BILL NUMBER: AB 809 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Logue

FEBRUARY 21, 2013

An act to amend Sections 1626.2, 2290.5, 4980.01, 4982, 4989.54, 4992.3, 4996, and 4999.90 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as introduced, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

This bill would delete those provisions. The bill would make additional conforming changes.

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

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1626.2 of the Business and Professions Code is amended to read:

1626.2. A dentist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 ~~pursuant to subdivision (b) of that section~~

SEC. 2. Section 2290.5 of the Business and Professions Code is amended to read:

2290.5. (a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who

provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

~~(b) Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient's medical record.~~

~~(c) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.~~

~~(d)~~

(b) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

~~(e)~~

(c) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

~~(f)~~

(d) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

~~(g)~~

(e) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the

Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 3. Section 4980.01 of the Business and Professions Code is amended to read:

4980.01. (a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) (1) This chapter shall not apply to an employee working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(A) A governmental entity.

(B) A school, college, or university.

(C) An institution that is both nonprofit and charitable.

(2) This chapter shall not apply to a volunteer working in any of the settings described in paragraph (1) if his or her work is performed solely under the supervision of the entity, school, or institution.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 ~~pursuant to subdivision (b) of that section~~ .

(e) Notwithstanding subdivisions (b) and (c), all persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

SEC. 4. Section 4982 of the Business and Professions Code is amended to read:

4982. The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications,

functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm

to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern, associate clinical social worker, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern under one's

supervision or control to perform, or permitting the trainee or registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

~~(z) Failure to comply with Section 2290.5.~~

~~(aa)~~

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

~~(ab)~~

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

SEC. 5. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of

the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.

~~(d) Failure to comply with the consent provisions in Section 2290.5.~~

~~(e)~~

(d) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

~~(f)~~

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

~~(g)~~

(f) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

~~(h)~~

(g) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other

governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

~~(i)~~

(h) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as an educational psychologist, a clinical social worker, professional clinical counselor, or marriage and family therapist.

~~(j)~~

(i) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

~~(k)~~

(j) Gross negligence or incompetence in the practice of educational psychology.

~~(l)~~

(k) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

~~(m)~~

(l) Intentionally or recklessly causing physical or emotional harm to any client.

~~(n)~~

(m) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

~~(o)~~

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

~~(p)~~

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

~~(q)~~

(p) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

~~(r)~~

(q) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

~~(s)~~

(r) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

~~(t)~~

(s) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

~~(u)~~

(t) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

~~(v)~~

(u) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

~~(w)~~

(v) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

~~(x)~~

(w) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

~~(y)~~

(x) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the

effective date of this section.

~~(z)~~

(y) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

~~(aa)~~

(z) Impersonation of another by any licensee or applicant for a license, or, in the case of a licensee, allowing any other person to use his or her license.

~~(ab)~~

(aa) Permitting a person under his or her supervision or control to perform, or permitting that person to hold himself or herself out as competent to perform, professional services beyond the level of education, training, or experience of that person.

SEC. 6. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous

or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Incompetence in the performance of clinical social work.

(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(g) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(h) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(i) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(j) Intentionally or recklessly causing physical or emotional harm to any client.

(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(l) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(m) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of one's competence, as established by one's education, training, or

experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (o).

(q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(r) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.

(s) Any conduct in the supervision of any registered associate clinical social worker, intern, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(t) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(u) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(v) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(w) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

~~(x) Failure to comply with Section 2290.5.~~

~~(y)~~

(x) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration

or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

~~(z)~~

(y) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

SEC. 7. Section 4996 of the Business and Professions Code is amended to read:

4996. (a) Only individuals who have received a license under this article may style themselves as "Licensed Clinical Social Workers." Every individual who styles himself or herself or who holds himself or herself out to be a licensed clinical social worker, or who uses any words or symbols indicating or tending to indicate that he or she is a licensed clinical social worker, without holding his or her license in good standing under this article, is guilty of a misdemeanor.

(b) It is unlawful for any person to engage in the practice of clinical social work unless at the time of so doing ~~such~~ *that* person holds a valid, unexpired, and unrevoked license under this article.

(c) A clinical social worker licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 ~~pursuant to subdivision (b) of that section~~ .

SEC. 8. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the

conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a

license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee, applicant, or registrant under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license

authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

~~(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telehealth.~~

~~(ad)~~

(ac) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the public due to a lack of access to health care providers in rural and urban medically underserved areas of California, the increasing strain on existing providers expected to occur with the implementation of the federal Patient Protection and Affordable Care Act, and the assistance that further implementation of telehealth can provide to help relieve these burdens, it is necessary for this act to take effect immediately.

CURRENT BILL STATUS

MEASURE : A.B. No. 809
AUTHOR(S) : Logue.
TOPIC : Healing arts: telehealth.
HOUSE LOCATION : ASM

TYPE OF BILL :
Active
Urgency
Non-Appropriations
2/3 Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 03/04/2013
LAST HIST. ACTION : Referred to Coms. on HEALTH and B.,P. & C.P.
COMM. LOCATION : ASM HEALTH

TITLE : An act to amend Sections 1626.2, 2290.5, 4980.01, 4982, 4989.54, 4992.3, 4996, and 4999.90 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

BILL NUMBER: AB 864 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Skinner

FEBRUARY 21, 2013

An act to add Chapter 5.8 (commencing with Section 2697.2) to Division 2 of, and to repeal Section 2697.8 of, the Business and Professions Code, relating to athletic trainers.

LEGISLATIVE COUNSEL'S DIGEST

AB 864, as introduced, Skinner. Athletic trainers.

Existing law provides for the regulation of various professions and vocations, including those of an athlete agent.

This bill would provide for the licensure and regulation of athletic trainers, as defined, by the Athletic Trainer Licensing Committee, to be established by the bill within the Physical Therapy Board of California. Under the bill, the committee would be comprised of 7 members, to be appointed to 4-year terms as specified. Commencing July 1, 2014, the bill would prohibit a person from practicing as an athletic trainer or using certain titles without a license issued by the committee. The bill would specify the requirements for licensure, including the payment of a license application fee established by the committee. The bill would define the practice of athletic training and prescribe supervision requirements on athletic trainers. The bill would establish the Athletic Trainers' Account within the Physical Therapy Fund for the deposit of license application and renewal fees, and would make those fees available to the committee for the purpose of implementing these provisions upon appropriation by the Legislature.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) California is one of only two states that does not currently regulate the practice of athletic training. This continued lack of regulation creates the risk that individuals who have lost or are unable to obtain licensure in another state will come to California to practice, thereby putting the public in danger and degrading the standards of the profession as a whole.

(b) There is a pressing and immediate need to regulate the profession of athletic training in order to protect the public

health, safety, and welfare. This need is particularly important because athletic trainers often work with school-age children.

SEC. 2. Chapter 5.8 (commencing with Section 2697.2) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.8. ATHLETIC TRAINERS

2697.2. This chapter shall be known and may be cited as the Athletic Trainers Practice Act.

2697.4. For the purposes of this chapter, the following definitions shall apply:

(a) "Athletic trainer" means a person who meets the requirements of this chapter, is licensed by the committee, and practices under the direction of a licensed physician or surgeon.

(b) "Board" means the Physical Therapy Board of California.

(c) "Committee" means the Athletic Trainer Licensing Committee.

2697.6. (a) No person shall engage in the practice of athletic training unless licensed pursuant to this chapter.

(b) No person shall use the title "athletic trainer," "licensed athletic trainer," "certified athletic trainer," "athletic trainer certified," "a.t.," "a.t.l.," "c.a.t.," "a.t.c.," or any other variation of these terms, or any other similar terms indicating that the person is an athletic trainer unless that person is licensed pursuant to this chapter.

(c) Notwithstanding subdivisions (a) and (b), a person who practiced athletic training in California for a period of 15 consecutive years prior to July 1, 2014, and is not eligible for an athletic training license may use the title "athletic trainer" without being licensed by the committee, upon registration with the board. However, on and after January 1, 2017, no person may use the title "athletic trainer" unless he or she is licensed by the committee pursuant to this chapter.

(d) This section shall become operative on July 1, 2014.

