OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Board Meeting, Thursday, May 2, 2013
10:00 a.m.

Western University of Health Sciences
701 E Second Street
Health Education Center (HEC)
Classroom A (1st Floor)
Pomona, CA 91766

OMBC Phone (916) 928-8390

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STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY
POSTEOPATHIC MEDICAL BOARD OF CALIFONIA
1300 National Drive, Suite 150, Sacramento, CA 95834-1991
P (916) 928-8390 F (916) 928-8392 | www.ombc.ca.gov

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

BOARD MEETING

Notice of Public Meeting: Notice is hereby given that pursuant to the call of the President, Joseph Provenzano, D.O., a public meeting of the Osteopathic Medical Board of California shall be held as follows:

Date: Thursday, May 2, 2013
Time: 10:00 a.m. – 5:00 p.m. (or until the end of business)
Location: Western University of Health Sciences
701 E. Second Street
Health Education Center (HEC)
Classroom A (1ST Floor)
Pomona CA 91766
(916) 928-8390

AGENDA

(Action may be taken on any items listed on the agenda and may be taken out of order)

Open Session

1. Roll Call / Establish Quorum
Call to Order

2. Approval of Minutes – January 31, 2013 Board Meeting

3 President's Report – Joseph Provenzano, D.O.

- National Board of Medical Examiners (NBOME)
- Federation of State Medical Boards Update (FSMB) American Association of Osteopathic Examiners (AAOE)
- Merger between American Osteopathic Association (AOA) and Accreditation Council for Graduate Medical Education (ACGME)

4. Executive Director's Report – Angie Burton

- Staffing
- Enforcement Report / Discipline
- Diversion Program
- Budget
- BreEZe

5. Legislation

- AB 410 – Health care: Controlled substances and dangerous drugs

- AB 1278 – Integrative Cancer Treatment
- AB 701 – Hospital – Affiliated outpatient settings
- SB 305 – Healing Arts: Boards (Sunset Extension)
- SB 809 – Controlled Substances: Reporting

6. Closed Session

   - Deliberations on disciplinary or enforcement actions (Government Code Section 11126(c)(3).)

   Return to Open Session

7. Sunset Review

   - Internet Prescribing
   - Code of Ethics
   - Osteopathic Medical Board & Medical Board Merger

8. Regulation

   - Consumer Protection Enforcement Initiative (CPEI)

9. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

10. Agenda Items for Next Meeting

11. Future Meeting Dates

12. Public Comment

13. Adjournment

For further information about this meeting, please contact Machiko Kano - Chong at 916-928-7636 or in writing 1300 National Drive, Suite 150 Sacramento CA 95834. This notice can be accessed at www.ombc.ca.gov

The meeting facilities are accessible to the physically disabled. A person, who needs a disability-related accommodation or modification in order to participate in the meeting, may make a request by contacting Machiko Kano - Chong, ADA Liaison, at (916) 928-7636 or e-mail at Machiko.Kano@dca.ca.gov or send a written request to the Board's office at 1300 National Drive, Suite 150, Sacramento, CA 95834-1991. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

TAB 2

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
1300 National Drive, Suite 150, Sacramento, CA 95834-1991
P (916) 928-8390 F (916) 928-8392 | www.ombc.ca.gov

DRAFT
BOARD MEETING

MINUTES

Thursday, January 31, 2013

BOARD MEMBERS PRESENT:
Joseph Provenzano, D.O., President
Keith Higginbotham, Esq., Vice President
Michael Feinstein, D.O., Secretary-Treasurer
Alan Howard, Board Member
Scott Harris, Esq., Board Member
Jane Xenos, D.O., Board Member
David Connett, D.O., Board Member
Claudia Mercado, Board Member
Joseph Zammuto, D.O., Board Member

STAFF PRESENT:
Angelina Burton, Executive Director
Laura Freedman, Esq., Legal Counsel, DCA
Machiko Kano, Executive Analyst
Corey Sparks, Enforcement Analyst

The Board meeting of the Osteopathic Medical Board of California (OMBC) was called to order by President, Joseph Provenzano, D.O. at 10:05 a.m. at the Department of Consumer Affairs Headquarters Building 2 (HQ2), 1747 North Market Blvd., Suite 280 – Sapphire Conference Room, Sacramento, CA 95834.

1. Roll Call:

Dr. Provenzano called roll and determined that a quorum was present.

2. Election of Officers

Dr. Provenzano asked if there were any motions/nominations for election of Board President, Vice-President, and Secretary/ Treasurer.
Joseph Provenzano, D.O. was nominated as (President) M – Higginbotham, S –Connett
Keith Higginbotham, Esq. was nominated as (Vice-President) M – Harris, S –Connett
Michael Feinstein, D.O. was nominated as (Secretary/Treasurer) M –Zammuto, S – Connett.
Dr. Provenzano opened the floor to any additional nominations, none were given and all officers were unanimously elected.

3. Approval of Minutes – September 20, 2012 Board Meeting:

Dr. Provenzano called for approval of the minutes of the Board Meeting of September 20, 2012, as presented. Mr. Higginbotham asked that we correct page 1 Dr. O'Shea was not Board President, and that a correction be made to his name on pages 5 & 6 section 7, replacing the "e" with an "i." Laura Freedman suggested that on page 8 a correction be made to section 11 when discussing the subcommittee and asked that the wording be amended to reflect "was asked" as there was already a committee in place. "A subcommittee comprised of Scott Harris was created...."
M – Keith, S – Zammuto to approve the minutes with the amendment. Motion passed unanimously.

4. Administrative Hearing:

10:45 a.m. – David Mitzner, D.O. – Petition for Early Termination of Probation.

- The Office of Administrative Hearing (OAH) Administrative Law Judge Linda Cabatic conducted the above hearing.

5. <u>Closed Session</u>

(The Board met in closed session pursuant to Government Code Section 11126(c)(3) to deliberate on the petition and other disciplinary matters).

<u>Open Session</u>

6. Executive Director's Report:

Angie Burton reported the following:

- Staffing –The Enforcement Unit is now adequately staffed as a new Lead Associate Enforcement Analyst has been hired to fill the vacant position. Another analyst in the Enforcement unit was promoted to an Associate Enforcement Analyst position from a Staff Services Analyst (SSA) position, and the open spot from the promotion will soon be filled with an SSA currently working within licensing. There will be hiring and advertising completed for the SSA position in licensing once it becomes available. The Board advertised for a part time Medical Consultant position and received applications from several good candidates, however many of them were from M.D.s with the exception of one candidate who was a D.O. The needs of the board were discussed and it was determined that because some cases involved the practice of Osteopathic Manipulation (OMM) the candidate hired would need to be familiar with those practices to make an accurate determination. Currently HR has been working closely with the board to establish a new Staff Services Supervising Position which will supervise staff work in the office in addition to managing the diversion program.

- DCA – with the help an outside vendor (Accenture) is implementing a new board/bureau wide system named BreEZe which is supposed to streamline the initial application and renewal process decreasing the amount of phone calls received by each board and allowing applicants to complete tasks through an online database, however the system testing has fallen behind schedule with no impending go-live date set as of yet. The program will consist of a Versa Regulation (VR) which contains the enforcement and licensing data for the "back office" programs and Versa Online (VO) where physicians can apply and renew online and keep track of the documents as they are processed. However, there are still some things that will need to be submitted into the office for record keeping and compliance purposes.
- Diversion – Currently there are twelve participants enrolled in the OMBC Diversion Program. 7 of the 12 participants are on board stipulated probations, and the remaining are self-referrals. Only one participant was terminated for non-compliance as a public risk and subsequent info has been forwarded to the AG for action. The Board is extremely happy with the current diversion program through Maximus and the contract has just been amended to go through the end of 2013.
- Controlled Substance Utilization Review and Evaluation System (CURES) – Is a Prescription Drug and Monitoring Program used as an enforcement tool in the office by the board and by physicians as a patient Rx tracker to control drug seekers. The program was previously being handled by the Bureau of Narcotics Enforcement under DOJ, however the enforcement program is no longer in existence and there is only one person handling all of the Rx updates. Because of the programs lack of staffing the system is not performing as it should in "real time" so that physicians are readily able to view patients Rx history when needed. Per Kathleen Creason, Executive Director, Osteopathic Physicians and Surgeons of California the DOJ is currently asking for suggestions from all participating boards to see how funds could be allotted to help with the site maintenance, and intends on scheduling a bill implementation date sometime in the latter parts of February 2013.
- Budget – The Calstars report for December of 2012 was included in the Board packet. Ms. Burton stated that the board is in good standing thus far with 50% of the allocated budget having been utilized 6 months in and the board has enough to sustain actions through the end of the fiscal year. She stated that the report showed the enforcement unit using a little less than usual due to the lack of staffing in the enforcement section, however there should be a change now that there is adequate staff to handle the case load.

- Enforcement/ Discipline – Between September 1, 2012 and January 28, 2013, the OMBC received a total of 130 complaints. The breakdown of the 130 complaints is as follows:
    - Types of Complaints:
        - 90 complaints were filed for allegations of negligence/incompetence

- 28 complaints were filed for allegations of unprofessional conduct
- 1 complaint of unsanitary conditions in a medical office
- 6 complaints were criminal arrests of convictions i.e., subsequent arrest notification via fingerprint reports, domestic violence, DUI's Etc.
- 0 complaints were drug statute violations
- 2 complaints were for impairment due to drugs/alcohol
- 2 complaint for sexual misconduct
- 1 complaint was for unlicensed or aiding/ abetting licensed practice

o Source of Complaint:

- 109 complaints were filed by consumers, patients, families of patients, etc.
- 4 complaints were filed by another state or Federal agency
- 1 complaint was filed by a license
- 6 complaint were from law enforcement agencies, i.e., Department of Justice, Police Departments, DEA
- 6 complaints were reported under the 800 section, i.e., malpractice, termination of hospital privileges, etc.
- 2 complaints were filed anonymously
- 1 complaint was initiated internally
- 1 complaint came in from an out of state board

o Cases to Formal Investigation

- 11 cases were sent out for formal investigation
  - 4 case was for negligence/incompetence
  - 2 cases were for unprofessional conduct
  - 1 cases were for drug statute violations
  - 2 case was for sexual misconduct
  - 1 case was for criminal conviction
  - 1 case was for unlicensed or aiding/ abetting unlicensed practice

(9 investigative cases were closed, includes those sent to the AG)

o Cases to the Attorney General

- 5 cases were referred to the AG's office for action deemed advisable
- 4 accusations were filed

- 2 cases reached a Stipulated Settlement (resulting in probation)

- Complaints Closed After Consultant Review and/or Formal Investigation
  - 49 complaints were closed without merit
  - 13 complaints closed with merit (retained for 7 years)
  - 12 complaints closed with no follow-up from patient
  - 1 complaints closed due to insufficient evidence
  - 5 complaints referred to the Attorney General's Office
  - 11 complaint cases were referred for formal investigation
  - 2 complaint was closed as a redundant complaint
  - Total cases closed – 94
- Average Days to Close Complaints
  - 348 days to close complaints in office.
  - 409 days to complete formal investigation (Sworn Investigators)
  - 918 days to complete disciplinary action (AG's Office)

7. Legislation

AB 1424:
This bill states that the State Board of Equalization, quarterly, and the Franchise Tax Board, at least twice each calendar year create a list naming the 500 largest tax delinquencies exceeding the amount of $100,000, and requires that the list include specific information with respect to each delinquency. The existing law which only requires a list of 250 names also requests that every board, as defined, in addition to the Department of Insurance shall furnish information with respect to every licensee to the Department of Franchise when queried. The bill would allow the Physician a 150 day "grace period" to either create a payment plan or furnish payment in entirety to the Franchise Tax board before their license is deemed "delinquent." The Board will be contacted by the Family Support Unit with regards to those physicians that may be on the list so that proper actions may be taken.

AB 1588:
This bill would require various board professions and vocations within the Department of Consumer Affairs to waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the Board, if any are applicable, of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if certain requirements are met. The physician is prohibited from engaging in any activities requiring a license while a waiver is in effect and must provide the Board with the proper documentation for his/her renewal requirements within a specified amount of time after being discharged. The board was not initially certain what would be considered "called to active duty" Ms.

Freedman stated that she would research this further and report her findings to the board.

AB 1904:
This bill would require a board within the department to expedite the licensure process for an applicant who holds a license in the same profession or vocation in another jurisdiction and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. It was decided that a box would be placed at the top of the application for initial licensure asking applicant if they were military personnel or the spouse of military personnel. Those applications received by the board indicating "Yes" would be escalated and given priority.

AB 2570:
This bill would Prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs within the department from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint previously submitted.

8. Sunset Review:

Dr. Provenzano wanted to commend Ms. Burton and all those that helped with the completion of the Sunset Review and also thank Scott Harris for the legalese that he contributed to the report. Ms. Burton notified the Board that the Assembly would be sitting in on the Sunset Oversight review in March 11, 2013 to gain more knowledge of each board/bureau status; however they would not be contributing any say during the meeting held. Both Dr. Provenzano and Dr. Xenos stated that they would be willing to attend the meeting on behalf of the board.

9. Maintenance of Licensure (MOL):

Dr. Provenzano reiterated that the OMBC has been one of the Pilot agencies asked to start the process of the MOL which has been a lead concern for the OMBC and FSMB for some time. The questions that were incorporated into the renewal notice for BreEZe once it goes live will be used in the future as a resource to complete self-studies on specific specialties and practice specifics by the Board.

