enforcement Unit* for investigation shall be simultaneously and  
23 jointly assigned to an investigator and to the deputy attorney  
24 general in the Health Quality Enforcement Section responsible for  
25 prosecuting the case if the investigation results in the filing of an  
26 accusation. The joint assignment of the investigator and the deputy  
27 attorney general shall exist for the duration of the disciplinary  
28 matter. During the assignment, the investigator so assigned shall,  
29 under the direction but not the supervision of the deputy attorney  
30 general, be responsible for obtaining the evidence required to  
31 permit the Attorney General to advise the board on legal matters  
32 such as whether the board should file a formal accusation, dismiss  
33 the complaint for a lack of evidence required to meet the applicable  
34 burden of proof, or take other appropriate legal action.

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

39 (d) This section does not affect the requirements of Section  
40 12529.5 as applied to the Medical Board of California where



1 complaints that have not been assigned to a field office for  
2 investigation are concerned.

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

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

9 (2) Establish and implement a plan to ~~locate~~ *collocate, when*  
10 *feasible*, its enforcement staff and the staff of the Health Quality  
11 Enforcement Section ~~in the same offices, as appropriate~~, in order  
12 to carry out the intent of the vertical enforcement and prosecution  
13 model.

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

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

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

23 12529.7. By March 1, 2012, ~~the Medical Board of California~~  
24 *Department of Consumer Affairs*, in consultation with the *healing*  
25 *arts boards, as defined in Section 720 of the Business and*  
26 *Professions Code, and the Department of Justice* ~~and the~~  
27 ~~Department of Consumer Affairs~~, shall report and make  
28 recommendations to the Governor and the Legislature on the  
29 vertical enforcement and prosecution model created under Section  
30 12529.6.

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

32 830.3. The following persons are peace officers whose authority  
33 extends to any place in the state for the purpose of performing  
34 their primary duty or when making an arrest pursuant to Section  
35 836 of the Penal Code as to any public offense with respect to  
36 which there is immediate danger to person or property, or of the  
37 escape of the perpetrator of that offense, or pursuant to Section  
38 8597 or 8598 of the Government Code. These peace officers may  
39 carry firearms only if authorized and under those terms and  
40 conditions as specified by their employing agencies:

1 (a) Persons employed by the Division of Investigation of the  
2 Department of Consumer Affairs and investigators of the Medical  
3 Board of California ~~and, the Board of Dental Examiners~~ *Board of*  
4 *California, and the Board of Registered Nursing* who are  
5 designated by the Director of Consumer Affairs, provided that the  
6 primary duty of these peace officers shall be the enforcement of  
7 the law as that duty is set forth in Section 160 of the Business and  
8 Professions Code.

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

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

18 (d) Investigators of the California Horse Racing Board  
19 designated by the board, provided that the primary duty of these  
20 peace officers shall be the enforcement of Chapter 4 (commencing  
21 with Section 19400) of Division 8 of the Business and Professions  
22 Code and Chapter 10 (commencing with Section 330) of Title 9  
23 of Part 1 of this code.

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

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

34 (g) All investigators of the Division of Labor Standards  
35 Enforcement designated by the Labor Commissioner, provided  
36 that the primary duty of these peace officers shall be the  
37 enforcement of the law as prescribed in Section 95 of the Labor  
38 Code.

39 (h) All investigators of the State Departments of Health Care  
40 Services, Public Health, Social Services, Mental Health, and

1 Alcohol and Drug Programs, the Department of Toxic Substances  
2 Control, the Office of Statewide Health Planning and Development,  
3 and the Public Employees' Retirement System, provided that the  
4 primary duty of these peace officers shall be the enforcement of  
5 the law relating to the duties of his or her department or office.  
6 Notwithstanding any other provision of law, investigators of the  
7 Public Employees' Retirement System shall not carry firearms.

8 (i) The Chief of the Bureau of Fraudulent Claims of the  
9 Department of Insurance and those investigators designated by the  
10 chief, provided that the primary duty of those investigators shall  
11 be the enforcement of Section 550.

12 (j) Employees of the Department of Housing and Community  
13 Development designated under Section 18023 of the Health and  
14 Safety Code, provided that the primary duty of these peace officers  
15 shall be the enforcement of the law as that duty is set forth in  
16 Section 18023 of that code.

17 (k) Investigators of the office of the Controller, provided that  
18 the primary duty of these investigators shall be the enforcement  
19 of the law relating to the duties of that office. Notwithstanding any  
20 other law, except as authorized by the Controller, the peace officers  
21 designated pursuant to this subdivision shall not carry firearms.

22 (l) Investigators of the Department of Corporations designated  
23 by the Commissioner of Corporations, provided that the primary  
24 duty of these investigators shall be the enforcement of the  
25 provisions of law administered by the Department of Corporations.  
26 Notwithstanding any other provision of law, the peace officers  
27 designated pursuant to this subdivision shall not carry firearms.