2697.8. (a) There is established the Athletic Trainer Licensing Committee within the Physical Therapy Board of California. The committee shall consist of seven members.

(b) The seven committee members shall include the following:

(1) Four licensed athletic trainers. Initially, the committee shall include four athletic trainers who have satisfied the requirements of subdivision (a) of Section 2697.12 and who will satisfy the remainder of the licensure requirements described in Section 2697.12 as soon as it is practically possible.

(2) One public member.

(3) One physician and surgeon licensed by the Medical Board of California or one osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California.

(4) One physical therapist licensed by the Physical Therapy Board of California.

(c) Subject to confirmation by the Senate, the Governor shall appoint two of the licensed athletic trainers, the public member, and

the physician and surgeon or osteopathic physician and surgeon. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a licensed athletic trainer. The Physical Therapy Board of California shall appoint the licensed physical therapist.

(d) (1) All appointments shall be for a term of four years and shall expire on June 30 of the year in which the term expires. Vacancies shall be filled for any unexpired term.

(2) Notwithstanding paragraph (1), for initial appointments made on or after January 1, 2014, the public member appointed by the Governor shall serve a term of one year. The athletic trainers appointed by the Senate Committee on Rules and the Speaker of the Assembly shall serve terms of three years, and the remaining members shall serve terms of four years.

(e) Each member of the committee shall receive per diem and expenses as provided in Section 103.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date. The repeal of this section renders the committee subject to the review required by Article 7.5 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.

2697.10. (a) The committee shall adopt, repeal, and amend regulations as may be necessary to enable it to carry into effect the provisions of this chapter. All regulations shall be in accordance with this chapter.

(b) In promulgating regulations, the committee may consult the professional standards issued by the National Athletic Trainers' Association (NATA), the Board of Certification, Inc. (BOC), the Commission on Accreditation of Athletic Training Education (CAATE), or any other nationally recognized professional organization.

(c) The committee shall approve programs for the education and training of athletic trainers.

(d) The committee shall investigate each applicant, before a license is issued, in order to determine whether the applicant meets the qualifications required by this chapter.

(e) Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2697.12. Except as otherwise provided in this chapter, the committee shall issue an athletic trainer license to an applicant who meets all of the following requirements:

(a) Has submitted an application developed by the committee that includes evidence that the applicant has graduated from a professional degree program in athletic training accredited by the Commission on Accreditation of Athletic Training Education, or its predecessors or successors, and approved by the committee, at an accredited post-secondary institution or institutions approved by the

committee.

(b) Has completed a program of professional education that includes didactic, clinical, and research experiences in athletic training using critical thinking and weighing of evidence.

(c) Has passed a written athletic training certification examination offered by the Board of Certification, Inc., its predecessors or successors, or another nationally accredited athletic trainer certification agency approved and recognized by the committee.

(d) Possesses an emergency cardiac care certification from a certification body, approved by the committee, that adheres to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.

(e) Has paid the application fee established by the committee.

2697.14. Notwithstanding Section 2697.12, the committee shall issue an athletic trainer license to an applicant who did not graduate from an accredited athletic training education program as described in subdivision (a) of Section 2697.12, but who received athletic training via an internship, if the applicant meets all of the following requirements:

(a) Furnishes evidence satisfactory to the committee of completion of a degree at an accredited post-secondary institution that included instruction in basic sciences related to, and on the practice of, athletic training.

(b) Passes the written examination described in subdivision (c) of Section 2697.12.

(c) Completes at least 1500 hours of clinical experience under an athletic trainer certified by the Board of Certification, Inc.

(d) Possesses an emergency cardiac care certification from a certification body, approved by the committee, that adheres to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.

(e) Has paid the application fee established by the committee.

2697.16. A license issued by the committee pursuant to Section 2697.12 or 2697.14 shall be valid for two years and thereafter shall be subject to the renewal requirements described in Sections 2697.18 and 2697.20.

2697.18. The committee shall establish license application and renewal fees in an amount sufficient to cover the reasonable regulatory costs of carrying out this chapter.

2697.20. The committee shall renew a license if an applicant meets all of the following requirements:

(a) Pays the renewal fee as established by the committee.

(b) Submits proof of all of the following:

(1) Satisfactory completion of continuing education, as determined by the committee.

(2) Current athletic training certification from a certification body approved by te committee, including, but not limited to, the Board of Certification, Inc., or its predecessors or successors.

(3) Current emergency cardiac care certification meeting the

requirements of subdivision (d) of Section 2697.12.

2697.22. (a) The practice of athletic training includes all of the following:

(1) The professional treatment of a patient for risk management and injury or illness prevention.

(2) The clinical evaluation and assessment of a patient for an injury or an illness sustained or exacerbated while participating in physical activity, or both.

(3) The immediate care and treatment of a patient for an injury or an illness sustained or exacerbated while participating in physical activity, or both.

(4) The rehabilitation and reconditioning of a patient from injury or from an illness sustained or exacerbated while participating in physical activity, or both.

(b) The practice of athletic training does not include the practice of physical therapy, the practice of medicine, the practice of osteopathic medicine, the practice of chiropractic medicine, or medical diagnosis or treatment.

(c) An athletic trainer shall refer a patient to an appropriate licensed health care provider when the treatment or management of the injury, illness, or condition does not fall within the practice of athletic training.

(d) An athletic trainer shall not provide, offer to provide, or represent that he or she is qualified to provide any treatment that he or she is not qualified to perform by his or her education, training, or experience, or that he or she is otherwise prohibited by law from performing.

(e) For purposes of this section, "injury" or "illness" means an injury or illness sustained as a result of, or exacerbated by, participation in athletics or physical activity for which the athletic trainer has had formal training during his or her professional education program, including nationally recognized educational competencies and clinical proficiencies for the entry-level athletic trainer or advanced post-professional study, and falls within the practice of athletic training.

(f) This section shall become operative on July 1, 2014.

2697.24. (a) An athletic trainer shall render treatment within his or her scope of practice under the direction of a physician and surgeon licensed by the Medical Board of California or an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California. This direction shall be provided by verbal order when the directing physician and surgeon or osteopathic physician and surgeon is present and by written order or by athletic training treatment plans or protocols, to be established by the physician and surgeon or osteopathic physician and surgeon, when the directing physician and surgeon or osteopathic physician and surgeon is not present.

(b) Notwithstanding any other law, and consistent with this chapter, the committee may establish other alternative mechanisms for the adequate direction of an athletic trainer.

(c) This section shall become operative on July 1, 2014.

2697.26. The requirements of this chapter do not apply to the following:

(a) An athletic trainer licensed, certified, or registered in another state or county who is in California temporarily, traveling with a team or organization, to engage in the practice of athletic training for, among other things, an athletic or sporting event.

(b) An athletic trainer licensed, certified, or registered in another state who is invited by a sponsoring organization, such as the United States Olympic Committee, to temporarily provide athletic training services under his or her state's scope of practice for athletic training.

(c) A student enrolled in an athletic training education program, while participating in educational activities during the course of his or her educational rotations under the supervision and guidance of an athletic trainer licensed under this chapter or other licensed health care provider.

(d) A member or employee of the United States Armed Forces, licensed, certified, or registered in another state, as part of his or her temporary federal deployment or employment in California for a limited time.

2697.28. Nothing in this chapter shall be construed to limit, impair, or otherwise apply to the practice of any person licensed and regulated under any other chapter of Division 2 (commencing with Section 500).

2697.30. Nothing in this chapter shall require new or additional third party reimbursement for services rendered by an individual licensed under this chapter.

2697.32. The committee may order any of the following actions relative to an athletic trainer's license after a hearing for unprofessional conduct that includes, but is not limited to, a violation of this chapter, any regulations adopted by the committee pursuant to this chapter, or revocation or suspension of an athletic training license, certification, or registration:

(a) Denial of an application for the athletic trainer's license.

(b) Issuance of the athletic trainer's license subject to terms and conditions.

(c) Suspension or revocation of the athletic trainer's license.

(d) Imposition of probationary conditions upon the athletic trainer's license.

2697.34. The Athletic Trainers' Account is hereby established in the Physical Therapy Fund. All fees collected pursuant to this chapter shall be paid into the account. These fees shall be available to the committee, upon appropriation by the Legislature, for the regulatory purpose of implementing this chapter.