10. Reports:

Dr. Provenzano presented an award to the board given by the Federation of State Medical Boards (FSMB) on its 100th anniversary honoring the OMBC for being a valued member and serving the public interest and protecting the health of California citizens, Ms. Burton gladly accepted.

Dr. Provenzano was able to attend the annual summit put on by the American Association of Osteopathic Examiners (AAOE) and Graduate Medical Education (GME) held in Scottsdale, AZ. He stated that it was a very good meeting that covered many

interesting subjects. One in particular, was the non-recognition of postgraduate training by the Accredited Council Graduate Medical Education (ACGME) for training completed by physicians at an AOA program, which has been on radar for some time. Suggestions were given on how to rectify the situation and the California Medical Association (CMA) presented a resolution to the House of Delegates that was later passed on the floor and then served to the American Medical Association (AMA) for review. It is predicted that an outcome to the scenario may not be seen until 2016, and hopes are that many of the AOA programs in place will meet whatever guidelines set forth by the AMA and that minimal changes will be made to legislation once the agreement is completed.

Another item brought up during the conference was the abuse of narcotics and discussion around the 15.2 million abused prescription drugs monitored by the National Center for Addiction and Substance Abuse. It has been determined that there has been a 2.5 fold increase in usage of prescription drugs by patients over the last 10 years and that family and friends in part are the largest contributors to narcotics abuse, as 80% of the drugs are coming from family doctors which are then being passed on to friends and relatives for consumption. The White House and health service agencies have come up with a plan to monitor Schedule II narcotics issuers and ensure that they are not overprescribing and would like to provide physician education in addition to closing down pill mills. Per Dr. Connett's recommendation a sub-committee was created comprised of himself and Dr. Feinstein so that guidelines could be created regarding narcotics abuse.

He lightly touched over medical marijuana becoming legal in Arizona and the guidelines that have been created around its use in the state along with eligibility requirements to obtain the user/carrier permit. He also discussed some facts regarding recent research on the addictive qualities of the substance.

Telemedicine and its pitfalls were discussed revolving around reimbursement issues, palliative care, liability, etc. Dr. Provenzano feels that framework will need to be completed and regulations will need to be discussed to see what will need to be done to help with the issues.

11. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines:

The Board recapped three (3) separate options created by DCA legal that may be used to determine a substance abuser and decided that Option #2 "Rule out Provision" would work best for the board. It will require that a licensee undergo a psychological and substance abuse evaluation, and would only be required to abide by the Uniform Standards if the evaluator made such recommendations M – K. Higginbotham S – Feinstein. Per Laura Freedman's recommendation a review of the details of the revisions to the Disciplinary Guidelines was tabled for the next board meeting so that more background research could be completed.

12. Regulations:

- AB 2699 – The Board moved to implement an application fee of $100 (Application Processing Fee $51; Fingerprint Processing Fee $49) for licensed,

out-of-state participants coming into California to practice medicine under AB 2699, M – Zammuto S – Higginbotham. The staff researched the workload received in office and found that the processing of temporary licensure is no different than processing times of licensure issued with permanent status. Because of the length of time that it would take to receive a clearance back from DOJ all applications, and because the law requires an affirmative response before prints were cleared, that most applicants would receive an initial denial letter until prints have been cleared. Ms. Freedman advised that other boards were following the same process and stakeholders seemed to understand the conflict between the fingerprint requirement and the statue. In addition because much of the licensing criteria has been met for issuance of permanent licensure when an application for AB 2699 has been received, if the physician chooses to apply for permanent licensure in the future he/she would have to submit a full application.

13. Agenda Items for Next Board Meeting:

- Sunset Review
- Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

14. Future Meeting Dates:

- Thursday, May 2, 2013 @ 10:00 am – Pomona, CA
- Thursday, September 26, 2013 @ 10:00 am – Vallejo, CA (Tentative)

15. Public Comments

There were no public comments.

16. Adjournment

There being no further business, the Meeting was adjourned at 3:15 p.m.

Respectfully Submitted:

Michael Feinstein, D.O.
Secretary – Treasurer

Approved:

Joseph Provenzano, D.O.
President

TAB 3

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TAB 4

Licensing Statistics January 31, 2013 through April 26, 2013

FEBRUARY 2013

- **New Applicants:** 51 Applications
- **Licenses Issued:** 14 License Numbers Issued

MARCH 2013

- **New Applicants:** 32 Applications
- **Licenses Issued:** 26 License Numbers Issued

APRIL 2013

- **New Applicants:** 35 Applications
- **Licenses Issued:** 68 License Numbers Issued

TOTAL (Licensed Physicians & Surgeons): 6,680

- **Physicians In State:** 5,128
- **Physicians Out of State:** 1,552
- **Physicians Inactive:** 639

LICENSES RENEWED SINCE JANUARY 28, 2013

- **Active:** 923
- **Inactive:** 106

Fictitious Name Permits Issued Since the Last Board Meeting:

Coast Urgent Care and Family Practice
Ursa Health Consortium
Acevedo Family Medicine
San Diego Osteopathic Center for Well-Being
Pacific Coast Osteopathy, Inc.
Advanced Health Integrative Medicine
Adelaide Dermatology & Cosmetic Surgery
C3o Medical Corporation
San Diego Health Rhythm Center, A Medical Corporation
Kern PM&R Associates, Inc.

DEPARTMENT OF CONSUMER AFFAIRS

THE OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

BUDGET REPORT

AS OF 3/31/2013

FM 09

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
PERSONAL SERVICES								
SALARIES AND WAGES								
003 00	CIVIL SERVICE-PERM	424,398	24,774	208,469	0	208,469	215,929	
033 04	TEMP HELP (907)	0	0	28,785	0	28,785	(28,785)	
063 00	STATUTORY-EXEMPT	81,732	6,606	57,228	0	57,228	24,504	
063 01	BD/COMMSN (901,920	2,800	100	300	0	300	2,500	
083 00	OVERTIME	0	1,789	33,924	0	33,924	(33,924)	
TOTAL	SALARIES AND WAGES	508,930	33,269	328,706	0	328,706	180,224	35.41%
STAFF BENEFITS								
103 00	OASDI	0	1,864	18,988	0	18,988	(18,988)	
104 00	DENTAL INSURANCE	1,158	221	2,852	0	2,852	(1,694)	
105 00	HEALTH/WELFARE INS	80,807	3,287	37,309	0	37,309	43,498	
106 01	RETIREMENT	95,830	6,311	54,530	0	54,530	41,300	
125 00	WORKERS' COMPENSAT	12,818	0	0	0	0	12,818	
125 15	SCIF ALLOCATION CO	0	379	3,718	0	3,718	(3,718)	
134 00	OTHER-STAFF BENEFI	3,000	2,218	12,109	0	12,109	(9,109)	
134 01	TRANSIT DISCOUNT	0	65	585	0	585	(585)	
135 00	LIFE INSURANCE	0	7	43	0	43	(43)	
136 00	VISION CARE	1,032	43	449	0	449	583	
137 00	MEDICARE TAXATION	0	446	4,455	0	4,455	(4,455)	
TOTAL	STAFF BENEFITS	194,645	14,842	135,039	0	135,039	59,606	30.62%
TOTAL	**PERSONAL SERVICES**	703,575	48,110	463,745	0	463,745	239,830	34.09%
OPERATING EXPENSES & EQUIPMENT								
FINGERPRINTS								
213 04	FINGERPRINT REPORT	25,000	1,029	15,955	0	15,955	9,045	
TOTAL	FINGERPRINTS	25,000	1,029	15,955	0	15,955	9,045	36.18%
GENERAL EXPENSE								
201 00	GENERAL EXPENSE	51,422	0	0	0	0	51,422	
205 00	DUES & MEMBERSHIPS	0	0	2,400	0	2,400	(2,400)	
206 00	MISC OFFICE SUPPLI	0	0	1,305	0	1,305	(1,305)	
207 00	FREIGHT & DRAYAGE	0	0	217	0	217	(217)	
213 02	ADMIN OVERHEAD-OTH	0	0	2,057	0	2,057	(2,057)	
TOTAL	GENERAL EXPENSE	51,422	0	5,980	0	5,980	45,442	88.37%

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
PRINTING								
241 00	PRINTING	8,236	0	0	0	0	8,236	
242 02	REPRODUCTION SVS	0	0	43	0	43	(43)	
244 00	OFFICE COPIER EXP	0	0	314	371	686	(686)	
TOTAL PRINTING		8,236	0	358	371	729	7,507	91.15%
COMMUNICATIONS								
251 00	COMMUNICATIONS	11,636	0	0	0	0	11,636	
252 00	CELL PHONES,PDA,PA	0	0	96	0	96	(96)	
257 01	TELEPHONE EXCHANGE	0	310	2,482	0	2,482	(2,482)	
TOTAL COMMUNICATIONS		11,636	310	2,578	0	2,578	9,058	77.85%
POSTAGE								
261 00	POSTAGE	22,092	0	0	0	0	22,092	
263 00	POSTAGE METER	0	0	236	0	236	(236)	
263 05	DCA POSTAGE ALLO	0	0	1	0	1	(1)	
TOTAL POSTAGE		22,092	0	237	0	237	21,855	98.93%
TRAVEL: IN-STATE								
291 00	TRAVEL: IN-STATE	18,869	0	0	0	0	18,869	
292 00	PER DIEM-I/S	0	0	444	0	444	(444)	
294 00	COMMERCIAL AIR-I/S	0	420	4,225	0	4,225	(4,225)	
296 00	PRIVATE CAR-I/S	0	0	1,080	0	1,080	(1,080)	
305 00	MGMT/TRANS FEE-I/S	0	60	110	0	110	(110)	
TOTAL TRAVEL: IN-STATE		18,869	480	5,859	0	5,859	13,010	68.95%
TRAVEL: OUT-OF-STATE								
314 00	COMMERCIAL AIR-O/S	0	0	786	0	786	(786)	
TOTAL TRAVEL: OUT-OF-STATE		0	0	786	0	786	(786)	0.00%
TRAINING								
331 00	TRAINING	3,295	0	0	0	0	3,295	
TOTAL TRAINING		3,295	0	0	0	0	3,295	100.00%
FACILITIES OPERATIONS								
341 00	FACILITIES OPERATI	60,322	0	0	0	0	60,322	
343 00	RENT-BLDG/GRND(NON	0	6,277	56,188	18,831	75,019	(75,019)	
347 00	FACILITY PLNG-DGS	0	116	923	0	923	(923)	
TOTAL FACILITIES OPERATIONS		60,322	6,393	57,111	18,831	75,942	(15,620)	-25.89%

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
C/P SVS - INTERDEPARTMENTAL								
382 00	CONSULT/PROF-INTER	106,644	333	2,667	1,333	4,000	102,644	
TOTAL C/P SVS - INTERDEPARTMENTAL		106,644	333	2,667	1,333	4,000	102,644	96.25%
C/P SVS - EXTERNAL								
402 00	CONSULT/PROF SERV-	108,638	0	0	0	0	108,638	
404 05	C&P EXT ADMIN CR C	0	0	4	17,996	18,000	(18,000)	
409 00	INFO TECHNOLOGY-EX	0	0	310	0	310	(310)	
418 02	CONS/PROF SVS-EXTR	0	6,229	22,279	20,538	42,817	(42,817)	
TOTAL C/P SVS - EXTERNAL		108,638	6,229	22,593	38,534	61,127	47,511	43.73%
DEPARTMENTAL SERVICES								
424 03	OIS PRO RATA	83,477	0	62,534	0	62,534	20,943	
427 00	INDIRECT DISTRB CO	71,468	0	53,601	0	53,601	17,867	
427 30	DOI - PRO RATA	2,933	0	2,200	0	2,200	733	
427 34	PUBLIC AFFAIRS PRO	3,981	0	2,986	0	2,986	995	
427 35	CCED PRO RATA	5,822	0	4,367	0	4,367	1,455	
TOTAL DEPARTMENTAL SERVICES		167,681	0	125,688	0	125,688	41,993	25.04%
CONSOLIDATED DATA CENTERS								
428 00	CONSOLIDATED DATA	1,138	1,420	11,425	0	11,425	(10,287)	
TOTAL CONSOLIDATED DATA CENTERS		1,138	1,420	11,425	0	11,425	(10,287)	-903.93%
DATA PROCESSING								
431 00	INFORMATION TECHNO	2,000	0	0	0	0	2,000	
435 00	NOC-SERV-IT (SECUR	0	0	116	0	116	(116)	
436 00	SUPPLIES-IT (PAPER	0	0	1,212	0	1,212	(1,212)	
TOTAL DATA PROCESSING		2,000	0	1,328	0	1,328	672	33.62%
CENTRAL ADMINISTRATIVE SERVICES								
438 00	PRO RATA	104,944	0	78,708	0	78,708	26,236	
TOTAL CENTRAL ADMINISTRATIVE SERVICES		104,944	0	78,708	0	78,708	26,236	25.00%
EXAMINATIONS								
404 03	C/P SVS - EXT SUB	0	597	597	0	597	(597)	
TOTAL EXAMINATIONS		0	597	597	0	597	(597)	0.00%
ENFORCEMENT								
396 00	ATTORNEY GENL-INTE	268,984	14,223	144,585	0	144,585	124,400	
397 00	OFC ADMIN HEARNG-I	18,527	804	22,546	0	22,546	(4,019)	
414 31	EVIDENCE/WITNESS F	8,646	1,500	37,963	0	37,963	(29,317)	