28 (m) Persons employed by the Contractors' State License Board  
29 designated by the Director of Consumer Affairs pursuant to Section  
30 7011.5 of the Business and Professions Code, provided that the  
31 primary duty of these persons shall be the enforcement of the law  
32 as that duty is set forth in Section 7011.5, and in Chapter 9  
33 (commencing with Section 7000) of Division 3, of that code. The  
34 Director of Consumer Affairs may designate as peace officers not  
35 more than three persons who shall at the time of their designation  
36 be assigned to the special investigations unit of the board.  
37 Notwithstanding any other provision of law, the persons designated  
38 pursuant to this subdivision shall not carry firearms.

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

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

8 (p) The Deputy Director for Security designated by Section  
9 8880.38 of the Government Code, and all lottery security personnel  
10 assigned to the California State Lottery and designated by the  
11 director, provided that the primary duty of any of those peace  
12 officers shall be the enforcement of the laws related to assuring  
13 the integrity, honesty, and fairness of the operation and  
14 administration of the California State Lottery.

15 (q) Investigators employed by the Investigation Division of the  
16 Employment Development Department designated by the director  
17 of the department, provided that the primary duty of those peace  
18 officers shall be the enforcement of the law as that duty is set forth  
19 in Section 317 of the Unemployment Insurance Code.

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

22 (r) The chief and assistant chief of museum security and safety  
23 of the California Science Center, as designated by the executive  
24 director pursuant to Section 4108 of the Food and Agricultural  
25 Code, provided that the primary duty of those peace officers shall  
26 be the enforcement of the law as that duty is set forth in Section  
27 4108 of the Food and Agricultural Code.

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

33 (t) Notwithstanding any other provision of this section, a peace  
34 officer authorized by this section shall not be authorized to carry  
35 firearms by his or her employing agency until that agency has  
36 adopted a policy on the use of deadly force by those peace officers,  
37 and until those peace officers have been instructed in the employing  
38 agency's policy on the use of deadly force.

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

4 (u) Investigators of the Department of Managed Health Care  
5 designated by the Director of the Department of Managed Health  
6 Care, provided that the primary duty of these investigators shall  
7 be the enforcement of the provisions of laws administered by the  
8 Director of the Department of Managed Health Care.  
9 Notwithstanding any other provision of law, the peace officers  
10 designated pursuant to this subdivision shall not carry firearms.

11 (v) The Chief, Deputy Chief, supervising investigators, and  
12 investigators of the Office of Protective Services of the State  
13 Department of Developmental Services, provided that the primary  
14 duty of each of those persons shall be the enforcement of the law  
15 relating to the duties of his or her department or office.

16 SEC. 40. (a) It is the intent of the Legislature that the  
17 Department of Consumer Affairs shall, on or before December  
18 31, 2012, establish an enterprise information technology system  
19 necessary to electronically create and update healing arts license  
20 information, track enforcement cases, and allocate enforcement  
21 efforts pertaining to healing arts licensees. The Legislature intends  
22 the system to be designed as an integrated system to support all  
23 business automation requirements of the department's licensing  
24 and enforcement functions.

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

29 SEC. 41. No reimbursement is required by this act pursuant  
30 to Section 6 of Article XIII B of the California Constitution for  
31 certain costs that may be incurred by a local agency or school  
32 district because, in that regard, this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.

38 However, if the Commission on State Mandates determines that  
39 this act contains other costs mandated by the state, reimbursement  
40 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O

**BOT ENFORCEMENT STATISICAL REPORT**  
*October 1, 2009 – January 31, 2010*

**Complaints**

Received: 77  
 Closed: 118  
 Pending: 288  
 (oldest: 8/26/05)

**Citations**

Issued: 43  
 Paid: 36  
 Appealed: 2

Record of Arrests and Prosecutions [RAP] Received: 7  
 Subsequent Arrest Reports Received: 12

Applications Denied pursuant to Business and Professions Code 480/485: 2

**Division of Investigation**

Referred for Service: 1  
 Investigations Completed: 14  
 Investigations Pending: 4  
 (oldest: 3/26/09)

**Formal Disciplinary Action (Attorney General)**

Referred to AG 8  
 Legal Pleadings Served: 5  
 Final Decisions: 5  
 Cases Pending: 0

**Final Decision(s) Détail:**

October 29, 2009	Amy Rogers	Granted license, with 3 years Probation
November 27, 2009	Rebecca Schmidt	License placed on Probation, 3 years, with 30-day Suspension
December 22, 2009	Sandra Severin	Granted license, with 3 years Probation
December 29, 2009	Terri Schonbrod	License placed on Probation, 3 years
January 7, 2010	Lindsey Smith	Granted license, with 3 years Probation