BILL NUMBER: AB 866 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Linder

FEBRUARY 21, 2013

An act to amend Sections 11342.548, 11346.3, 11346.45, and 11349.1 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 866, as introduced, Linder. Regulations.

(1) The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies, and for review of those regulatory actions by the Office of Administrative Law. The act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of the regulation by preparing an economic impact analysis. The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals in an amount exceeding $50,000,000. Existing law requires an agency proposing to adopt, amend, or repeal a major regulation to also prepare a standardized regulatory impact analysis.

This bill would instead define a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals in an amount exceeding $15,000,000.

This bill would modify the requirements that an adopting agency must meet when preparing the economic impact analysis and the standardized regulatory impact analysis.

(2) The act requires that state agencies proposing to adopt regulations, prior to publication of the notice of proposed action, involve parties that would be subject to the proposed regulations in public discussions regarding those proposed regulations, when the proposed regulations involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period. The act also provides that these requirements are not subject to judicial review or a specified review by the office.

This bill would instead make that requirement applicable to all proposed regulations. The bill would repeal the provisions that exempt these requirements from judicial review and review by the office. The bill would require the office to return the regulation to the agency if the agency does not comply with these requirements.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) Robust jobs and economic growth are the key to repairing California's chronic budget problems and generating adequate revenues

to fund vital programs like education, infrastructure, and public safety.

(b) California's jobs, business, and economic climate have been in dire straits for several years, resulting in higher unemployment, and a reduction in the number of businesses, small businesses in particular, operating in the state and concomitant decline in state revenues.

(c) California's regulatory burdens are often cited as one of the main causes of stagnant job and economic growth and why many businesses decide to expand in other states instead of California. In fact, in 2011 CEO magazine ranked California last among states where companies prefer to do business for the seventh straight year.

(d) A large part of the problem is that too much authority over the California economy and jobs climate has been ceded to the unelected state bureaucracy. Regulations adopted by state agencies often impose unnecessary burdens on California's economic and jobs climate at a time when California can least afford to discourage economic and job growth.

(e) Today, instead of using due diligence in analyzing the economic impacts of proposed regulations, state agencies often merely fill out a four-page economic questionnaire that provides little more than one-word answers and checked-off boxes and is devoid of supporting data. On top of that, this information is not currently required to be made available to the public.

(f) More sunshine and public input is needed in the regulatory rulemaking process. Those subject to regulations are often in the best position to determine the actual costs of regulations, and also to identify equally effective but less burdensome alternatives.

(g) Additionally, the connection between those that adopt laws and those that implement them has been eroded. Stronger and more direct oversight of the regulatory rulemaking process by the Legislature, as the body conferring authority to adopt regulations, will improve the regulatory rulemaking process.

(h) It is not the intent of this act to unduly impede the regulatory rulemaking process. It is rather to provide greater sunshine and public participation in the fastest-growing area of government and to develop the most thoughtful, economically efficient, and least burdensome regulations on jobs and businesses when carrying out the intent of authorizing statutes.

(i) Under this act, if a state agency has sufficiently involved the public in the rulemaking process and conducted a thorough analysis of a regulation's economic impacts, this act should have no adverse effect on the regulatory rulemaking process.

(j) Further, the purpose of this act is not to prevent or postpone the adoption of any particular type of regulation or regulations but simply to ensure that accurate and honest information about a proposed regulation's true economic impact is prepared and made available to the public and the legislative and executive branches of government.

SEC. 2. Section 11342.548 of the Government Code is amended to read:

11342.548. "Major regulation" means any proposed adoption, amendment, or repeal of a regulation subject to review by the Office of Administrative Law pursuant to Article 6 (commencing with Section 11349) that will have an economic impact on California business enterprises and individuals in an amount exceeding ~~fifty~~ *fifteen* million dollars ~~($50,000,000),~~ *($15,000,000),* as estimated by the ~~agency.~~ *agency in the economic impact analysis*

prepared pursuant to Section 11346.3.

SEC. 3. Section 11346.3 of the Government Code is amended to read:

11346.3. (a) State agencies proposing to adopt, amend, or repeal any administrative regulation shall assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. For purposes of this subdivision, assessing the potential for adverse economic impact shall require agencies, when proposing to adopt, amend, or repeal a regulation, to adhere to the following requirements, to the extent that these requirements do not conflict with other state or federal laws:

(1) The proposed adoption, amendment, or repeal of a regulation shall be based on adequate information concerning the need for, and consequences of, proposed governmental action.

(2) The state agency, ~~prior to~~ *before* submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal's impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states. For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties.

(3) An economic ~~assessment~~ *analysis* prepared pursuant to this subdivision for a proposed regulation that is not a major regulation or that is a major regulation proposed ~~prior to~~ *before* November 1, ~~2013~~ *2014* , shall be prepared ~~in accordance with~~ *pursuant to* subdivision (b). An economic ~~assessment~~ *analysis* prepared pursuant to this subdivision for a major regulation proposed on or after November 1, ~~2013~~ *2014* , shall be prepared ~~in accordance with~~ *pursuant to* subdivision (c), and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) All state agencies proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed ~~prior to~~ *before* November 1, ~~2013~~ *2014* , shall prepare an economic impact ~~assessment~~ *analysis* that ~~assesses whether and to what extent it will affect~~ *meets all of* the ~~following:~~ *following requirements:*

(A) *Estimates the total actual costs of compliance for affected small businesses, large businesses, and other parties subject to the regulation or group of regulations.* The ~~creation or elimination~~ *economic impact analysis shall, at a minimum, estimate the costs of* ~~jobs within~~ *individual compliance for a representative small business, large business, and other party subject to* the ~~state.~~ *regulation as well as the cumulative statewide cost of compliance.*

(B) ~~The creation~~ *If an agency declares that it is not aware of* ~~new businesses~~ *any cost impact that a representative small business, large business, or other party subject to* the ~~elimination~~ *regulation would incur in compliance with the*

regulation, or group of ~~existing businesses within~~
regulations authorized by the ~~state.~~
same statute, the economic impact analysis shall include an express statement to that effect as well as a detailed statement describing how a small business, large business, or other party subject to the regulation could comply with the regulation or group of regulations without incurring cost.

(C) ~~The expansion~~ *If an economic impact analysis prepared pursuant to this section finds that the cumulative statewide cost* of ~~businesses currently doing business within~~ *compliance of any regulation, or group of regulations authorized by* the ~~state.~~
same statute, exceeds fifteen million dollars ($15,000,000) then the regulation or group of regulations shall be deemed to be a major regulation. If reasonable doubt exists as to whether the cumulative statewide cost of compliance of any regulation or group of regulations authorized by the same statute exceeds fifteen million dollars ($15,000,000), the doubt shall be resolved in favor of finding that the regulation or group of regulations authorized by the same statute qualifies as a major regulation.

(D) Each economic impact analysis that an agency prepares shall be maintained in the agency's records and shall be made available to the office and the Governor's Office of Planning and Research, the Director of Finance, the Legislative Analyst, the State Auditor, the Controller, the President pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, the Minority Floor Leader of the Assembly, and the chair and ranking minority party member of the appropriate fiscal and policy committees of the Senate and the Assembly, upon request.

(E) An adopting agency shall prepare a standardized regulatory impact analysis for any regulation that the agency determines is a major regulation.

~~(D) The~~

(F) Each economic impact analysis shall assess the benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

(2) This subdivision ~~does~~ *shall* not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of completing the assessment may come from existing state publications.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, ~~2013~~ *2014* , shall prepare a standardized regulatory impact ~~analysis~~ *assessment* in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall ~~address~~ *contain* all of the following:

(A) A detailed estimate, in both the short term and long term, of the average individual cost of compliance for small businesses, large businesses, and other parties subject to the major regulation.

(B) A detailed estimate, in both the short term and long term, of the cumulative statewide cost of compliance with the major regulation for small businesses, large businesses, and other parties.

(C) A detailed distributional assessment that evaluates, in both the short term and long term, how certain industries, income groups,

and geographic regions are likely to experience benefits or costs as a consequence of the major regulation.