DEPARTMENT OF CONSUMER AFFAIRS

THE OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

BUDGET REPORT
AS OF 3/31/2013

FM 09

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
418 97	COURT REPORTER SER	0	0	1,072	0	1,072	(1,072)	
427 32	INVEST SVS-MBC ONL	124,000	0	38,457	0	38,457	85,543	
TOTAL	ENFORCEMENT	420,157	16,527	244,623	0	244,623	175,534	41.78%
MINOR EQUIPMENT								
226 00	MINOR EQUIPMENT	3,850	0	0	0	0	3,850	
226 40	MIN EQPMT-DP-ADD'L	0	0	621	0	621	(621)	
TOTAL	MINOR EQUIPMENT	3,850	0	621	0	621	3,229	83.87%
TOTAL	OPERATING EXPENSES & EQUIPMEN	1,115,924	33,318	577,112	59,070	636,182	479,742	42.99%
TEOPATHIC MEDICAL BOARD OF CALIFORNIA		1,819,499	81,428	1,040,857	59,070	1,099,927	719,572	39.55%
		1,819,499	81,428	1,040,857	59,070	1,099,927	719,572	39.55%

DEPARTMENT OF CONSUMER AFFAIRS

THE OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
DISTRIBUTED-OSTEOPATHIC MEDICAL BOARD OF CA

BUDGET REPORT
AS OF 3/31/2013
FM 09

RUN DATE 4/11/2013

DIST - OSTEOPATHIC MEDICAL BOARD

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
INTERNAL COST RECOVERY							
INTERNAL COST RECOVERY							
912 00 INTERNAL COST RECO	(14,000)	0	0	0	0	(14,000)	
TOTAL INTERNAL COST RECOVERY	(14,000)	0	0	0	0	(14,000)	100.00%
TOTAL INTERNAL COST RECOVERY	(14,000)	0	0	0	0	(14,000)	100.00%
DIST - OSTEOPATHIC MEDICAL BOARD	(14,000)	0	0	0	0	(14,000)	100.00%
	(14,000)	0	0	0	0	(14,000)	100.00%

14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

	DOCUMENT		VENDOR	ORIG. AMOUNT	ADJUSTMENTS	LIQUIDATIONS	BALANCE
PRINTING							
244	REQ00065-30	0000047142-00	DISCOVERY OFFICE	$528.58	$0.00	($157.15)	$371.43
TOTAL	PRINTING						$371.43
FACILITIES OPERATIONS							
343	5636-004-X0	0000072629-00	ETHAN CONRAD	$56,493.90	$0.00	($37,662.60)	$18,831.30
TOTAL	FACILITIES OPERATIONS						$18,831.30
C/P SVS - INTERDEPARTMENTAL							
382	REQ00696-5A	0000020095-00	DEPT OF JUSTICE	$4,000.00	$0.00	($2,666.68)	$1,333.32
TOTAL	C/P SVS - INTERDEPARTMENTAL						$1,333.32
C/P SVS - EXTERNAL							
404 05	REQ00828-5V	0000074019-01	ELAVON INC	$18,000.00	$0.00	($3.73)	$17,996.27
418 02	REQ03674-OA	0000069741-01	MAXIMUS HEALTH SE	$17,833.20	$24,966.48	($22,261.97)	$20,537.71
TOTAL	C/P SVS - EXTERNAL						$38,533.98

14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA $59,070.03

FFY: 12
PCA: 70-01-000-000-14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

SEC SS U SU SSU INDEX	DESCRIPTION	C OB OD AO	DESCRIPTION	INVOICE	DOC DATE	REF DOC SX	CUR DOC SX	CLAIM NO	BATCH	HDR PR DATE	TC	R	VENDOR NAME	CUR MONTH EXP
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 01 003 00	CIVIL SERVICE-PERM											
LABOR DISTRIB						CL01070700			130402LG					24,773.52
*TOTAL AGENCY OBJECT 00	CIVIL SERVICE-PERM													24,773.52
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 01 063 00	STATUTORY-EXEMPT											
LABOR DISTRIB						CL01069500			130402LG					600.00
LABOR DISTRIB						CL01070700			130402LG					6,006.08
*TOTAL AGENCY OBJECT 00	STATUTORY-EXEMPT													6,606.08
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 01 063 01	BD/COMMSN (901,920)											
LABOR DISTRIB						CL01069500			130402LG					100.00
*TOTAL AGENCY OBJECT 01	BD/COMMSN (901,920)													100.00
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 01 083 00	OVERTIME											
LABOR DISTRIB						CL01065300			130402LG					1,788.93
*TOTAL AGENCY OBJECT 00	OVERTIME													1,788.93
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 03 103 00	OASDI											
LABOR DISTRIB						CL01065300			130402LG					110.91
LABOR DISTRIB						CL01070700			130402LG					1,753.40
*TOTAL AGENCY OBJECT 00	OASDI													1,864.31
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 03 104 00	DENTAL INSURANCE											
LABOR DISTRIB						CL01070700			130402LG					221.08
*TOTAL AGENCY OBJECT 00	DENTAL INSURANCE													221.08
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 03 105 00	HEALTH/WELFARE INS											
LABOR DISTRIB						CL01070700			130402LG					3,287.08
*TOTAL AGENCY OBJECT 00	HEALTH/WELFARE INS													3,287.08
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 03 106 01	RETIREMENT											
LABOR DISTRIB						CL01070700			130402LG					6,310.74
*TOTAL AGENCY OBJECT 01	RETIREMENT													6,310.74
17 10 00 00 00	1485 OSTEOPATHIC MEDICAL BOARD OF	C 1 03 125 15	SCIF ALLOCATION COST											
						SCIF2012DJ			13041108059	04/11/13	242			379.00

FFY: 12
PCA: 70-01-000-000-14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

SEC	SS	U	SU	SSU	INDEX	DESCRIPTION	C	OB	OD	AO	DESCRIPTION

INVOICE	DOC DATE	REF DOC	SX	CUR DOC	SX	CLAIM NO	BATCH	HDR PR DATE	TC	R	VENDOR NAME	CUR MONTH EXP
*TOTAL AGENCY OBJECT 15 SCIF ALLOCATION COST												379.00
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 1 03 134 00 OTHER-STAFF BENEFITS												
LABOR DISTRIB				CL01070700			130402LG					2,201.83
	03/07/13			CLA02852			13040507037	04/05/13	242			16.32
*TOTAL AGENCY OBJECT 00 OTHER-STAFF BENEFITS												2,218.15
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 1 03 134 01 TRANSIT DISCOUNT												
	03/31/13	MARCH 13		BUS PASS09			13040907048	04/09/13	242			65.00
*TOTAL AGENCY OBJECT 01 TRANSIT DISCOUNT												65.00
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 1 03 135 00 LIFE INSURANCE												
LABOR DISTRIB				CL01070700			130402LG					6.90
*TOTAL AGENCY OBJECT 00 LIFE INSURANCE												6.90
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 1 03 136 00 VISION CARE												
LABOR DISTRIB				CL01070700			130402LG					43.20
*TOTAL AGENCY OBJECT 00 VISION CARE												43.20
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 1 03 137 00 MEDICARE TAXATION												
LABOR DISTRIB				CL01065300			130402LG					25.94
LABOR DISTRIB				CL01069500			130402LG					10.15
LABOR DISTRIB				CL01070700			130402LG					410.08
*TOTAL AGENCY OBJECT 00 MEDICARE TAXATION												446.17
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 11 213 04 FINGERPRINT REPORTS												
957274	03/21/13			J1082/8384			13032707027	03/27/13	242		DEPT OF JUSTICE	1,029.00
*TOTAL AGENCY OBJECT 04 FINGERPRINT REPORTS												1,029.00
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 13 257 01 TELEPHONE EXCHANGE												
SV116595	02/20/13					1201756	13031104027	03/11/13	231		VERIZON BUSINESS NETWORK SERV	296.12
9169288392660	03/01/13					1201903	13040204113	04/02/13	231		AT&T	14.14
*TOTAL AGENCY OBJECT 01 TELEPHONE EXCHANGE												310.26
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 17 294 00 COMMERCIAL AIR-I/S												
						1201726	13030704011	03/07/13	231		AM EXPRESS 3782-940798-41006	419.80

FFY: 12
PCA: 70-01-000-000-14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

SEC SS U SU SSU INDEX DESCRIPTION C OB OD AO DESCRIPTION

INVOICE	DOC DATE	REF DOC	SX	CUR DOC	SX	CLAIM NO	BATCH	HDR PR DATE	TC	R	VENDOR NAME	CUR MONTH EXP
*TOTAL AGENCY OBJECT 00 COMMERCIAL AIR-I/S												419.80
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 17 305 00 MGMT/TRANS FEE-I/S												
						1201726	13030704011	03/07/13	231		AM EXPRESS 3782-940798-41006	60.00
*TOTAL AGENCY OBJECT 00 MGMT/TRANS FEE-I/S												60.00
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 23 343 00 RENT-BLDG/GRND(NON STATE)												
MAR 2013 RENT	03/01/13	5636-004X0				1201745	13031104023	03/11/13	232		ETHAN CONRAD	6,277.10
*TOTAL AGENCY OBJECT 00 RENT-BLDG/GRND(NON STATE)												6,277.10
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 23 347 00 FACILITY PLNG-DGS												
2711162	03/12/13	02-2013		GS12002710			130304XE017	03/18/13	242		DEPT OF GENERAL SERVICES	116.13
*TOTAL AGENCY OBJECT 00 FACILITY PLNG-DGS												116.13
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 25 382 00 CONSULT/PROF-INTERDEPT												
916181	03/21/13	REQ006965A		JUS0001136			13032707029	03/27/13	245		DEPT OF JUSTICE	333.33
*TOTAL AGENCY OBJECT 00 CONSULT/PROF-INTERDEPT												333.33
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 25 396 00 ATTORNEY GENL-INTERDEPT												
961735	03/21/13			JUS0001135			13032707026	03/27/13	242		DEPT OF JUSTICE	14,222.50
*TOTAL AGENCY OBJECT 00 ATTORNEY GENL-INTERDEPT												14,222.50
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 25 397 00 OFC ADMIN HEARNG-INTERDEPT												
2710405	03/12/13	01-2013		GS12002710			130304XE017	03/18/13	242		DEPT OF GENERAL SERVICES	804.00
*TOTAL AGENCY OBJECT 00 OFC ADMIN HEARNG-INTERDEPT												804.00
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 26 404 03 C/P SVS - EXT SUB MATTER EXPER												
PD PREP	03/26/13					1201891	13032704102	03/27/13	231		GEORGE M BIFANO	597.00
*TOTAL AGENCY OBJECT 03 C/P SVS - EXT SUB MATTER EXPER												597.00
17 10 00 00 00 1485 OSTEOPATHIC MEDICAL BOARD OF C 3 26 414 31 EVIDENCE/WITNESS FEES												
00-2011-3116	03/26/13					1201897	13032804105	03/28/13	231		OYAMA COSMETIC SURGERY INC	1,500.00
*TOTAL AGENCY OBJECT 31 EVIDENCE/WITNESS FEES												1,500.00

FFY: 12
PCA: 70-01-000-000-14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

SEC	SS	U	SU	SSU	INDEX	DESCRIPTION	C	OB	OD	AO	DESCRIPTION
17	10	00	00	00	1485	OSTEOPATHIC MEDICAL BOARD OF C	3	26	418	02	CONS/PROF SVS-EXTRNL

INVOICE	DOC DATE	REF DOC	SX	CUR DOC	SX	CLAIM NO	BATCH	HDR	PR DATE	TC	R	VENDOR NAME	CUR MONTH EXP
		REQ03674OA		REQ03674OA			13031903008		03/19/13	214		MAXIMUS HEALTH SERVICES INC	320.94
		REQ03674OA		REQ03674OA			13032503014		03/25/13	214		MAXIMUS HEALTH SERVICES INC	301.94
DIV-879	02/04/13	REQ03674OA				1201781	13031404045		03/14/13	232		MAXIMUS HEALTH SERVICES INC	2,888.48
DIV-886	03/04/13	REQ03674OA				1201843	13032504088		03/25/13	232		MAXIMUS HEALTH SERVICES INC	2,717.48
*TOTAL AGENCY OBJECT 02 CONS/PROF SVS-EXTRNL													6,228.84

SEC	SS	U	SU	SSU	INDEX	DESCRIPTION	C	OB	OD	AO	DESCRIPTION
17	10	00	00	00	1485	OSTEOPATHIC MEDICAL BOARD OF C	3	28	428	00	CONSOLIDATED DATA CENTRS

INVOICE	DOC DATE	REF DOC	SX	CUR DOC	SX	CLAIM NO	BATCH	HDR	PR DATE	TC	R	VENDOR NAME	CUR MONTH EXP
DC121308OBX	03/20/13			IO12091490			13032807030		03/28/13	242		OFC OF THE ST CHIEF INFO-OCIO	1,419.99
*TOTAL AGENCY OBJECT 00 CONSOLIDATED DATA CENTRS													1,419.99

*TOTAL INDEX 1485 OSTEOPATHIC MEDICAL BOARD OF C 81,428.11

*TOTAL PCA 14850 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA 81,428.11