# CA Board of Occupational Therapy

## PROBATIONER ROSTER

### Practitioners Placed on Probation

NAME	LICENSE #	EFFECTIVE DATE	LENGTH
Westlund, Kelorie	OT 3827	12/22/2005	5 years
Oetter, Patricia	OT 7491	04/08/2007	3 years
Fujikawa, Kris	OT 5673	05/13/2007	5 years
Prasad, Alvin	OT 7530	12/03/2007	5 years
Baird, Adrian	OT 2060	01/25/2008	3 years
Martinez, Ernesto	OT 4089	03/14/2008	3 years
Stackhouse, Wendy	OT 6049	05/30/2009	3 years
Vrkijan, Emily	OT 8489	07/24/2009	4 years
Cook, Corrine	OTA 1348	07/24/2009	3 years
Lucia, Rinea	OT 6433	08/20/2009	3 years
Schmidt, Rebecca *	OT 8291	11/27/2009	3 years
Schonbrod, Terri	OT 6305	12/29/2009	3 years

### Applicants Granted a Probationary License/Certificate

NAME	LICENSE #	EFFECTIVE DATE	LENGTH
Kim, Grace	OT 8982	09/15/2006	5 years
Delmo, Lourdes	OT 9556	08/15/2007	4 years
Billings, Cynthia	OT 2917	01/30/2007	5 years
Bonogofsky, Greg	OT 10090	06/26/2008	3 years
Crane, Jody	OT 10136	07/23/2008	4 years
Pitts, Andre	OTA 1829	09/23/2008	5 years
Ryan, Deborah	OTA 1853	12/05/2008	3 years
Jayne, Benjamin	OT 10605	04/10/2009	3 years
Adams, Monica S	OT 10760	08/11/2009	3 years
Champlin, Susan	OT 10842	09/15/2009	3 years
Rogers, Amy	OT 10926	10/29/2009	3 years
Severin, Sandra *	OTA 1975	12/22/2009	3 years
Smith, Lindsey	OT 11072	01/07/2010	30 mos.



# California Board of Occupational Therapy Enforcement Analytics Full Fiscal Years

Applicant License Unlicensed	Metric	FY 01/02	FY 02/03	FY 03/04	FY 04/05	FY 05/06	FY 06/07	FY 07/08	FY 08/09	YTD (1) 09/10
L	Total Licensees	983	8,244	9,693	NDA	NDA	NDA	NDA	12,666	13,113
L	Total Active Licenses	983	8,176	8,853	9,132	9,340	9,664	10,246	NDA	10,439
A	Applications Received	2,224	7,707	NDA	NDA	NDA	927	1,013	1,047	489
A	Applications Investigated (CBOT Staff)	36	234	41	54	52	49	80	72	27
A	Applications Denied/Initial	0	15	5	5	2	5	4	7	4
A	Statement of Issues Filed	0	10	7	5	2	5	4	4	5
A	Applications Denied (Final decision)	0	0	1	4	0	0	4	4	6
LU	Complaints Received	48	261	115	138	220	442	427	485	176
ALU	Cases to Investigation (Sworn Investigations)	0	0	6	8	12	11	6	11	4
LU	Citations Issued	0	0	2	20	44	71	87	96	49
AL	Cases to the DAG	0	4	8	0	5	7	16	19	16
ALU	Cases to the DA	0	0	0	1	2	0	0	0	0
L	Accusations Filed	0	1	1	4	1	8	3	9	8
AL	Stipulated Settlements	0	6	4	5	4	2	5	5	3
AL	Disciplinary Hearings Completed/Final Decisions	0	0	2	7	1	3	0	3	7
L	Revocations/Surrenders	0	0	0	3	2	3	3	2	3
L	Probation Cases to AG for Revocation	0	0	0	1	0	0	0	1	3
AL	Public Reprimands	Not Applicable								
AL	Probationers (New)	0	6	5	6	1	4	6	5	9
L	Probationers (Active)	0	6	10	13	10	8	8	17	25
ALU	Enforcement Budget	84,528	84,528	84,528	108,476	133,031	200,408	197,205	252,023	364,705
LU	Fines Imposed	0	0	200	4,900	14,150	8,736	22,327	17,478	7,000
LU	Fines Reduced, Withdrawn, Dismissed	0	0	0	0	250	615	2,309	895	825
LU	Fines Collected	0	0	0	4,700	2,650	11,036	15,519	15,707	9,375
AL	Cost Recovery Requested	NDA	NDA	NDA	NDA	NDA	NDA	NDA	NDA	NDA
AL	Cost Recovery Awarded	0	0	1,425	16,637	2,206	19,436	17,300	848	18,697
AL	Cost Recovery Collected	0	0	180	1,663	2,728	2,228	6,439	16,243	7,206
L	Probation Monitoring Costs Collected	Not Applicable								
ALU	Franchise Tax Board Collected	Not Applicable								
ALU	Collection Agency Collected	Not Applicable								
									0	150

(1) Enforcement Budget is full year. Collected dollars are fiscal year-to-date as of 1/31/2010  
All other numbers are fiscal year-to-date as of 2/19/2010