~~(A) The~~

(D) A detailed estimate of the short-term and long-term creation or elimination of jobs ~~within~~ *in individual sectors as a result of* the ~~state.~~ *major regulation.*

(E) A detailed estimate, in both the short term and long term, of the potential for economic leakage as a result of the major regulation in which economic activity is relocated from California to another state or country.

~~(B) The creation~~

(F) A detailed estimate, in both the short term and long term, of ~~new~~ *the impact on the ability of California* businesses ~~or~~ *to compete with businesses in other states and California's ability to attract businesses to locate in* the ~~elimination of existing businesses within~~ *state as a result of* the ~~state.~~ *major regulation.*

(G) A detailed estimate, in both the short term and long term, of the effects on excise tax, sales and use tax, income tax, corporation tax, and other tax revenue to the General Fund, and fee revenues to special funds, as a result of the major regulation and changes in economic activity as a result of the major regulation.

~~(C) The competitive advantages~~

(H) A precise statement enumerating the benefits, in both the short term and long term, anticipated from the major regulation, including the benefits or ~~disadvantages for businesses currently doing business within the state.~~ *goals provided in the authorizin g statutes. Where applicable, the statement shall include the failures in private markets or public institutions that warrant the proposed major regulation, in a manner consistent with the guidelines published by the federal Office of Management and Budget in OMB Circular No. A-94, Revised.*

~~(D) The increase~~

(I) An identification of each technical, theoretical, and empirical study, report, or ~~decrease of investment~~ *similar document, if any, upon which the agency relies* in *proposing* the ~~state.~~ *major regulation.*

~~(E) The incentives for innovation in products, materials, or processes.~~

(J) A copy of the economic impact analysis prepared pursuant to subdivision (b).

~~(F) The~~

(K) A description of the benefits of the ~~regulations,~~ *regulation,* including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

(2) This subdivision shall not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of

completing the ~~analysis~~ *assessment* may be derived from existing state, federal, or academic publications.

(d) Any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be the most cost-effective set of regulatory measures that are equally effective in achieving the purpose of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

(f) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, ~~2013~~ *2014* , and that has prepared a standardized regulatory impact ~~analysis~~ *assessment* pursuant to subdivision (c), shall submit that ~~analysis~~ *assessment* to the Department of Finance upon completion. The department shall comment, within 30 days of receiving ~~that analysis,~~ *the assessment,* on the extent to which the ~~analysis~~ *assessment* adheres to the regulations adopted pursuant to Section 11346.36. Upon receiving the comments from the department, the agency may update its analysis to reflect any comments received from the department and shall summarize the comments and the response of the agency along with a statement of the results of the updated analysis for the statement required by paragraph (10) of subdivision (a) of Section 11346.5.

SEC. 4. Section 11346.45 of the Government Code is amended to read:

11346.45. (a) In order to increase public participation and improve the quality of regulations, state agencies proposing to adopt regulations shall, ~~prior to~~ *before* publication of the notice required by Section 11346.5, involve parties who would be subject to the proposed regulations in public discussions regarding those proposed ~~regulations, when the proposed regulations involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.~~ *regulations.*

(b) This section ~~does~~ *shall* not apply to a state agency in any instance where that state agency is required to implement federal law and regulations for which there is little or no discretion on the part of the state to vary.

(c) If the agency does not or cannot comply with ~~the provisions of~~ subdivision (a), it shall state the reasons for noncompliance with reasonable specificity in the rulemaking record.

~~(d) The provisions of this section shall not be subject to judicial review or to the provisions of Section 11349.1.~~

SEC. 5. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The office shall review all regulations adopted, amended, or repealed pursuant to the procedure specified in Article 5

(commencing with Section 11346) and submitted to it for publication in the California Code of Regulations Supplement and for transmittal to the Secretary of State and make determinations using all of the following standards:

(1) Necessity.

(2) Authority.

(3) Clarity.

(4) Consistency.

(5) Reference.

(6) Nonduplication.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking proceeding. The office shall approve the regulation or order of repeal if it complies with the standards set forth in this section and with this chapter.

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

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

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

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

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

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

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

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

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

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized

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

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

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

(6) The adopting agency did not comply with Section 11346.10.

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

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

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

BILL NUMBER: AB 894 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Mansoor

FEBRUARY 22, 2013

An act to amend Section 302 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 894, as introduced, Mansoor. Consumer affairs.

Under existing law, the Department of Consumer Affairs is comprised of boards that license and regulate various professions and vocations. Existing law provides that these boards are established to ensure that private businesses and professions are regulated to protect the people of this state. Under existing law, the department is under the control of the Director of Consumer Affairs. The term "director" is defined for the purposes of these provisions.

This bill would make a technical, nonsubstantive change to that provision.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 302 of the Business and Professions Code is amended to read:

302. As used in this chapter, the following terms have the following meanings:

(a) "Department" means the Department of Consumer Affairs.

(b) "Director" means the Director ~~of the Department~~ of Consumer Affairs.

(c) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

(d) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.

(e) "Individual" does not include a partnership, corporation, association, or other group, however organized.

(f) "Division" means the Division of Consumer Services.

(g) "Interests of consumers" is limited to the cost, quality, purity, safety, durability, performance, effectiveness, dependability, availability, and adequacy of choice of goods and services offered or furnished to consumers and the adequacy and accuracy of information relating to consumer goods, services, money, or credit (including labeling, packaging, and advertising of contents, qualities, and terms of sales).

BILL NUMBER: AB 1003INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Maienschein

FEBRUARY 22, 2013

An act to amend 13401.5 of the Corporations Code, relating to professional corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1003, as introduced, Maienschein. Professional corporations: healing arts practitioners.

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under certain existing law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act defines a professional corporation as a corporation organized under the General Corporation Law or pursuant to specified law that is engaged in rendering professional services in a single profession, except as otherwise authorized in the act, pursuant to a certificate of registration issued by the governmental agency regulating the profession and that in its practice or business designates itself as a professional or other corporation as may be required by statute. The act authorizes specified listed types of healing arts practitioners to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares.

This bill would delete professional employees from that authorization, and, instead, would provide that those provisions do not limit the employment of persons duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render professional services, by a designated professional corporation, to the listed licensed professionals specified in the provisions.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13401.5 of the Corporations Code is amended to read:

13401.5. *(a)* Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, *or* directors ~~, or professional employees~~ of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

~~(a) Medical corporation.~~
~~(1) Licensed doctors of podiatric medicine.~~
~~(2) Licensed psychologists.~~
~~(3) Registered nurses.~~
~~(4) Licensed optometrists.~~
~~(5) Licensed marriage and family therapists.~~
~~(6) Licensed clinical social workers.~~
~~(7) Licensed physician assistants.~~
~~(8) Licensed chiropractors.~~
~~(9) Licensed acupuncturists.~~
~~(10) Naturopathic doctors.~~
~~(11) Licensed professional clinical counselors.~~

~~(b) Podiatric medical corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed psychologists.~~
~~(3) Registered nurses.~~
~~(4) Licensed optometrists.~~
~~(5) Licensed chiropractors.~~
~~(6) Licensed acupuncturists.~~
~~(7) Naturopathic doctors.~~
~~(c) Psychological corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed doctors of podiatric medicine.~~
~~(3) Registered nurses.~~
~~(4) Licensed optometrists.~~
~~(5) Licensed marriage and family therapists.~~
~~(6) Licensed clinical social workers.~~
~~(7) Licensed chiropractors.~~
~~(8) Licensed acupuncturists.~~
~~(9) Naturopathic doctors.~~
~~(10) Licensed professional clinical counselors.~~

~~(d) Speech-language pathology corporation.~~
~~(1) Licensed audiologists.~~
~~(e) Audiology corporation.~~
~~(1) Licensed speech-language pathologists.~~
~~(f) Nursing corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed doctors of podiatric medicine.~~
~~(3) Licensed psychologists.~~
~~(4) Licensed optometrists.~~
~~(5) Licensed marriage and family therapists.~~
~~(6) Licensed clinical social workers.~~
~~(7) Licensed physician assistants.~~
~~(8) Licensed chiropractors.~~
~~(9) Licensed acupuncturists.~~
~~(10) Naturopathic doctors.~~
~~(11) Licensed professional clinical counselors.~~