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 03/31/13

ENY: 12 FFY: 12
SECTION: 17 SECTION 17
SUB-SECTION: 10 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1485 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
70 10 000 000 72640			REIMB - OSTEOPATHIC MEDICAL BOARD OF CA				
001	991937	01	FINGERPRINT REPORTS	25,000.00	2,456.00	19,298.00	5,702.00
001	991937	02	EXTERNAL/PRIVATE/GRANT	28,000.00	0.00	4,115.00	23,885.00
*TOTAL SOURCE 991937				53,000.00	2,456.00	23,413.00	29,587.00
001	995988	01	UNSCHED-INVESTIGATIVE COST RECOVE	0.00	730.00	21,565.00	21,565.00-
*TOTAL SOURCE 995988				0.00	730.00	21,565.00	21,565.00-
*TOTAL PROG 70				53,000.00	3,186.00	44,978.00	8,022.00
*TOTAL REFERENCE 001				53,000.00	3,186.00	44,978.00	8,022.00
70 10 000 000 82640			OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA				
980	125600	CW	PHYSICIAN/SURGEON-REINSTATEMENT F	0.00	0.00	5,125.00	5,125.00-
980	125600	CX	PHYSICIAN/SURGEON-CITE & FINE-VAR	0.00	0.00	1,000.00	1,000.00-
980	125600	CY	DUPLICATE CERTIFICATE-$25.00	0.00	25.00	1,400.00	1,400.00-
980	125600	DA	ENDORSEMENT FEE-$25.00	0.00	1,000.00	8,275.00	8,275.00-
980	125600	DD	LICENSE STATUS CHANGE FEE-VARIABL	0.00	100.00	1,400.00	1,400.00-
980	125600	00	OTHER REGULATORY FEES	37,000.00	0.00	0.00	37,000.00
*TOTAL SOURCE 125600				37,000.00	1,125.00	17,200.00	19,800.00
980	125700	B4	PHYSICIAN/SURGEON-ORIG APP FEE-$2	0.00	10,000.00	78,200.00	78,200.00-
980	125700	B6	PHYSICIAN/SURGEON-LICENSE FEE-VAR	0.00	5,190.00	79,470.00	79,470.00-
980	125700	B9	FICTITIOUS NAME PERMIT APP FEE $1	0.00	0.00	3,600.00	3,600.00-
980	125700	00	OTHER REGULATORY LICENSES AND PER	249,000.00	0.00	0.00	249,000.00
*TOTAL SOURCE 125700				249,000.00	15,190.00	161,270.00	87,730.00
980	125800	BR	BIENNIAL TAX AND REGISTRATION FEE	0.00	100,000.00	866,400.00	866,400.00-
980	125800	BS	BIENNIAL INACTIVE CERTIFICATION F	0.00	3,300.00	74,700.00	74,700.00-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 03/31/13

ENY: 12 FFY: 12
SECTION: 17 SECTION 17
SUB-SECTION: 10 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1485 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
980	125800	BT	ANNUAL RENEWAL-FICTITIOUS NAME PE	0.00	1,000.00	25,300.00	25,300.00-
980	125800	00	RENEWAL FEES	1,245,000.00	0.00	0.00	1,245,000.00
*TOTAL SOURCE 125800				1,245,000.00	104,300.00	966,400.00	278,600.00
980	125900	A6	DELINQUENT TAX AND REGISTRATION F	0.00	500.00	3,900.00	3,900.00-
980	125900	A7	DELINQUENT INACTIVE RENEWAL-$75.0	0.00	75.00	1,575.00	1,575.00-
980	125900	00	DELINQUENT FEES	10,000.00	0.00	0.00	10,000.00
*TOTAL SOURCE 125900				10,000.00	575.00	5,475.00	4,525.00
980	141200	00	SALES OF DOCUMENTS	0.00	25.00	75.00	75.00-
*TOTAL SOURCE 141200				0.00	25.00	75.00	75.00-
980	150300	00	INCOME FROM SURPLUS MONEY INVESTM	5,000.00	0.00	4,769.00	231.00
*TOTAL SOURCE 150300				5,000.00	0.00	4,769.00	231.00
980	161400	91	DISHONORED CHECK FEE-VAR	0.00	0.00	50.00	50.00-
*TOTAL SOURCE 161400				0.00	0.00	50.00	50.00-
*TOTAL PROG 70				1,546,000.00	121,215.00	1,155,239.00	390,761.00
*TOTAL REFERENCE 980				1,546,000.00	121,215.00	1,155,239.00	390,761.00
*TOTAL INDEX 1485				1,599,000.00	124,401.00	1,200,217.00	398,783.00
*TOTAL SBSEC 10				1,599,000.00	124,401.00	1,200,217.00	398,783.00

TAB 5

AB 410

California LEGISLATIVE INFORMATION

SB-410 Health care: controlled substances and dangerous drugs. (2013-2014)

CORRECTED FEBRUARY 21, 2013

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL **No. 410**

Introduced by Senator Yee

February 20, 2013

An act to amend Section 2241.5 of the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 410, as Introduced, Yee. Health care: controlled substances and dangerous drugs.

Existing law authorizes a physician and surgeon to prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition, drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including intractable pain. Existing law requires the physician and surgeon to exercise reasonable care in determining whether a particular patient or condition, or complexity of the patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

This bill would specify that chronic pain is included among the types of pain for which these drugs or substances may be prescribed.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 2241.5 of the Business and Professions Code is amended to read:

2241.5. (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, *chronic pain or* intractable pain.

(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

(2) Violates Section 2241 regarding treatment of an addict.

(3) Violates Section 2242 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs.

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or

disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

AB 1278

California LEGISLATIVE INFORMATION

AB-1278 Integrative cancer treatment. (2013-2014)

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL **No. 1278**

Introduced by Assembly Member Hueso

February 22, 2013

An act to amend Section 2234.1 of, and to repeal Section 2257 of, the Business and Professions Code, and to amend Sections 109270, 109285, 109295, 109300, 109350, and 109375 of, and to add Article 2.5 (commencing with Section 109400) to Chapter 4 of Part 4 of Division 104 of, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1278, as introduced, Hueso. Integrative cancer treatment.

Existing law prohibits the sale, prescription, or administration of a drug, medicine, compound, or device to be used in the diagnosis, treatment, alleviation, or cure of cancer unless it has been approved by the federal Food and Drug Administration or by the State Department of Public Health, as specified, and makes a violation of that provision a misdemeanor. The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and requires the board to take action against a licensee who is charged with unprofessional conduct. The act immunizes a physician and surgeon from discipline for providing advice or treatment that constitutes alternative or complementary medicine if the treatment or advice meets certain requirements. The Osteopathic Act provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California and requires the board to enforce the Medical Practice Act with respect to its licensees.

This bill would prohibit a physician and surgeon, including an osteopathic physician and surgeon, from recommending, prescribing, or providing integrative cancer treatment, as defined, to cancer patients unless certain requirements are met. The bill would specify that a failure of a physician and surgeon to comply with these requirements constitutes unprofessional conduct and cause for discipline by the individual's licensing entity. The bill would require the State Department of Public Health to investigate violations of these provisions and to hold hearings with respect to compliance with these provisions. The bill would make conforming changes to other related provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 2234.1 of the Business and Professions Code is amended to read:

2234.1. (a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets ~~all~~ *one* of the following requirements, *as applicable*:

(1) The treatment or advice is for a condition other than cancer and meets all of the following requirements:

~~(1)~~

(A) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

~~(2)~~

(B) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

~~(3)~~

(C) In the case of alternative or complementary medicine, it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

~~(4)~~

(D) It does not cause death or serious bodily injury to the patient.

(2) The treatment or advice is for cancer and is given in compliance with Article 2.5 (commencing with Section 109400) of Chapter 4 of Part 4 of Division 104 of the Health and Safety Code.

(b) For purposes of this section, "alternative or complementary medicine," means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient's medical condition that is not outweighed by the risk of the health care method.

(c) Since the National Institute of Medicine has reported that it can take up to 17 years for a new best practice to reach the average physician and surgeon, it is prudent to give attention to new developments not only in general medical care but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California.

SEC. 2. Section 2257 of the Business and Professions Code is repealed.

~~2257. The violation of Section 109275 of the Health and Safety Code, relating to informed consent for the treatment of breast cancer, constitutes unprofessional conduct.~~

SEC. 3. Section 109270 of the Health and Safety Code is amended to read:

109270. The department shall:

(a) Prescribe reasonable regulations with respect to the administration of this article and Article 2 (commencing with Section 109300).

(b) Investigate violations of this article ~~and~~, Article 2 (commencing with Section 109300), *and Article 2.5 (commencing with Section 109400)*, and report the violations to the appropriate enforcement authority.

(c) Secure the investigation and testing of the content, method of preparation, efficacy, or use of drugs, medicines, compounds, or devices proposed to be used, or used, by any individual, person, firm, association, or other entity in the state for the diagnosis, treatment, or cure of cancer, prescribe reasonable regulations with respect to the investigation and testing, and make findings of fact and recommendations upon completion of any such investigation and testing.

(d) Adopt a regulation prohibiting the prescription, administration, sale or other distribution of any drug, substance, or device found to be harmful or of no value in the diagnosis, prevention, or treatment of cancer, *except as authorized under Article 2.5 (commencing with Section 109400)*.

(e) Hold hearings ~~in~~ *with* respect ~~of~~ *to* those matters involving compliance with this article ~~and~~, Article 2 (commencing with Section 109300), *and Article 2.5 (commencing with Section 109400)*, and subpoena witnesses and documents. Any or all hearings may be held before the Cancer Advisory Council. Any administrative action to be taken by the department as a result of the hearings shall be taken only after receipt of the recommendations of the council. Prior to issuance of a cease and desist order under Section 109345, a hearing shall be held. The person furnishing a sample *or manufacturer contact information* under Section 109295 shall be given due notice of the hearing and an opportunity to be heard.

(f) Contract with independent scientific consultants for specialized services and advice.

In the exercise of the powers granted by this section, the department shall consult with the Cancer Advisory Council.

SEC. 4. Section 109285 of the Health and Safety Code is amended to read:

109285. For the purposes of this article ~~and~~, Article 2 (commencing with Section 109300), *and Article 2.5 (commencing with Section 109400)*, "cancer" means all malignant neoplasms regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia.

SEC. 5. Section 109295 of the Health and Safety Code is amended to read:

109295. *(a)* On written request by the department, delivered personally or by mail, any individual, person, firm, association, or other entity engaged, or representing himself, *herself*, or itself, as engaged, in the diagnosis, treatment, alleviation, or cure of cancer shall ~~furnish~~ *do all of the following:*

(1) Furnish the department with the sample as the department may deem necessary for adequate testing of any drug, medicine, compound, or device used or prescribed by the individual, person, firm, association, or other entity in the diagnosis, treatment, alleviation, or cure of ~~cancer, and shall specify~~ *cancer. The individual, person, firm, association, or other entity may alternatively furnish the department with the contact information of the manufacturer of the drug, medicine, compound, or device.*

(2) Specify the formula of any drug or compound and name all ingredients by their common or usual ~~names, and shall, upon like~~ *names.*

(3) Upon request ~~by~~ *of* the department, furnish further necessary information as ~~it~~ *the department* may request as to the composition and method of preparation of and the use that any drug, compound, or device is being put by the individual, person, firm, association, or other entity. ~~This~~

(b) This section shall apply to any individual, person, firm, association, or other entity that renders health care or services to individuals who have or believe they have cancer. This section also applies to any individual, person, firm, association, or other entity that by implication causes individuals to believe they have cancer.

~~The~~

(c) Upon the failure to either provide the sample *or the manufacturer's contact information*, disclose the formula, or name the ingredients as required by this section, *it* shall be conclusively presumed that the drug, medicine, compound or device that is the subject of the department's request has no value in the diagnosis, treatment, alleviation, or cure of cancer.

SEC. 6. Section 109300 of the Health and Safety Code is amended to read:

109300. The sale, offering for sale, holding for sale, delivering, giving away, prescribing, or administering of any drug, medicine, compound, or device to be used in the diagnosis, treatment, alleviation, or cure of cancer is unlawful and prohibited unless ~~(1) an~~ *one of the following applies:*

(a) An application with respect thereto has been approved under Section 505 of the federal Food, Drug, and Cosmetic Act, ~~or (2)~~ there.

(b) The use is consistent with Article 2.5 (commencing with Section 109400).

(c) There has been approved an application filed with the board setting forth *all of the following*:

~~(a)~~

(1) Full reports of investigations that have been made to show whether or not the drug, medicine, compound, or device is safe for the use, and whether the drug, medicine, compound, or device is effective in the use;

~~(b)~~

(2) A full list of the articles used as components of the drug, medicine, compound, or device;

~~(c)~~

(3) A full statement of the composition of the drug, medicine, compound, or device;

~~(d)~~

(4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the drug, medicine, or compound or in the case of a device, a full statement of its composition, properties, and construction and the principle or principles of its operation;

~~(e)~~

(5) Such samples of the drug, medicine, compound, or device and of the articles used as components of the drug, medicine, compound, or device as the board may require; and

~~(f)~~

(6) Specimens of the labeling and advertising proposed to be used for the drug, medicine, compound, or device.

SEC. 7. Section 109350 of the Health and Safety Code is amended to read:

109350. The department may direct that ~~any~~ *an* individual, person, firm, association, or other entity shall cease and desist any further prescribing, recommending, or use of any drug, medicine, compound, or device for which no application has been approved under this article and Article 1 (commencing with Section 109250) unless its use is exempt under Section 109325 or 109330 *or authorized under Article 2.5 (commencing with Section 109400).*

SEC. 8. Section 109375 of the Health and Safety Code is amended to read:

109375. The director shall investigate possible violations of this article ~~and~~, Article 1 (commencing with Section 109250), *and Article 2.5 (commencing with Section 109400),* and report violations to the appropriate enforcement authority.