~~(g) Marriage and family therapist corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed psychologists.~~
~~(3) Licensed clinical social workers.~~
~~(4) Registered nurses.~~
~~(5) Licensed chiropractors.~~
~~(6) Licensed acupuncturists.~~
~~(7) Naturopathic doctors.~~
~~(8) Licensed professional clinical counselors.~~

~~(h) Licensed clinical social worker corporation.~~

~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed psychologists.~~
~~(3) Licensed marriage and family therapists.~~
~~(4) Registered nurses.~~
~~(5) Licensed chiropractors.~~
~~(6) Licensed acupuncturists.~~
~~(7) Naturopathic doctors.~~
~~(8) Licensed professional clinical counselors.~~
~~(i) Physician assistants corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Registered nurses.~~
~~(3) Licensed acupuncturists.~~
~~(4) Naturopathic doctors.~~
~~(j) Optometric corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed doctors of podiatric medicine.~~
~~(3) Licensed psychologists.~~
~~(4) Registered nurses.~~
~~(5) Licensed chiropractors.~~
~~(6) Licensed acupuncturists.~~
~~(7) Naturopathic doctors.~~
~~(k) Chiropractic corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed doctors of podiatric medicine.~~
~~(3) Licensed psychologists.~~
~~(4) Registered nurses.~~
~~(5) Licensed optometrists.~~
~~(6) Licensed marriage and family therapists.~~
~~(7) Licensed clinical social workers.~~
~~(8) Licensed acupuncturists.~~
~~(9) Naturopathic doctors.~~
~~(10) Licensed professional clinical counselors.~~

~~(l) Acupuncture corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed doctors of podiatric medicine.~~
~~(3) Licensed psychologists.~~
~~(4) Registered nurses.~~
~~(5) Licensed optometrists.~~
~~(6) Licensed marriage and family therapists.~~
~~(7) Licensed clinical social workers.~~
~~(8) Licensed physician assistants.~~
~~(9) Licensed chiropractors.~~
~~(10) Naturopathic doctors.~~
~~(11) Licensed professional clinical counselors.~~

~~(m) Naturopathic doctor corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed psychologists.~~
~~(3) Registered nurses.~~
~~(4) Licensed physician assistants.~~
~~(5) Licensed chiropractors.~~
~~(6) Licensed acupuncturists.~~
~~(7) Licensed physical therapists.~~
~~(8) Licensed doctors of podiatric medicine.~~
~~(9) Licensed marriage and family therapists.~~
~~(10) Licensed clinical social workers.~~

~~(11) Licensed optometrists.~~
~~(12) Licensed professional clinical counselors.~~

~~(n) Dental corporation.~~
~~(1) Licensed physicians and surgeons.~~
~~(2) Dental assistants.~~
~~(3) Registered dental assistants.~~
~~(4) Registered dental assistants in extended functions.~~

~~(5) Registered dental hygienists.~~
~~(6) Registered dental hygienists in extended functions.~~

~~(7) Registered dental hygienists in alternative practice.~~

~~(o) Professional clinical counselor corporation.~~

~~(1) Licensed physicians and surgeons.~~
~~(2) Licensed psychologists.~~
~~(3) Licensed clinical social workers.~~
~~(4) Licensed marriage and family therapists.~~
~~(5) Registered nurses.~~
~~(6) Licensed chiropractors.~~
~~(7) Licensed acupuncturists.~~
~~(8) Naturopathic doctors.~~
(1) Medical corporation.
(A) Licensed doctors of podiatric medicine.
(B) Licensed psychologists.
(C) Registered nurses.
(D) Licensed optometrists.
(E) Licensed marriage and family therapists.
(F) Licensed clinical social workers.
(G) Licensed physician assistants.
(H) Licensed chiropractors.
(I) Licensed acupuncturists.
(J) Naturopathic doctors.
(K) Licensed professional clinical counselors.
(2) Podiatric medical corporation.
(A) Licensed physicians and surgeons.
(B) Licensed psychologists.
(C) Registered nurses.
(D) Licensed optometrists.
(E) Licensed chiropractors.
(F) Licensed acupuncturists.
(G) Naturopathic doctors.
(3) Psychological corporation.
(A) Licensed physicians and surgeons.
(B) Licensed doctors of podiatric medicine.
(C) Registered nurses.
(D) Licensed optometrists.
(E) Licensed marriage and family therapists.
(F) Licensed clinical social workers.
(G) Licensed chiropractors.
(H) Licensed acupuncturists.
(I) Naturopathic doctors.
(J) Licensed professional clinical counselors.
(4) Speech-language pathology corporation.
(A) Licensed audiologists.
(5) Audiology corporation.
(A) Licensed speech-language pathologists.

(6) Nursing corporation.
(A) Licensed physicians and surgeons.
(B) Licensed doctors of podiatric medicine.
(C) Licensed psychologists.
(D) Licensed optometrists.
(E) Licensed marriage and family therapists.
(F) Licensed clinical social workers.
(G) Licensed physician assistants.
(H) Licensed chiropractors.
(I) Licensed acupuncturists.
(J) Naturopathic doctors.
(K) Licensed professional clinical counselors.
(7) Marriage and family therapist corporation.
(A) Licensed physicians and surgeons.
(B) Licensed psychologists.
(C) Licensed clinical social workers.
(D) Registered nurses.
(E) Licensed chiropractors.
(F) Licensed acupuncturists.
(G) Naturopathic doctors.
(H) Licensed professional clinical counselors.
(8) Licensed clinical social worker corporation.
(A) Licensed physicians and surgeons.
(B) Licensed psychologists.
(C) Licensed marriage and family therapists.
(D) Registered nurses.
(E) Licensed chiropractors.
(F) Licensed acupuncturists.
(G) Naturopathic doctors.
(H) Licensed professional clinical counselors.
(9) Physician assistants corporation.
(A) Licensed physicians and surgeons.
(B) Registered nurses.
(C) Licensed acupuncturists.
(D) Naturopathic doctors.
(10) Optometric corporation.
(A) Licensed physicians and surgeons.
(B) Licensed doctors of podiatric medicine.
(C) Licensed psychologists.
(D) Registered nurses.
(E) Licensed chiropractors.
(F) Licensed acupuncturists.
(G) Naturopathic doctors.
(11) Chiropractic corporation.
(A) Licensed physicians and surgeons.
(B) Licensed doctors of podiatric medicine.
(C) Licensed psychologists.
(D) Registered nurses.
(E) Licensed optometrists.
(F) Licensed marriage and family therapists.
(G) Licensed clinical social workers.
(H) Licensed acupuncturists.
(I) Naturopathic doctors.
(J) Licensed professional clinical counselors.
(12) Acupuncture corporation.
(A) Licensed physicians and surgeons.
(B) Licensed doctors of podiatric medicine.
(C) Licensed psychologists.
(D) Registered nurses.

(E) Licensed optometrists.
(F) Licensed marriage and family therapists.
(G) Licensed clinical social workers.
(H) Licensed physician assistants.
(I) Licensed chiropractors.
(J) Naturopathic doctors.
(K) Licensed professional clinical counselors.
(13) Naturopathic doctor corporation.
(A) Licensed physicians and surgeons.
(B) Licensed psychologists.
(C) Registered nurses.
(D) Licensed physician assistants.
(E) Licensed chiropractors.
(F) Licensed acupuncturists.
(G) Licensed physical therapists.
(H) Licensed doctors of podiatric medicine.
(I) Licensed marriage and family therapists.
(J) Licensed clinical social workers.
(K) Licensed optometrists.
(L) Licensed professional clinical counselors.
(14) Dental corporation.
(A) Licensed physicians and surgeons.
(B) Dental assistants.
(C) Registered dental assistants.
(D) Registered dental assistants in extended functions.

(E) Registered dental hygienists.
(F) Registered dental hygienists in extended functions.

(G) Registered dental hygienists in alternative practice.

(15) Professional clinical counselor corporation.
(A) Licensed physicians and surgeons.
(B) Licensed psychologists.
(C) Licensed clinical social workers.
(D) Licensed marriage and family therapists.
(E) Registered nurses.
(F) Licensed chiropractors.
(G) Licensed acupuncturists.
(H) Naturopathic doctors.
(b) This section does not limit the employment of persons duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render professional services, by a professional corporation designated in the section, to the licensed professionals listed under each paragraph of subdivision (a).

BILL NUMBER: AB 1013INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Gomez

FEBRUARY 22, 2013

An act to amend Section 320 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1013, as introduced, Gomez. Consumer affairs.

Under existing law, the Department of Consumer Affairs is comprised of boards that license and regulate various professions and vocations. Existing law provides that these boards are established to ensure that private businesses and professions are regulated to protect the people of this state. Existing law authorizes the director or the Attorney General to intervene in a matter or proceeding pending before any state commission, regulatory agency, department, or agency, or any court, which the director finds may affect substantially the interests of consumers within California, in any appropriate manner to represent the interests of consumers. Existing law also authorizes the director, or any officer or employee designated by the director for that purpose, or the Attorney General to thereafter present evidence and argument to the agency, court of department, as specified, for the effective protection of the interests of consumers.

This bill would additionally authorize any employee designated by the Attorney General to make those presentations.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 320 of the Business and Professions Code is amended to read:

320. Whenever there is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court or agency, any matter or proceeding which the director finds may affect substantially the interests of consumers within California, the director, or the Attorney General, may intervene in such matter or proceeding in any appropriate manner to represent the interests of consumers. The director, or any officer or employee designated by the director for that purpose, or the Attorney General *, or any employee designated by the Attorney General for that purpose* , may thereafter present to ~~such~~ *that* agency, court, or department, in conformity with the rules of practice and procedure thereof, ~~such~~ *the* evidence and argument as he *or she* shall determine to be necessary, for the effective protection of the interests of consumers.

BILL NUMBER: AB 1017INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Gomez

FEBRUARY 22, 2013

An act to amend Section 11022 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1017, as introduced, Gomez. Incoming telephone calls: messages.

Existing law requires each state agency to establish a procedure pursuant to which incoming telephone calls on any public line are answered within 10 rings during regular business hours, except as specified. For purposes of this provision, "state agency" includes every state office, officer, department, division, bureau, board, and commission.

This bill would require, in addition, that the procedure established by the state agency enable a caller to leave a message, as specified, and that the message be returned within 3 business days, or 72 hours, whichever is earlier.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11022 of the Government Code is amended to read:

11022. Each state agency shall establish a procedure pursuant to which incoming telephone calls on any public line shall be answered within 10 rings during regular business hours as set forth in Section 11020, except where emergency or illness require adjustments to normal staffing levels. This requirement shall be met in every office where staff is available, unless compliance would require overtime or compensating time off. *This procedure also shall enable a caller to leave a message, either person-to-person, or via voice mai l or other method of 24-hour telecommunications . Each call shall be returned within three business days or 72 hours after the message is left, whichever is earlier.*

BILL NUMBER: AB 1147INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Gomez

FEBRUARY 22, 2013

An act to amend Section 4601 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as introduced, Gomez. Massage therapy.

Existing law, until January 1, 2015, provides for the voluntary certification of massage therapists by the California Massage Therapy Council. Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage therapist, including, but not limited to, successfully completing curricula in massage and related subjects totaling a minimum of 500 hours, or the credit unit equivalent, a minimum of 250 hours of which shall be from a school approved by the council, and the other 250 hours may be secured as specified.

This bill would instead increase that minimum of hours to 505 hours, or the credit unit equivalent, a minimum of 250 hours of which would be required to be from a school approved by the council, and the other 255 hours secured as specified.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4601 of the Business and Professions Code is amended to read:

4601. (a) The council shall issue a certificate under this chapter to an applicant who satisfies the requirements of this chapter.

(b) (1) In order to obtain certification as a massage practitioner, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(A) The applicant is 18 years of age or older.

(B) The applicant has successfully completed, at an approved school, curricula in massage and related subjects, totaling a minimum of 250 hours or the credit unit equivalent, that incorporates appropriate school assessment of student knowledge and skills. Included in the hours shall be instruction addressing anatomy and

physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours devoted to these curriculum areas.

(C) All fees required by the council have been paid.

(2) New certificates shall not be issued pursuant to this subdivision after December 31, 2015. Certificates issued pursuant to this section or subdivision (a) or (c) of Section 4604 on or before December 31, 2015, shall, after December 31, 2015, be renewed without any additional educational requirements, provided that the certificate holder continues to be qualified pursuant to this chapter.

(c) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant is 18 years of age or older.

(2) The applicant satisfies at least one of the following requirements:

(A) He or she has successfully completed the curricula in massage and related subjects totaling a minimum of ~~500~~ *505* hours or the credit unit equivalent. Of this ~~500~~ *505* hours, a minimum of 250 hours shall be from approved schools. The remaining ~~250~~ *255* hours required may be secured either from approved or registered schools, or from continuing education providers approved by, or registered with, the council or the Department of Consumer Affairs. After December 31, 2015, applicants may only satisfy the curricula in massage and related subjects from approved schools.

(B) The applicant has done both of the following:

(i) Successfully completed, at an approved school, curricula in massage and related subjects totaling a minimum of 250 hours that incorporates appropriate school assessment of student knowledge and skills. Included in the hours shall be instruction addressing anatomy and physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours devoted to these curriculum areas.

(ii) Passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the board. The successful completion of this examination may have been accomplished before the date the council is authorized by this chapter to begin issuing certificates.

(3) All fees required by the council have been paid.

(d) The council shall issue a certificate to an applicant who meets the other qualifications of this chapter and holds a current and valid registration, certification, or license from any other state whose licensure requirements meet or exceed those defined within this chapter. The council shall have discretion to give credit for comparable academic work completed by an applicant in a program outside of California.

(e) An applicant applying for a massage therapist certificate shall file with the council a written application provided by the council, showing to the satisfaction of the council that he or she meets all of the requirements of this chapter.

(f) Any certification issued under this chapter shall be subject to renewal every two years in a manner prescribed by the council, and shall expire unless renewed in that manner. The council may provide for the late renewal of a license.

(g) (1) The council shall have the responsibility to determine that the school or schools from which an applicant has obtained the education required by this chapter meet the requirements of this chapter. If the council has any reason to question whether or not the applicant received the education that is required by this chapter from the school or schools that the applicant is claiming, the council shall investigate the facts to determine that the applicant received the required education prior to issuing a certificate.

(2) For purposes of paragraph (1) and any other provision of this chapter for which the council is authorized to receive factual information as a condition of taking any action, the council shall have the authority to conduct oral interviews of the applicant and others or to make any investigation deemed necessary to establish that the information received is accurate and satisfies any criteria established by this chapter.

(h) The certificate issued pursuant to this chapter, as well as any identification card issued by the council, shall be surrendered to the council by any certificate holder whose certificate has been suspended or revoked.

CURRENT BILL STATUS

MEASURE : A.B. No. 1147
AUTHOR(S) : Gomez.
TOPIC : Massage therapy.
HOUSE LOCATION : ASM

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 03/07/2013
LAST HIST. ACTION : Referred to Com. on B.,P. & C.P.
COMM. LOCATION : ASM BUSINESS, PROFESSIONS AND CONSUMER PROTECTION

TITLE : An act to amend Section 4601 of the Business and Professions Code, relating to healing arts.

BILL NUMBER: SB 176 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Galgiani

FEBRUARY 6, 2013

An act to add Section 11346.46 to the Government Code, relating to administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 176, as introduced, Galgiani. Administrative procedures.

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations.

This bill would, in order to increase public participation and improve the quality of regulations, require state agencies, boards, and commissions to publish a notice prior to any meeting date or report, provided the meeting or report is seeking public input, as described.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11346.46 is added to the Government Code, to read:

11346.46. (a) In order to increase public participation in the regulation development process and improve the quality of regulations, state agencies, boards, and commissions shall publish a notice in the California Regulatory Notice Register, as prepared by the Office of Administrative Law, at least 15 days prior to any meeting date or report, provided the meeting or report is seeking public input.

(b) For purposes of this section, meetings and reports seeking public input include, but are not limited to, the following:

(1) Informational hearings.

(2) Workshops.

(3) Scoping hearings.

(4) Preliminary meetings.

(5) Public and stakeholder outreach meetings.