SEC. 9. Article 2.5 (commencing with Section 109400) is added to Chapter 4 of Part 4 of Division 104 of the Health and Safety Code, to read:

Article 2.5. Integrative Cancer Treatment

109400. For purposes of this article:

(a) "Integrative cancer treatment" means the use of evidence-based substances or therapies that are not the standard of care for cancer treatment, for the purpose of reducing the size of a cancer, slowing the progression of a cancer, or improving the quality of life of a patient with cancer, by a physician and surgeon practicing within his or her scope of practice.

(b) "Physician and surgeon" means a physician and surgeon licensed pursuant to Section 2050 of the Business and Professions Code or an osteopathic physician and surgeon licensed pursuant to the Osteopathic Act.

(c) An individual "prescribes" a treatment when he or she orders the treatment or a course of treatment.

(d) An individual "provides" a treatment when he or she actually renders, administers, furnishes, or dispenses the treatment to the patient.

109401. (a) Notwithstanding any other provision of law, a physician and surgeon shall not recommend or prescribe integrative cancer treatment for cancer patients unless the following requirements are met, as applicable:

(1) The treatment is recommended or prescribed after informed consent is given, as provided in Section 109402.

(2) The treatment recommended or prescribed meets the evidence-based medical standard provided in Section 109403.

(3) The physician and surgeon prescribing the treatment complies with the patient reevaluation requirements set forth in Section 109404 after the treatment begins.

(4) The physician and surgeon prescribing the treatment complies with all of the standards of care set forth in Section 109405.

(b) A physician and surgeon shall not provide integrative cancer treatment for cancer patients unless the treatment is prescribed by a physician and surgeon in compliance with subdivision (a).

109402. (a) For purposes of paragraph (1) of subdivision (a) of Section 109401, informed consent has been given if the patient signs a form stating either of the following:

(1) The name and telephone number of the physician and surgeon from whom the patient is receiving conventional cancer care and whether the patient has been informed of the type of cancer from which the patient suffers and his or her prognosis using conventional treatment options.

(2) That the patient has declined to be under the care of an oncologist or other physician and surgeon providing conventional cancer care.

(b) The form described in subdivision (a) shall include all of the following information:

(1) The type of care the patient will be receiving or that is being recommended is not the standard of care for treating cancer in California.

(2) The standard of care for treating cancer in California consists of radiation, chemotherapy, and surgery.

(3) The treatment that the physician and surgeon will be prescribing or recommending is not approved by the federal Food and Drug Administration for the treatment of cancer.

(4) The care that the patient will be receiving or that is being recommended is not mutually exclusive of the patient receiving conventional cancer treatment.

(5) The following written statements:

THE STATE DEPARTMENT OF PUBLIC HEALTH AND THE PHYSICIAN PRESCRIBING YOUR INTEGRATIVE CANCER CARE RECOGNIZE THE IMPORTANCE OF USING CONVENTIONAL CANCER TREATMENTS, INCLUDING RADIATION, CHEMOTHERAPY, AND SURGERY. IT IS HIGHLY RECOMMENDED THAT YOU SEE AN ONCOLOGIST OR ANOTHER PHYSICIAN TO PROVIDE YOU WITH CONVENTIONAL CANCER CARE.

ANY AND ALL MEDICAL TREATMENTS INVOLVE SOME DEGREE OF RISK OF INJURY UP TO AND INCLUDING DEATH.

109403. For purposes of paragraph (2) of subdivision (a) of Section 109401, a treatment meets the evidence-based medical standard for integrative cancer treatment if all of the following requirements are met:

(a) In the opinion of the physician and surgeon recommending or prescribing the treatment, the treatment has the potential to reduce the size of a cancer, slow the progression of a cancer, or improve the quality of life of a patient with cancer, based on reasonable evidence from peer-reviewed scientific medical journals.

(b) In the opinion of the physician and surgeon recommending or prescribing the treatment, the expected benefits of the treatment substantially outweigh the expected harm from the treatment, as derived from peer-reviewed scientific or medical journals.

(c) The treatment, when properly provided, does not cause death or bodily injury to the patient.

109404. For purposes of paragraph (3) of subdivision (a) of Section 109401, a physician and surgeon prescribing integrative cancer treatment complies with the patient reevaluation requirements if all of the following conditions are satisfied:

(a) The patient is informed regarding the measurable results achieved within the timeframe established pursuant to paragraph (2) of subdivision (a) of Section 109405 and at regular and appropriate intervals during the treatment plan.

(b) The physician and surgeon reevaluates treatment when progress stalls or reverse,s in the opinion of the physician and surgeon or the patient, or as evidenced by objective evaluations.

(c) The patient is informed about and agrees to any proposed change or changes in treatment, including, but not limited to, the risks and benefits of the proposed change or changes, the costs associated with the proposed change or changes, and the timeframe within which the proposed change or changes will be reevaluated.

109405. For purposes of paragraph (4) of subdivision (a) of Section 109401, a physician and surgeon complies with all of the standards of care in prescribing integrative cancer treatment under this article if all of the following requirements are met:
(a) The physician and surgeon provides the patient with all of the following when prescribing the treatment:

(1) Information regarding the treatment prescribed, including its usefulness in treating cancer.

(2) A timeframe and plan for reevaluating the treatment using standard and conventional means in order to assess treatment efficacy.

(3) A cost estimate for the prescribed treatment.

(b) The physician and surgeon ensures that relevant, generally accepted tests are administered to confirm the effectiveness and progress of the treatment.

(c) The physician and surgeon, prior to prescribing or changing the treatment, makes a good faith effort to obtain from the patient all relevant charts, records, and laboratory results relating to the patient's conventional cancer care.

(d) At the request of the patient, the physician and surgeon makes a good faith effort to coordinate the care of the patient with the physician and surgeon providing conventional cancer care to the patient.

(e) At the request of the patient, the physician and surgeon provides a synopsis of any treatment rendered pursuant to this article to the physician and surgeon providing conventional cancer care to the patient, including subjective and objective assessments of the patient's state of health and response to that treatment.

109406. The failure of a physician and surgeon to comply with this article constitutes unprofessional conduct and cause for discipline by that individual's licensing entity. That person shall not be subject to Section 109335 or 109370.

AB 701

California LEGISLATIVE INFORMATION

SB-701 Hospital-affiliated outpatient settings. (2013-2014)

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL **No. 701**

Introduced by Senator Emmerson

February 22, 2013

An act to amend Sections 1248, 1248.15, 1248.35, 1248.4, and 1248.5 of the Health and Safety Code, relating to outpatient facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 701, as introduced, Emmerson. Hospital-affiliated outpatient settings.

Existing law requires the Medical Board of California to adopt standards for accreditation of outpatient settings, as defined, and, in approving accreditation agencies to perform this accreditation, to ensure that the certification program shall, at a minimum, include standards for specified aspects of the settings' operations. Existing law makes a willful violation of these and other provisions relating to outpatient settings a crime.

This bill would create entities known as hospital-affiliated outpatient settings, as defined, and would align the accreditation and reporting processes with those of the general acute care hospital with which the hospital-affiliated outpatient settings is affiliated. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 1248 of the Health and Safety Code is amended to read:

1248. For purposes of this chapter, the following definitions shall apply:

(a) "Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the Medical Board of California pursuant to Sections 1248.15 and 1248.4.

(b) "Deemed accreditation agency" means a national accreditation program meeting the requirements of, and approved for, deeming authority for Medicare requirements by the United States Department of Health and Human Services, the Centers for Medicare and Medicaid Services, or any successor agency.

~~(a)~~

(c) "Division" means the Medical Board of California. All references in this chapter to the division, the Division of Licensing of the Medical Board of California, or the Division of Medical Quality shall be deemed to refer to the Medical Board of California pursuant to Section 2002 of the Business and Professions Code.

(d) "Hospital-affiliated outpatient setting" means a facility, clinic, unlicensed clinic, center, office, or other setting that is an outpatient setting, does not operate exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following admission, and is accredited by a deemed accreditation agency as part of a general acute care hospitals's accreditation process.

~~(b)~~

(e) (1) "Outpatient setting" means any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as defined in Section 1250, and where anesthesia, except local anesthesia or peripheral nerve blocks, or both, is used in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes.

(2) "Outpatient setting" also means facilities that offer in vitro fertilization, as defined in subdivision (b) of Section 1374.55.

(3) "Outpatient setting" does not include, among other settings, any setting where anxiolytics and analgesics are administered, when done so in compliance with the community standard of practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.

~~(c)"Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the board pursuant to Sections 1248.15 and 1248.4.~~

(4) "Outpatient setting" also means a hospital-affiliated setting, except as otherwise indicated.

SEC. 2. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The board shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting *that is not a hospital-affiliated outpatient setting* as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

(iii) Submit for approval by an accrediting agency a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(D) In addition to the requirements imposed in subparagraph (C), the outpatient setting shall submit for approval by an accreditation agency at the time of accreditation a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations. The plan shall include, at a minimum, that if a patient is being transferred to a local accredited or licensed acute care hospital, the outpatient setting shall do all of the following:

(i) Notify the individual designated by the patient to be notified in case of an emergency.

(ii) Ensure that the mode of transfer is consistent with the patient's medical condition.

(iii) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer.

(iv) Continue to provide appropriate care to the patient until the transfer is effectuated.

(E) *(i)* All physicians and surgeons transferring patients from an outpatient setting *that is not a hospital-affiliated outpatient setting* shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body or in accordance with existing law.

(ii) All physicians and surgeons transferring patients from a hospital-affiliated outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the general acute care facility, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body or in accordance with existing law.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations shall have all of the sites inspected.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the board to protect the public health and safety.

(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the board, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, "conducting a reasonable investigation" means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision. *This subdivision shall not apply to hospital-affiliated outpatient settings.*

(h) *(1)* An outpatient setting shall be subject to the reporting requirements in Section 1279.1 and the penalties for failure to report specified in Section 1280.4. *This paragraph shall not apply to adverse events described in subparagraph (E) of paragraph (1) of subdivision (b) of Section 1279.1 that occur in a hospital-affiliated outpatient setting.*

(2) The general acute care hospital affiliated with the hospital-affiliated outpatient setting shall report any adverse event described in subparagraph (E) of paragraph (1) of subdivision (b) of Section 1279.1 that occurs in a hospital-affiliated outpatient setting, subject to reporting requirements in Section 1279.1 and penalties for failure to report in Section 1280.4.

SEC. 3. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) Every outpatient setting which is accredited shall be inspected by the accreditation agency and may also be inspected by the Medical Board of California. The Medical Board of California shall ensure that accreditation agencies inspect outpatient settings.

(b) Unless otherwise specified, the following requirements apply to inspections described in subdivision (a).

(1) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected.

(2) Inspections shall be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure the quality of care provided.

(3) The Medical Board of California or the accreditation agency may enter and inspect any outpatient setting that is accredited by an accreditation agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

(c) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Require correction of any identified deficiencies within a set timeframe. Failure to comply shall result in the accrediting agency issuing a reprimand or suspending or revoking the outpatient setting's accreditation.

(2) Issue a reprimand.

(3) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the board or the accreditation agency, to correct the deficiencies.

(4) Suspend or revoke the outpatient setting's certification of accreditation.

(d) (1) *(A)* Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting *that is not a hospital-affiliated outpatient setting* with notice of any deficiencies and the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting reasonable time to supply information demonstrating compliance with the standards of the accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient setting. ~~During~~

(B) Except as otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the deemed accreditation agency shall provide the hospital that is affiliated with the hospital-affiliated outpatient setting with notice of any deficiencies, which may be combined with notice of other deficiencies for the hospital's general acute care accreditation. The hospital shall agree with the accreditation agency on a plan of correction that shall give the hospital reasonable time to supply information demonstrating compliance with the standards of the accreditation agency, in compliance with this chapter, as well as the opportunity for a hearing on the matter if the hospital requests one.

(C) During the allotted time to correct the deficiencies, the plan of correction, which includes the deficiencies, shall be conspicuously posted by the outpatient setting in a location accessible to public view. ~~Within~~

(D) Within 10 days after the adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to the board and to the California State Board of Pharmacy if an outpatient setting is licensed pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code. ~~The~~ *If the outpatient setting is a hospital-affiliated outpatient setting, the list of deficiencies and the corrective action to be taken may be combined with the list of deficiencies and the corrective action to be taken for the hospital's general acute care accreditation that directly affect the hospital-affiliated outpatient setting.*

(E) The accreditation agency may immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

(2) If an outpatient setting does not comply with a corrective action within a timeframe specified by the accrediting agency, the accrediting agency shall issue a reprimand, and may either place the outpatient setting on probation or suspend or revoke the accreditation of the outpatient setting, and shall notify the board of its action. This section shall not be deemed to prohibit an outpatient setting that is unable to correct the deficiencies, as specified in the plan of correction, for reasons beyond its control, from voluntarily surrendering its accreditation prior to initiation of any suspension or revocation proceeding.

(e) The accreditation agency shall, within 24 hours, report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation. If an outpatient setting has been issued a license by the California State Board of Pharmacy pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code, the accreditation agency shall also send this report to the California State Board of Pharmacy within 24 hours.

(f) The accreditation agency, upon receipt of a complaint from the board that an outpatient setting poses an immediate risk to public safety, shall inspect the outpatient setting and report its findings of inspection to the board within five business days. If an accreditation agency receives any other complaint from the board, it shall investigate the outpatient setting and report its findings of investigation to the board within 30 days.