(6) Fifteen-day comment period notices.

(7) The posting of Internet Web site links to informational and state reports prepared for public review and comment.

BILL NUMBER: SB 306 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Price

FEBRUARY 15, 2013

An act to amend Sections 1000, 2531, 2531.75, and 2570.19 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 306, as introduced, Price. Healing arts: boards.

The Chiropractic Act, an initiative measure approved by the electors on November 7, 1922, provides for the regulation and licensing of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law specifies that the law governing chiropractors is found in the act.

This bill would provide that the powers and duties of the State Board of Chiropractic Examiners, as provided, shall be subject to review by the appropriate policy committees of the Legislature as if those provisions were scheduled to be repealed on January 1, 2018.

Existing law establishes the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in the Department of Consumer Affairs and makes the board responsible for the licensure of speech-language pathologists, audiologists, and hearing aid dispensers. Existing law authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2014, and subjects the board to review by the Joint Sunset Review and Committee prior to that repeal.

This bill would instead repeal those provisions on January 1, 2018, and would subject the board to review by the appropriate policy committees of the Legislature.

Existing law provides for the licensure and regulation of occupational therapists, as defined, by the California Board of Occupational Therapy within the Department of Consumer Affairs. Existing law repeals those provisions on January 1, 2014, and subjects the board to review by the Joint Sunset Review Committee prior to that repeal.

This bill would instead repeal those provisions on January 1, 2018, would subject the board to review by the appropriate policy committees of the Legislature.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1000 of the Business and Professions Code is amended to read:

1000. The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the

electors November 7, 1922. *Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.*

SEC. 2. Section 2531 of the Business and Professions Code is amended to read:

2531. (a) There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, ~~2014,~~ *2018,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014,~~ *2018,* deletes or extends that date. ~~The~~ *Notwithstanding any other law, th e* repeal of this section renders the board subject to ~~the review required by Division 1.2 (commencing with Section 473).~~ *review by the appropriate policy committees of the Legislature.*

SEC. 3. Section 2531.75 of the Business and Professions Code is amended to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, ~~2014,~~ *2018,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014,~~ *2018,* deletes or extends that date.

SEC. 4. Section 2570.19 of the Business and Professions Code is amended to read:

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

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

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

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

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

appointments.

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

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

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

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

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

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

(k) This section shall remain in effect only until January 1, ~~2014,~~ *2018,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014,~~ *2018,* deletes or extends that date. ~~The~~ *Notwithstanding any other law, the* repeal of this section renders the board subject to ~~the review required by Division 1.2 (commencing with Section 473).~~ *review by the appropriate policy committees of the Legislature.*

BILL NUMBER: SB 381 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Yee

FEBRUARY 20, 2013

An act to add Section 734 to the Business and Professions Code, relating to chiropractic practice.

LEGISLATIVE COUNSEL'S DIGEST

SB 381, as introduced, Yee. Healing arts: chiropractic practice.

Existing law, the Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Under the act, a license authorizes its holder to practice chiropractic as taught in chiropractic schools or colleges but does not authorize its holder to practice medicine, surgery, osteopathy, dentistry, or optometry.

Existing law provides for the licensure and regulation of physicians and surgeons and osteopathic physicians and surgeons by the Medical Board of California and the Osteopathic Medical Board of California, respectively.

This bill would prohibit a health care practitioner from performing a joint manipulation or joint adjustment, as defined, unless he or she is a licensed chiropractor, physician and surgeon, or osteopathic physician and surgeon. The bill would provide that a health care practitioner who performs a joint manipulation or joint adjustment in violation of these provisions engages in the unlawful practice of chiropractic, which shall constitute, among other things, good cause for the revocation or suspension of the health care practitioner's license, as specified.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 734 is added to the Business and Professions Code, to read:

734. (a) Notwithstanding any other law, a health care practitioner subject to regulation pursuant to this division shall not be authorized to perform a joint manipulation or joint adjustment except for the following individuals:

(1) A chiropractor licensed by the State Board of Chiropractic Examiners.

(2) A physician and surgeon licensed by the Medical Board of

California.

(3) An osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California.

(b) A health care practitioner who performs a joint manipulation or joint adjustment in violation of this section engages in the unlawful practice of chiropractic, which shall constitute good cause for the revocation or suspension of the health care practitioner's license, or any other disciplinary action deemed appropriate by the health care practitioner's licensing board.

(c) For purposes of this section, "joint manipulation" and "joint adjustment" are synonymous terms that describe a method of skillful and beneficial treatment where a person uses a direct thrust to move the joint of a patient beyond its normal range of motion, but without exceeding the limits of anatomical integrity, as taught in chiropractic schools or colleges.

BILL NUMBER: SB 417 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Berryhill

FEBRUARY 20, 2013

An act to amend Section 148 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 417, as introduced, Berryhill. Department of Consumer Affairs: unlicensed activity enforcement.

Existing law punishes specified unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs as an infraction and authorizes the establishment by boards within the department of an administrative citation system for unlicensed persons acting in the capacity of a licensee or registrant.

This bill would make a technical, nonsubstantive change to this provision.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 148 of the Business and Professions Code is amended to read:

148. ~~Any~~ *A* board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

BILL NUMBER: SB 555 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Correa

FEBRUARY 22, 2013

An act relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, as introduced, Correa. Developmental services: individual program plans and individual family service plans.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP) or individual family service plan (IFSP), developed in accordance with prescribed requirements. Existing law states that it is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, as specified.

This bill would state the intent of the Legislature to enact legislation that would require an IPP or IFSP to consider the needs of the consumer, and his or her family, in order to provide services and supports in a culturally and linguistically appropriate manner.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to enact legislation that would require an individual program plan, or individual family services plan, to consider the needs of the consumer, and his or her family, in order to provide services and supports in a culturally and linguistically appropriate manner.

BILL NUMBER: SB 690 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Price

FEBRUARY 22, 2013

An act to amend Section 23.7 of the Business and Professions Code, relating to licenses.

LEGISLATIVE COUNSEL'S DIGEST

SB 690, as introduced, Price. Licenses.

Existing law provides for the licensing of various professions and vocations by boards within the Department of Consumer Affairs. Existing law defines license to mean a license, certificate, registration, or other means to engage in a business or profession, as provided.

This bill would expand the definition of license to include a permit.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 23.7 of the Business and Professions Code is amended to read:

23.7. Unless otherwise expressly provided, "license" means license, certificate, registration, *permit,* or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

BILL NUMBER: SB 809 INTRODUCED
BILL TEXT

INTRODUCED BY Senators DeSaulnier and Steinberg
(Coauthors: Senators Hancock, Lieu, Pavley, and Price)
(Coauthor: Assembly Member Blumenfield)

FEBRUARY 22, 2013

An act to add Section 805.8 to the Business and Professions Code, to amend Sections 11165 and 11165.1 of the Health and Safety Code, and to add Part 21 (commencing with Section 42001) to Division 2 of the Revenue and Taxation Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 809, as introduced, DeSaulnier. Controlled substances: reporting.

(1) Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

This bill would require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to increase the licensure, certification, and renewal fees charged to practitioners under their supervision who are authorized to prescribe or dispense controlled substances, by up to 1.16%, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. This bill would also require the California State Board of Pharmacy to increase the licensure, certification, and renewal fees charged to wholesalers, nonresident wholesalers, and veterinary food-animal drug retailers under their supervision by up to 1.16%, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified.

(2) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to

obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

This bill would require licensed health care practitioners, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances.

(3) Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose a tax upon qualified manufacturers, as defined, for the privilege of doing business in this state, as specified. This bill would also impose a tax upon specified insurers, as defined, for the privilege of doing business in this state, as specified. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the board to deposit all taxes, penalties, and interest collected pursuant to these provisions in the CURES Fund, as provided. Because this bill would expand application of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

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

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

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) The Controlled Substance Utilization Review and Evaluation System (CURES) is a valuable investigative, preventive, and educational tool for law enforcement, regulatory boards, educational researchers, and the health care community. Recent budget cuts to the Attorney General's Division of Law Enforcement have resulted in insufficient funding to support the CURES Prescription Drug Monitoring Program (PDMP). The PDMP is necessary to ensure health care professionals have the necessary data to make informed treatment decisions and to allow law enforcement to investigate diversion of prescription drugs. Without a dedicated funding source, the CURES

PDMP is not sustainable.

(b) Each year CURES responds to more than 60,000 requests from practitioners and pharmacists regarding all of the following:

(1) Helping identify and deter drug abuse and diversion of prescription drugs through accurate and rapid tracking of Schedule II, Schedule III, and Schedule IV controlled substances.

(2) Helping practitioners make better prescribing decisions.

(3) Helping reduce misuse, abuse, and trafficking of those drugs.

(c) Schedule II, Schedule III, and Schedule IV controlled substances have had deleterious effects on private and public interests, including the misuse, abuse, and trafficking in dangerous prescription medications resulting in injury and death. It is the intent of the Legislature to work with stakeholders to fully fund the operation of CURES which seeks to mitigate those deleterious effects, and which has proven to be a cost-effective tool to help reduce the misuse, abuse, and trafficking of those drugs.

SEC. 2. Section 805.8 is added to the Business and Professions Code, to read:

805.8. (a) (1) The Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine shall increase the licensure, certification, and renewal fees charged to practitioners under their supervision who are authorized pursuant to Section 11150 of the Health and Safety Code to prescribe or dispense Schedule II, Schedule III, or Schedule IV controlled substances by up to 1.16 percent annually, but in no case shall the fee increase exceed the reasonable costs associated with maintaining CURES for the purpose of regulating prescribers and dispensers of controlled substances licensed or certificated by these boards.

(2) The California State Board of Pharmacy shall increase the licensure, certification, and renewal fees charged to wholesalers and nonresident wholesalers of dangerous drugs, licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9, by up to 1.16 percent annually, but in no case shall the fee increase exceed the reasonable costs associated with maintaining CURES for the purpose of regulating wholesalers and nonresident wholesalers of dangerous drugs licensed or certificated by that board.

(3) The California State Board of Pharmacy shall increase the licensure, certification, and renewal fees charged to veterinary food-animal drug retailers, licensed pursuant to Article 15 (commencing with Section 4196) of Chapter 9, by up to 1.16 percent annually, but in no case shall the fee increase exceed the reasonable costs associated with maintaining CURES for the purpose of regulating veterinary food-animal drug retailers licensed or certificated by that board.

(b) The funds collected pursuant to subdivision (a) shall be deposited in the CURES accounts, which are hereby created, within the Contingent Fund of the Medical Board of California, the State Dentistry Fund, the Pharmacy Board Contingent Fund, the Veterinary Medical Board Contingent Fund, the Board of Registered Nursing Fund, the Osteopathic Medical Board of California Contingent Fund, the Optometry Fund, and the Board of Podiatric Medicine Fund. Moneys in

the CURES accounts of each of those funds shall, upon appropriation by the Legislature, be available to the Department of Justice solely for maintaining CURES for the purposes of regulating prescribers and dispensers of controlled substances. All moneys received by the Department of Justice pursuant to this section shall be deposited in the CURES Fund described in Section 11165 of the Health and Safety Code.

SEC. 3. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds ~~from~~ *in the CURES accounts within* the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, ~~and~~ the Osteopathic Medical Board of California Contingent Fund, *the Veterinary Medical Board Contingent Fund, the Optometry Fund, the Board of Podiatric Medicine Fund, and the CURES Fund,* maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds ~~from~~ *for* the Department of Justice *for the purpose of finding CURES* . The department may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. ~~Funds~~ *The department shall make information about the amount and the source of all private grant funds it receives for support of CURES available to the public. Grant funds* shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or ~~agency~~ *agency,* as described in this ~~subdivision~~ *subdivision,* shall not be disclosed,

sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

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

(2) The prescriber's category of licensure and license ~~number;~~ *number, the* federal controlled substance registration ~~number;~~ *number,* and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

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

(4) ~~NDC (National Drug Code)~~ *National Drug Code (NDC)* number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ~~ICD-9 (diagnosis code),~~ *International Statistical Classification of Diseases, 9th revision (ICD-9) Code,* if available.

(7) Number of refills ordered.

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

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) ~~This section shall become operative on January 1, 2005.~~ *The CURES Fund is hereby established within the State Treasury. The CURES Fund shall consist of all funds made available to the Department of Justice for the purpose of funding CURES. Money in the CURES Fund shall, upon appropriation by the Legislature, be available for allocation to the Department of Justice for the purpose of funding CURES.*

SEC. 4. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) A licensed health care practitioner eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances or a pharmacist ~~may~~ *shall* provide a notarized application developed by the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient maintained within the Department of Justice, ~~and~~ *and, upon approval,* the department ~~may~~ *shall* release to that practitioner or pharmacist, the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(A) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:

(i) Materially falsifying an application for a subscriber.

(ii) Failure to maintain effective controls for access to the patient activity report.

(iii) Suspended or revoked federal Drug Enforcement Administration (DEA) registration.

(iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Any subscriber accessing information for any other reason than caring for his or her patients.

(B) Any authorized subscriber shall notify the Department of Justice within 10 days of any changes to the subscriber account.

(2) To allow sufficient time for licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances and a pharmacist to apply and receive access to PDMP, a written request may be made, until July 1, 2012, and the Department of Justice may release to that practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(c) ~~In~~ *(1) Until the Department of Justice has issued the notification described in paragraph (3), in* order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(2) Upon the Department of Justice issuing the notification described in paragraph (3) and approval of the application required pursuant to subdivision (a), licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances and pharmacists shall access and consult the electronic history of controlled substances dispensed to an individual under his or her care prior to prescribing or dispensing a Schedule II, Schedule III, or Schedule IV controlled substance.

(3) The Department of Justice shall notify licensed health care practitioners and pharmacists who have submitted the application required pursuant to subdivision (a) when the department determines that CURES is capable of accommodating the mandate contained in paragraph (2). The department shall provide a copy of the notification to the Secretary of the State, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel, and shall post the notification on the department's Internet Web site.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a

practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

SEC. 5. Part 21 (commencing with Section 42001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 21. Controlled Substance Utilization Review and Evaluation System (CURES) Tax Law

42001. For purposes of this part, the following definitions apply:

(a) "Controlled substance " means a drug, substance, or immediate precursor listed in any schedule in Section 11055, 11056, or 11057 of the Health and Safety Code.

(b) "Insurer" means a health insurer licensed pursuant to Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code, a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), and a workers' compensation insurer licensed pursuant to Part 3 (commencing with Section 11550) of Division 2 of the Insurance Code.

(c) "Qualified manufacturer" means a manufacturer of a controlled substance doing business in this state, as defined in Section 23101, but does not mean a wholesaler or nonresident wholesaler of dangerous drugs, regulated pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2 of the Business and Professions Code, a veterinary food-animal drug retailer, regulated pursuant to Article 15 (commencing with Section 4196) of Chapter 9 of Division 2 of the Business and Professions Code, or an individual regulated by the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, or the California Board of Podiatric Medicine.

42003. (a) For the privilege of doing business in this state, an annual tax is hereby imposed on all qualified manufacturers in an amount of ____ dollars ($____), for the purpose of establishing and maintaining enforcement of the Controlled Substance Utilization Review and Evaluation System (CURES), established pursuant to Section 11165 of the Health and Safety Code.

(b) For the privilege of doing business in this state, a tax is hereby imposed on a one time basis on all insurers in an amount of ____ dollars ($____), for the purpose of upgrading CURES.

42005. Each qualified manufacturer and insurer shall prepare and file with the board a return, in the form prescribed by the board, containing information as the board deems necessary or appropriate

for the proper administration of this part. The return shall be filed on or before the last day of the calendar month following the calendar quarter to which it relates, together with a remittance payable to the board for the amount of tax due for that period.

42007. The board shall administer and collect the tax imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)) to "fee" shall include the tax imposed by this part and references to "feepayer" shall include a person required to pay the tax imposed by this part.

42009. All taxes, interest, penalties, and other amounts collected pursuant to this part, less refunds and costs of administration, shall be deposited into the CURES Fund.

42011. The board shall prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part.

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

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public from the continuing threat of prescription drug abuse at the earliest possible time, it is necessary this act take effect immediately.