(g) Reports on the results of any inspection shall be kept on file with the board and the accreditation agency along with the plan of correction and the comments of the outpatient setting. *The inspection report for an outpatient setting that is not a hospital-affiliated*

outpatient setting shall include the lists of deficiencies, plans of correction or requirements for improvements and correction, and corrective action completed. The inspection report for a hospital-affiliated outpatient setting shall include a letter from the deemed accreditation agency stating the accreditation status of the hospital-affiliated outpatient setting. The inspection report may include a recommendation for reinspection. All final inspection reports *for outpatient settings as defined in subdivision (e) of Section 1248*, which include the lists of deficiencies, plans of correction or requirements for improvements and correction, and corrective action completed, shall be public records open to public inspection.

(h) If one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies. An outpatient setting that is denied accreditation is permitted to reapply for accreditation with the same accrediting agency. The outpatient setting also may apply for accreditation from another accrediting agency, but only if it discloses the full accreditation report of the accrediting agency that denied accreditation. *If a deemed accreditation agency denies accreditation and the outpatient setting seeks to apply for accreditation from another accrediting agency, the outpatient setting shall also disclose the lists of deficiencies, plans of correction or requirements for improvements and correction, and corrective action completed from the deemed accreditation agency that denied accreditation.* Any outpatient setting that has been denied accreditation shall disclose the accreditation report to any other accrediting agency to which it submits an application. The new accrediting agency shall ensure that all deficiencies have been corrected and conduct a new onsite inspection consistent with the standards specified in this chapter.

(i) If an outpatient setting's certification of accreditation has been suspended or revoked, or if the accreditation has been denied, the accreditation agency shall do all of the following:

(1) Notify the board of the action.

(2) Send a notification letter to the outpatient setting of the action. The notification letter shall state that the setting is no longer allowed to perform procedures that require outpatient setting accreditation.

(3) Require the outpatient setting to remove its accreditation certification and to post the notification letter in a conspicuous location, accessible to public view.

(j) The board may take any appropriate action it deems necessary pursuant to Section 1248.7 if an outpatient setting's certification of accreditation has been suspended or revoked, or if accreditation has been denied.

SEC. 4. Section 1248.4 of the Health and Safety Code is amended to read:

1248.4. (a) It is the intent of the Legislature that an accreditation agency operating on or before January 1, 1995, or a successor thereof, or an accreditation agency thereafter operating as part of a joint program granted temporary certification as an accreditation agency by the division, whether operating as part of a joint program or independently, and meeting the standards set forth in this chapter, as determined by the division, not be required to go through the entire application process with the division. Therefore, the division may grant a temporary certificate of approval to such an accreditation agency. The temporary approval issued to an accreditation agency under this subdivision shall expire on January 1, 1998. In order to continue its status as an accreditation agency, an accreditation agency approved by the division under this subdivision shall apply for renewal of approval by the division on or before January 1, 1998, and shall establish that it is in compliance with the standards set forth in this chapter and any regulations adopted pursuant thereto.

(b) Each accreditation agency approved by the division shall, on and after January 1, 1995, promptly forward to the division a list of each outpatient setting to which it has granted a certificate of accreditation, as well as settings that have lost accreditation or were denied accreditation.

(c) The division shall approve an accreditation agency that applies for approval on a form prescribed by the division, accompanied by payment of the fee prescribed by this chapter and evidence that the accreditation agency meets the following criteria, *except that paragraph (6) shall not apply to an accreditation agency for hospital-affiliated outpatient settings*:

(1) Includes within its accreditation program, at a minimum, the standards for accreditation of outpatient settings approved by the division as well as standards for patient care and safety at the setting.

(2) Submits its current accreditation standards to the division every three years, or upon request for continuing approval by the division.

(3) Maintains internal quality management programs to ensure quality of the accreditation process.

(4) Has a process by which accreditation standards can be reviewed and revised no less than every three years.

(5) Maintains an available pool of allied health care practitioners to serve on accreditation review teams as appropriate.

(6) Has accreditation review teams that shall do all of the following:

(A) Consist of at least one physician and surgeon who practices in an outpatient setting; any other members shall be practicing actively in these settings.

(B) Participate in formal educational training programs provided by the accreditation agency in evaluation of the certification standards at least every three years.

(7) In lieu of the requirements of paragraph (6), hospital-affiliated outpatient settings shall be reviewed by physicians and surgeons or clinicians educated through formal training programs provided by a deemed accreditation organization. Members of the team shall participate in the training programs at least every three years.

~~(7)~~

(8) The accreditation agency shall demonstrate that professional members of its review team have experience in conducting review activities of freestanding outpatient settings.

~~(8)~~

(9) Standards for accreditation shall be developed with the input of the medical community and the ambulatory surgery industry.

~~(9)~~

(10) Accreditation reviewers shall be credentialed and screened by the accreditation agency.

~~(10)~~

(11) The accreditation agency shall not have an ownership interest in nor be involved in the operation of a freestanding outpatient setting, nor in the delivery of health care services to patients.

(d) Notwithstanding subdivision (c) and Section 1248.15, this division shall approve any deemed accreditation agency to perform certification of any hospital-affiliated outpatient setting that applies for approval, accompanied by both of the following:

(1) A letter by the deemed accreditation agency that it shall comply with this chapter with respect to the certification of a hospital-affiliated outpatient setting.

(2) Evidence that the certification program includes standards for policies and procedures addressing the indication and management of sedation.

~~(d)~~

(e) Accreditation agencies approved by the division shall forward to the division copies of all certificates of accreditation and shall notify the division promptly whenever the agency denies or revokes a certificate of accreditation.

~~(e)~~

(f) A certification of an accreditation agency by the division shall expire at midnight on the last day of a three-year term if not renewed. The division shall establish by regulation the procedure for renewal. To renew an unexpired approval, the accreditation agency shall, on or before the date upon which the certification would otherwise expire, apply for renewal on a form, and pay the renewal fee, as prescribed by the division.

SEC. 5. Section 1248.5 of the Health and Safety Code is amended to read:

1248.5. The board shall evaluate the performance of an approved accreditation agency no less than every three years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the board. *This section shall not apply to a deemed accreditation agency that is approved solely pursuant to subdivision (d) of Section 1248.4.*

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

SB 305

California LEGISLATIVE INFORMATION

SB-305 Healing arts: boards. (2013-2014)

AMENDED IN SENATE APRIL 15, 2013

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL **No. 305**

Introduced by Senator Price
(Principal Coauthor(s): Assembly Member Gordon)

February 15, 2013

An act to amend Sections 2450, 2450.3, *2569, 3010.5, 3014.6,* 3685, 3686, 3710, ~~and~~ 3716, *and 3765*of, *and to add Section 144.5 to,* the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 305, as amended, Price. Healing arts: boards.

Existing law requires specified regulatory boards within the Department of Consumer Affairs to require an applicant for licensure to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.

This bill would additionally authorize those boards to request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation and would authorize a local or state agency to provide those records to the board upon request.

Existing law, the Osteopathic Act, ~~establishes the Osteopathic Medical Board of California, which issues certificates to, and regulates, osteopathic physicians and surgeons.~~ *provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California.*

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that *the* review be performed as if ~~these~~ *these* provisions were scheduled to be repealed as of January 1, 2018.

Existing law, the Naturopathic Doctors Act, *until January 1, 2014,* provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. ~~Existing law repeals these provisions on January 1, 2014.~~ Existing law also specifies that the *repeal of the* committee ~~is subject~~ *subjects it* to review by the appropriate policy committees of the Legislature.

This bill would ~~instead repeal those provisions on January 1, 2018,~~ *extend the operation of these provisions until January 1, 2018,* and make conforming changes.

Existing law provides for the regulation of dispensing opticians, as defined, by the Medical Board of California.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that the review be performed as if these provisions were scheduled to be repealed as of January 1, 2018.

Existing law, *the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. The Respiratory Care Act* provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. ~~Existing law~~ *Each of those acts* authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2014 and subjects the ~~board~~ *boards* to review by the ~~Joint Sunset Review Committee~~ *Committee on Boards, Commissions, and Consumer Protection.*

This bill would ~~instead repeal those provisions on January 1, 2018,~~ *extend the operation of these provisions until January 1, 2018,*

and provide that the ~~committee is subject to~~ *repeal of these provisions subjects the boards to* review by the appropriate policy committees of the Legislature.

The Respiratory Care Act also prohibits a person from engaging in the practice of respiratory care unless he or she is a licensed respiratory care practitioner. However, the act does not prohibit specified acts, including, among others, the performance of respiratory care services in case of an emergency or self-care by a patient.

This bill would additionally authorize the performance of pulmonary function testing by persons who are currently employed by Los Angeles county hospitals and have performed pulmonary function testing for at least 15 years.

This bill would make legislative findings and declarations as to the necessity of a special statute for the persons described above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. *Section 144.5 is added to the Business and Professions Code, to read:*

144.5. Notwithstanding any other law, a board described in Section 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

~~SECTION 1.~~*SEC. 2.* Section 2450 of the Business and Professions Code is amended to read:

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, 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.~~*SEC. 3.* Section 2450.3 of the Business and Professions Code is amended to read:

2450.3. There is within the jurisdiction of the Osteopathic Medical Board of California a Naturopathic Medicine Committee authorized under the Naturopathic Doctors Act (Chapter 8.2 (commencing with Section 3610)). This section shall become inoperative on January 1, 2018, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the Naturopathic Medicine Committee subject to review by the appropriate policy committees of the Legislature.

SEC. 4. *Section 2569 of the Business and Professions Code is amended to read:*

2569. ~~The~~ *Notwithstanding any other law, the* powers and duties of the board, as set forth in this chapter, shall be subject to ~~the review required by Division 1.2 (commencing with Section 473).~~ *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, ~~2014, as described in Section 473.1.~~ *2018.*

SEC. 5. *Section 3010.5 of the Business and Professions Code is amended to read:*

3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

(c) 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).~~ *by the appropriate policy committees of the Legislature.*

SEC. 6. *Section 3014.6 of the Business and Professions Code is amended to read:*

3014.6. (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. 3.~~*SEC. 7.* Section 3685 of the Business and Professions Code is amended to read:

3685. Notwithstanding any other law, the repeal of this chapter renders the committee subject to review by the appropriate policy committees of the Legislature.

~~SEC. 4.~~*SEC. 8.* Section 3686 of the Business and Professions Code is amended to read:

3686. This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

~~SEC. 5.~~*SEC. 9.* Section 3710 of the Business and Professions Code is amended to read:

3710. (a) The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

~~SEC. 6.~~*SEC. 10.* Section 3716 of the Business and Professions Code is amended to read:

3716. The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

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

SEC. 11. *Section 3765 of the Business and Professions Code is amended to read:*

3765. This act does not prohibit any of the following activities:

(a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their speciality.

(e) Respiratory care services in case of an emergency. "Emergency," as used in this subdivision, includes an epidemic or public disaster.

(f) Persons from engaging in cardiopulmonary research.

(g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication as defined in Section 1596.798 of the Health and Safety Code.

(h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of Health Services of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the board.

(i) The performance of pulmonary function testing by persons who are currently employed by Los Angeles county hospitals and have performed pulmonary function testing for at least 15 years.

SEC. 12. *The Legislature finds and declares that a special law, as set forth in Section 11 of this act, is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to persons who are currently employed by Los Angeles county hospitals and have performed pulmonary function testing for at least 15 years.*

Hearing Date: April 29, 2013 Bill No: SB 305

SENATE COMMITTEE ON BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
Senator Curren D. Price, Jr., Chair

Bill No: SB 305 Author: Price
As Amended: April 25, 2013 Fiscal: Yes

SUBJECT: Healing arts: boards.

SUMMARY: Extends until January 1, 2018, the provisions establishing the Naturopathic Medicine Committee and the Respiratory Care Board of California, and extends the term of the executive officers of the Respiratory Care Board of California and the California State Board of Optometry. Specifies that the Osteopathic Medical Board of California is subject to review by the appropriate policy committees of the Legislature. Exempts individuals who have performed pulmonary function tests in Los Angeles county facilities for at least 15 years, from licensure as a respiratory care therapist. Specifies that any board under the Department of Consumer Affairs is authorized to receive certified records from a local or state agency to complete an applicant or licensee investigation and authorizes them to provide those records to the board.

Existing law:

1) Requires and board, bureau or program within the Department of Consumer Affairs (DCA) to require an applicant for licensure to furnish to the board a full set of fingerprints in order to conduct a criminal history record check. (Business and Professions Code (BPC) § 144)

2) Provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California (OMB) (BPC § 2450)

3) Establishes the Naturopathic Medicine Committee, within the Osteopathic Medical Board of California, under the DCA, and permits the committee to license and regulate naturopathic doctors until January 1, 2014. (BPC § 3610 et seq.)

4) Specifies that the repeal of the Naturopathic Medicine Committee subjects it to review by the appropriate policy committees of the Legislature (BPC § 2450.3)

5) Provides for the licensure and regulation of optometrists by the California State Board of Optometry and authorizes the California Board of Optometry to employ an executive officer until January 1, 2014. (BPC § 3010 et seq.; 3014.6)

6) Provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California and authorizes the board to employ and executive officer until January 1, 2014. (BPC § 3710 et seq.; 3716)

7) Specifies activities that are not prohibited by the Respiratory Care Act including: (BPC § 3765)

   a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs;

   b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner;

   c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training;

   d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed;

   e) Respiratory care services in case of an emergency; "emergency" includes an epidemic or public disaster;

   f) Persons from engaging in cardiopulmonary research;

   g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication; and

   h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of Health Services of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the Respiratory Care Board.

This bill:

1) Revises the provisions of the Naturopathic Medicine Act as follows:

   a) Extends, until January 1, 2018, the provisions establishing the Naturopathic Medicine Committee.

   b) Specifies that the Naturopathic Medicine Committee is subject to be reviewed by the appropriate policy committees of the Legislature.

2) Revises the provisions of the Optometry Act as follows:

   a) Extends, until January 1, 2018, the term of the executive officers of the California State Board of Optometry.

   b) Specifies that the California State Board of Optometry is subject to be reviewed by the appropriate policy committees of the Legislature.

3) Revises the provisions of the Respiratory Care Act as follows:

   a) Extends, until January 1, 2018, the provisions establishing the Respiratory Care Board of California.

   b) Extends, until January 1, 2018, the term of the executive officers of the Respiratory Care Board of California.

   c) Specifies that the Respiratory Care Board of California is subject to be reviewed by the appropriate policy committees of the Legislature.

   d) Exempts individuals who have performed pulmonary function tests in Los Angeles county facilities for at least 15 years, from licensure as a respiratory care therapist.

4) Revises the provisions related to the Osteopathic Medical Board of California as follows:

   a) Requires that the powers and duties of the Osteopathic Medical Board of California would be subject to review by the appropriate policy committees of the Legislature and requires that the review of the Board be performed as if these provisions were scheduled to be repealed January 1, 2018.

5) Specifies that any board under the DCA is authorized to receive certified records from a local or state agency of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation.

6) Specifies that a local or state agency is authorized to provide those records to a board upon receipt of such a request.

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** This bill is one of six "sunset review bills" authored by the Chair of this Committee. Unless legislation is carried this year to extend the sunset dates for the Naturopathic Medicine Committee, the Respiratory Care Board of California and the California State Board of Optometry, they will be repealed on January 1, 2014. Because it was created via initiative act, the Osteopathic Medical Board of California does not have a sunset date. This bill will specify that as of January 1, 2018, the Osteopathic Medical Board of California will be reviewed consistent with other healing arts boards under the DCA that are subject to a 4 year sunset review period. This bill will exempt certain employees from going through the laborious process of becoming certified respiratory therapists when they have been safely and reliably performing services for over 15 years at LA County safety net hospitals. This bill will allow all DCA boards to receive certified records from a local or state agency of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation.

2. **Oversight Hearings and Sunset Review of Licensing Boards and Commission of DCA.** In 2013, this Committee conducted oversight hearings to review 14 regulatory boards within the DCA. The Committee began its review of these licensing agencies in March and conducted three days of hearings. This bill, and the accompanying sunset bills, is intended to implement legislative changes as recommended in the Committee's Background/Issue Papers for all of the agencies reviewed by the Committee this year.

3. **Review of the Naturopathic Medicine Committee (NMC), Issues Identified and Recommended Changes.** Although the Committee addressed several issues regarding the NMC during it review of this Committee, the only statutory change necessary was the extension of their sunset dates.

   a) **Issue: Should the current NMC continue to license and regulate Naturopathic Doctors?**

   Background: The health and safety of consumers is protected by well-regulated professions. The NMC is charged with protecting the consumer from unprofessional and unsafe licensees. It appears that the NMC has had significant difficulty operating as an effective and efficient regulatory body for the profession that falls under its purview. Many of the issues are related to a lack of staff. Immediate attention should be paid to increasing the staff of the NMC and focusing on salient enforcement tasks.

   Recommendation: The Committee staff recommended that NDs continue to be regulated by the current NMC in order to protect the interests of consumers and be reviewed once again in four years. [The current language in this measure reflects this recommended change.]

4. **Review of the Respiratory Care Board of California (RCB), Issues Identified and Recommended Changes.** The following are some of the pertaining to the RCB in which statutory changes were considered necessary, or areas of concern reviewed and discussed by the Committee during the review of the RCB, along with background information concerning each particular issue. Recommendations were made by Committee staff and members regarding the particular issues or problem areas which needed to be addressed.

   a) **Issue: Difficulty for RCB and Other Board in Obtaining Local Agency Records.**

   Background: It is customary for most boards and bureaus to obtain complete arrest, conviction and other related documentation as part of an applicant's or licensee's investigation. As such, boards rely on various authorities and local law enforcement agencies to provide documentation. Lately the RCB, as well as others at the DCA, have been refused access to records, with local government agencies justifying this refusal based on the RCB's perceived lack of authorization to obtain records without approval by the individual in question. This situation causes delays in investigations and can even potentially prevent the RCB from taking appropriate disciplinary action.

   The RCB states that it is crucial to its consumer safety mission to be able to access all arrest, court and other related documentation through the course of an applicant or licensee investigation. The RCB believes that requiring an authorization to release such

information impedes the ability of licensing entities to efficiently take appropriate disciplinary action or thoroughly investigate applicants.

The RCB cites a recent example where a local agency required the RCP's staff to obtain authorization from the licensee for the RCB to access the information. In that case, the RCB ended up getting the records from the district attorney. The RCP also states that it has had issues with some local agencies requiring a fee from the RCB prior to their releasing of records which also slows down the process. In one situation, a local government agency provided the following language to the RCB when it refused to produce records:

"The arrest record(s) cannot be released pursuant to Section 432.7(g)(1) of the Labor Code which reads that "no peace officer or employee of a law enforcement agency with access to criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose, with intent to affect a person's employment, any information contained therein pertaining to an arrest or detention or proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or post trial diversion program, to any person not authorized by law to receive that information."

Recommendation: Committee staff recommended that Section 144.5 be added to the Business and Professions Code as follows:

Notwithstanding any other provision of law, a board described in Section 144 is authorized to receive certified records from a local or state agency of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. The local or state agency is authorized to provide those records to the board upon receipt of such a request.

[The current language in this measure reflects this recommended change.]

b) **Issue: Pulmonary Function Technologists (PFTs).**

Background: When the RCB was instituted, several unlicensed individuals, including those who solely performed pulmonary function tests were grandfathered and issued a license as a RCB. However, the requirement to be grandfathered was not communicated to PFTs who were employed at certain Los Angeles County safety-net hospitals. As a result, these employees continued to practice for several years without knowledge that their practice was illegal. In the late 1990's the RCB was made aware of the issue and it was reviewed during the 2002 sunset review of the RCB. At that time, the Joint Legislative and Sunset Review Committee asked the RCB to examine the issue of unlicensed professionals who were performing pulmonary function tests. The RCB attempted to seek legislation to exempt certain pulmonary function testing from being regulated. However, the RCB was unable to get DCA approval to pursue legislation. During the 2013 sunset review process, staff from the RCB worked with Committee staff to draft language that would exempt these skilled professionals who have performed pulmonary function testing for over 15 years from the licensure requirements of the RCB. In addition, the RCB agreed to continue examining the issue of regulating all unlicensed professionals in its 2013 strategic plan.

Recommendation: The Committee staff recommended that BPC § 3765 be amended to exempt pulmonary function technologists at Los Angeles County hospitals who have performed pulmonary function testing for at least 15 years, from the requirement of becoming a licensed Respiratory Care Therapist. [The current language in this measure reflects this recommended change.]

c) **Issue: Should the current RCB continue to license and regulate Respiratory Care Therapists?**

Background: The health and safety of consumers is protected by well-regulated professions. The RCB is charged with protecting the consumer from unprofessional and unsafe licensees.

Recommendation: The Committee staff found that the RCB has shown the ability to Respiratory Care Therapists. As such, the Committee staff recommended that Respiratory Care Therapists continue to be regulated by the current RCB and be renewed again in four years. [The current language in this measure reflects this recommended change.]

5. **Review of the California Board of Optometry (CBO), Issues Identified and Recommended Changes.** Although the Committee addressed several issues regarding the CBO during its review, the only statutory change necessary was the extension of their sunset dates.

d) **Issue: Should the current CBO continue to license and regulate Optometrists?**

Background: The health and safety of consumers is protected by well-regulated professions. The CBO is charged with protecting the consumer from unprofessional and unsafe licensees.

Recommendation: The Committee staff found that despite a lack of staff, the CBO has shown the ability to regulate Optometrists. As such, the Committee staff recommended that Optometrists continue to be regulated by the current CBO and be renewed again in four years. [The current language in this measure reflects this recommended change.]

6. **Review of the Osteopathic Medical Board of California (OMB), Issues Identified and Recommended Changes.** Although the Committee addressed several issues regarding the OMB during its review, the only statutory change necessary was the extension of their sunset dates.

a) **Issue: Should the current OMB continue to license and regulate Osteopathic Physicians and Surgeons ?**

Background: The health and safety of consumers is protected by well-regulated professions. The OMB is charged with protecting the consumer from unprofessional and unsafe licensees. It appears that the OMB has had difficulty operating as an effective and efficient regulatory body primarily due to a lack of staff. Immediate attention should be paid to increasing the staff of the OMB and focusing on salient enforcement tasks.

Recommendation: The Committee staff recommended that Osteopathic Physicians and Surgeons continue to be regulated by the current OMB in order to protect the interests of consumers and be reviewed once again in four years. [The current language in this measure reflects this recommended change.]

7. **Current Related Legislation.** SB 304 (Price, 2013). Makes various changes to the Medical Practice Act and to the Medical Board of California. (Note: *This bill will also be heard before the BP&ED Committee during today's hearing*)

SB 306 (Price, 2013). Extends until January 1, 2018, the provisions establishing the State Board of Chiropractic Examiners, Speech Language Pathology and Audiology and Hearing Aid Dispensers Board the Physical Therapy Board of California and the California Board of Occupational Therapy and extends the terms of the executive officers of the Physical Therapy Board of California and the Speech Language Pathology and Audiology and Hearing Aid Dispensers Board. This bill also subjects the boards to be reviewed by the appropriate policy committees of the Legislature. (Note: *This bill will also be heard before the BP&ED Committee during today's hearing*)

SB 307 (Price, 2013) Extends, until January 1, 2018, the term of the Veterinary Medicine Board, which provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board. (Note: *This bill will also be heard before the BP&ED Committee during today's hearing*)

SB 308 (Price, 2013) Extends, until January 1, 2018, the term of the Interior Design Law. Specifies that a certified interior designer provides plans and documents that collaborates with other design professionals. Requires a certified interior designer to use a written contract when contracting to provide interior design services to a client. Extends, until January 1, 2018, the State Board of Guide Dogs for the Blind and extends an arbitration procedure for the purpose of resolving disputes between a guide dog user and a licensed guide dog school.
Extends until January 1, 2018, the State Board of Barbering and Cosmetology and requires a school to be approved by the board before it is approved by the Bureau for Private Postsecondary Education. The bill would also authorize the board to revoke, suspend, or deny its approval of a school on specified grounds. (Note: *This bill will also be heard before the BP&ED Committee during today's hearing*)

SB 309 (Price, 2013) Extends the term of the State Athletic Commission, which is responsible for licensing and regulating boxing, kickboxing, and martial arts matches and is required to appoint an executive officer until January 1, 2018. (Note: *This bill will also be heard before the BP&ED Committee during today's hearing*)

8. **Arguments in Support.** SEIU California supports the bill. In their letter they write, "The affected pulmonary technicians at the Los Angeles County + University of Southern California Healthcare Network and Harbor-University of California Los Angeles Medical Center average 25 years' worth of experience in pulmonary function testing at the two largest public hospitals in Southern California. These professionals are an integral part of the care team. According to the Los Angeles County Department of Health, this group began their careers in pulmonary function testing prior to the California Respiratory Care Board's requirement for licensure, and

worked for decades before DHS determined that the affected employees ere technically practicing without appropriate licensure. Despite their years of service and contributions to the delivery of health care, they have been temporarily reassigned to different roles pending resolution of the matter. SB 305 would narrowly apply to this cohort and remedy this oversight by providing that they can resume their work in pulmonary function testing. Failure to do so would adversely impact the quality of access of patients."

The Naturopathic Medicine Committee supports SB 305. They indicate, "The NMC has nursed the growing profession of naturopathic medicine in California... Licensure and regulation of naturopathic doctors ensures that only those individuals who meet all the education and competency standards explicit in [the Naturopathic Practice Act] are eligible for a license, and that those who are granted a license continue to meet the ongoing continuing medical education requirements outlined in statute."

The California Naturopathic Doctors Association also supports the bill. They note, "Licensure and regulation of the California naturopathic doctor profession by the Naturopathic Medicine Committee provides the citizens of California safe access to well-trained primary care providers that specialize in cost-saving, effective, natural medicine focused healthcare."
The Osteopathic Physicians and Surgeons of California support SB 305. They state, "With more than 6500 osteopathic physicians currently licensed by the State of California, and growing by approximately 10% annually, it is appropriate for the OMBC to continue serving in its role of consumer protection."

The California Optometric Association supports the bill. They note, "COA strongly supports the State Board of Optometry and its endeavors to protect Californians and ensure they receive high standards of eye care."

The California State Board of Optometry indicates their support when they state, "Please vote yes on SB 305, which will continue the oversight duties of the Board of Optometry and ensure consumer protection in the area of vision care."

The National Board of Examiners in Optometry indicates that it provides the assessments for entry into the practice of optometry for those optometrists seeking licensure in California as well as 51 other jurisdictions. The significant time, effort, commitment and expertise required to develop the Parts I, II, III and TMOD examinations render its assessments particularly valuable and relevant as part of the process that the California Board of Optometry uses for granting a license to practice optometry."

Western University of Health Sciences supports SB 305. In their letter they write, "The functions of the State Board of Optometry are essential to the residents of the State of California to ensure access to high quality eye care. The State Board is essential for licensure and regulation of doctors of optometry."

The Association of Regulatory Boards of Optometry supports the bill. In their letter they write, "In ARBO's experience, the health and safety of Californians will be well served by SB 305. The vision care services provided by doctors of optometry both expand the range of options and increase access to vision care services for all Californians. Optometrists have the education, training and skills required for vision care within the legislatively specified scope of

practice. SB 305 will reduce costs for Californians and increase both the quantity and quality of their health care."

SUPPORT AND OPPOSITION:

Support:

Association of Regulatory Boards of Optometry
California Naturopathic Doctors Association
California Optometric Association
California State Board of Optometry
National Board of Examiners in Optometry
Osteopathic Physicians & Surgeons of California
SEIU California
Western University of Health Sciences

Opposition:

None on file as of April 24, 2013

Consultant: Le Ondra Clark, Ph.D.

SB 809

California LEGISLATIVE INFORMATION

SB-809 Controlled substances: reporting. (2013-2014)

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL **No. 809**

Introduced by Senator DeSaulnier, Steinberg
(Coauthor(s): Senator Hancock, Lieu, Pavley, Price)
(Coauthor(s): 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 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 XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB 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.

TAB 6

BACKGROUND PAPER FOR THE OSTEOPATHIC MEDICAL BOARD

Joint Oversight Hearing, March 11, 2013

Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business, Professions and Consumer Protection

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS FOR THE OSTEOPATHIC MEDICAL BOARD

BRIEF OVERVIEW OF THE OSTEOPATHIC MEDICAL BOARD

Function of the Osteopathic Medical Board

The Osteopathic Medical Board of California (Board) was established in 1922 when the Osteopathic Initiative Act was passed by electorate. In 1962, another initiative was passed providing the Legislature the authority to amend the Osteopathic Initiative Act. To date, the only restriction on the Legislature's power is that it may not fully repeal the Osteopathic Initiative Act unless the number of licensed osteopathic physicians (DOs) falls below 40.

In 2002, the Board volunteered to be included under the umbrella of the California Department of Consumer Affairs (DCA). As one of the regulatory entities within the DCA, the Board is charged with the licensing and regulation of DOs. The Board's statutes and regulations set forth the requirements for licensure and provide the Board the authority to discipline a licensee.

The current Board mission statement, as stated in its 2010-2015 Strategic Plan, is as follows:

The Osteopathic Medical Board leads by promoting excellence in medical practice, licensure and regulation, as the voice and resource towards protection of the public.

The current Board vision statement, as stated in its 2010-2015 Strategic Plan, is as follows:

The Osteopathic Medical Board is the leader in medical regulation for osteopathic physicians in the state of California; serving as an innovative catalyst for effective policy and standards.

Osteopathic medicine was developed more than 130 years ago by Andrew Taylor Stills, MD, DO. Osteopathic medicine brings a unique philosophy to traditional medicine. Osteopathic physicians are fully licensed to prescribe medication and practice in all medical specialty areas including surgery. They are trained to consider the health of the whole person and use their hands to help diagnose and treat their patient.
Osteopathic physicians are one of the fastest growing segments of health care professionals in the United States with the 4th largest osteopathic population being employed in California. There are 4,986 DOs in California

with active licenses and an additional 941 ~~of these~~ DOs with California licenses ~~reside~~ residing in other states. There are 645 DOs who maintain inactive licenses.

Osteopathic physicians are similar to doctors of medicine (MDs) in that both are considered to be "complete physicians." Complete physicians have taken the prescribed amount of pre-medical training, graduated from an undergraduate institution with an emphasis on science courses, and received four years of training in medical school. The same laws govern the required training for DOs and MDs who are licensed in California. In fact, BPC § 2453 states: "...it is the policy of this State that holders of MD degrees and DO degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons." Licensing examinations are also comparable in rigor and comprehensiveness to those given to MDs.

Osteopathic physicians are required to complete a year of post-graduate training, e.g. residency or rotating internship, in a hospital with an approved post-graduate training program. Osteopathic physicians utilize all scientifically accepted methods of diagnosis and treatment, including the use of drugs and surgery and are licensed in all fifty states to perform surgery and prescribe medication in accredited and licensed hospitals and medical centers.

Osteopathic physicians may refer to himself/herself as a "Doctor" or "Dr." but in doing so, must clearly state that he/she is a DO or osteopathic physician and surgeon. He or she may not state or imply that he or she is a MD while being licensed in California as a DO.

A key difference between the two professions is that DOs have additional dimension in their training and practice, one not taught in medical schools which grant MD degrees. Osteopathic medicine gives particular recognition to the musculoskeletal system which comprises over 60% of body mass. A DO is trained to recognize that all body systems, including the musculoskeletal system, are interdependent, and a disturbance in one can cause altered functions in other systems of the body. The osteopathic physician is also trained in how this interrelationship of body systems is facilitated by the nervous and circulatory systems. The emphasis on the relationship between body structure and organic functioning is intended to provide a broader base for the treatment of the patient as a unit. These concepts require a thorough understanding of anatomy and the development of special skills in diagnosing and treating structural problems through manipulative therapy. Osteopathic physicians use structural diagnosis and manipulative therapy along with all of the other traditional forms of diagnosis and treatment to care effectively for patients in order to relieve their distress.

To meet its responsibilities for regulation of the DO profession, the Board is authorized by law to:

- Monitor licensees for continued competency by requiring approved continuing education.
- Take appropriate disciplinary action whenever licensees fail to meet the standard of practice, or otherwise commit unprofessional conduct.
- Determine that osteopathic medical schools and hospitals are in compliance with medical education curriculum and post-graduate training requirements.
- Provide rehabilitation opportunities for licensees whose competency may be impaired due to abuse of alcohol or other drugs.

Initially, the Board was comprised of five Osteopathic Physicians appointed by the Governor to staggered three year terms. In 1991 two Public members, ~~one appointed by the Speaker of the Assembly and one by the Senate Rules Committee~~, appointed by the Governor, were added to the Board. In 2010, two additional ~~Governor~~ Speaker of the Assembly and by the Senate Rules Committee appointed public members were added. All Board meetings are subject to the Bagley-Keene Open Meetings Act.

The following table lists all members of the Board including background on each member, appointment date, term expiration date and appointing authority.

Board Members	Appointment Date	Term Expiration Date	Appointing Authority
David Connett, DO (professional member) served as Associate Dean of Clinical Services at Western University of Health Sciences, Pomona, CA since 2007 and Vice Chairman at the Healthcare Facilities Accreditation Program since 2000. From 2003-2007, he was Vice President and Chief Medical Officer at Garden City Hospital and Medical Director at Exempla Healthcare. Dr. Connett served as Family Medicine Program Director and Medical Director at HealthONE from 1992-2003 and was Chief of Aerospace Medicine for the US Air Force from 1985 to 1991. He earned a Doctor of Osteopathic Medicine degree from the College of Osteopathic Medicine of the Pacific at the Western University of Health Sciences.	06/09/12	6/1/15	Governor
Joseph Zammuto, DO (professional member) has been a partner and physician at Center Medical Group Inc, since 1997 and a physician at Medpartners-Mullikin Medical Group from 1995 to 1997. He was a partner and physician at Zammuto and Zinni Medical Inc. from 1991 to 1995, owner of Joseph Zammuto D.O., from 1984 to 1991. Dr. Zammuto earned his Doctor of Osteopathic Medicine degree from the Chicago College of Osteopathic Medicine.	06/07/12	6/1/15	Governor
Michael Feinstein, DO (professional member) has served as a physician at Encompass Medical Group since 2000 and was a physician at Sharp Reese Stealy Medical Group from 1998 to 2000. He was a physician at Family Practice Associates of San Diego from 1978 to 1998. He earned his Doctor of Osteopathic Medicine degree from the Philadelphia College of Osteopathic Medicine.	06/07/12	6/1/15	Governor
Jane Xenos, DO (professional member) has operated her own practice since 1991. She earned her Doctor of Osteopathic Medicine degree from the College of Osteopathic Medicine of the Pacific at the Western University of Health Sciences. Dr. Xenos is Board Certified in neuromuscular medicine/osteopathic manual medicine and family practice.	06/07/12	6/1/15	Governor
Joseph Provenzano, DO (professional member) has served as a family medicine doctor at Sutter-Gould Medical Group since 1990. Previously, Dr. Provenzano served as an emergency room physician at Fisher-Mangold Emergency Physicians from 1988- 1990. Dr. Provenzano served on the Board of Directors of the Gould Medical Group, Inc from 2000 to 2006 and Board of Directors of the Sutter Gould Medical Group from 2007 to 2010. He has also served as the Director of Graduate Medical Education OPTI Program for Orthopedics at the Midwestern Osteopathic Medical School since 2011. Dr. Provenzano earned his Doctor of Osteopathic Medicine degree from University of North Texas Health Center at Fort Worth Texas College of Osteopathic Medicine.	4/19/10	6/1/12	Governor

Scott Harris, Esq., (public member) is a former Deputy Attorney General with the California Department of Justice, and in 2010 formed S J Harris Law. He is also an Adjunct Professor of Law at Loyola Law School, Los Angeles.	12/2/10	1/01/13	Governor
Allen Howard, (public member) has served as a project manager for American President Lines, a global leader in container shipping, logistics and technology management since 2004. Mr. Howard previously held several positions including director for the TNT Post Group, where he worked from 1994-2002.	12/2/10	1/01/13	Governor
Claudia Mercado, MBA (public member) blends her entrepreneurship spirit and passion for the development of the Hispanic community with her expertise in business management and cross-cultural relations in her work at Rocket Lawyer Incorporated. As a Business Specialist, she leads the initiative to implement a marketing strategy to bring accessible and affordable legal services to every Hispanic household and small business owner in the United States. Ms. Mercado is a strong supporter of Non-Profit Hispanic Professional Organizations and a strong advocate for increased access to higher education and political equality. She currently serves as a San Jose Chapter board member for the National Society of Hispanics MBA's and is an alumna of the Hope Leadership Institute Class of 2012. Mercado holds a bachelor's degree in Political Legal Economic Analysis and a Masters degree in Business Administration from the Lorry I. Lokey Graduate School of Business.	8/18/2012	6/1/2013	Senate Rules Committee
Keith Higginbotham, Esq., (public member) is the owner and sole proprietor of The Law Office of Keith Alan Higginbotham in Los Angeles. Mr. Higginbotham serves as Chairman of the Los Angeles County Bar Association Commercial Law and Bankruptcy Section, DAP/Pro bono Subcommittee since 2008. He is also on the Board of Directors, LA County Association Bankruptcy Section as the Consumer Liaison since 2005. He served as President of the Central District Consumer Bankruptcy Attorney Association in 2011-2012. Mr. Higginbotham served as an Administrative Assistant to then Legislative Director to Senator Art Torres, State Capital, Sacramento from 1985 to 1991. He was a Committee Consultant to the Senate Judiciary Committee, the Senate Appropriations Committee and the Senate Budget Committee. Mr. Higginbotham received his JD degree from McGeorge School of Law at the University of the Pacific.	07/01/12	6/1/15	Speaker of the Assembly

The Board has organized two committees which serve as an essential component to help the Board deal with specific policy and/or administrative issues. The committees research policy issues and concerns, referred by the Board staff, the public, or licensees.

The following is a description of committees that have been established by the Board:

Diversion Evaluation Committee (DEC)

The DEC is established in statute (BPC § 2360). The purpose of the DEC is to manage a treatment program for DOs whose competency may be threatened or diminished due to substance abuse.

The DEC is comprised of three licensed DOs who are appointed by the Board and who serve at the pleasure of the Board. The appointees must have experience in the diagnosis and treatment of substance abuse.

The DEC not only has the responsibility to accept, deny or terminate a participant, they also prescribe in writing for each participant a treatment and rehabilitation plan including requirements for supervision and surveillance.

Consultants Committee (CC)

The members of the CC represent a range of osteopathic medical disciplines and are responsible for reviewing complaints against licensed DOs and the associated medical records. The members receive training and case-by-case guidance as to the interpretation and application of relevant law.

The process for referring a case entails the Board staff sending the complaint file to members of the CC to review along with any relevant medical records. The consultants then prepare a written report explaining their conclusions and recommendations. All quality of care complaint cases are retained for ten years from date the Board receives the complaint (BPC § 2029).

Based on the information in the file, a consultant may conclude:

- The complaint is without merit and should be closed without further action.
- The complaint may have merit but there is clearly insufficient evidence to take further action.
- The complaint appears to have merit and should be made the subject of a more detailed investigation leading to possible disciplinary action or even referral to criminal prosecution.

The Board is a dues paying member of the Federation of State Medical Boards (FSMB). The FSMB is comprised of representatives of all medical boards in the U.S. States and Territories. During the FSMB's annual meeting, salient topics including licensure, enforcement, credentialing, working with underserved populations, and telemedicine are discussed and resolutions offered.

The annual FSMB dues are $2,000.00. As a benefit to the members, the FSMB gives each participating board a $3,600.00 scholarship to cover the costs of travel to the annual meeting. However, the Board has not been active or participated in FSMB activities for the past six years due to DCA's mandated state limitation on out of state travel for Board members and staff.

(For more detailed information regarding the responsibilities, operation, and functions of the Board please refer to the Board's *2012 Oversight Report*)

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The Board was last reviewed in 2005 by the Joint Commission on Boards, Commission, and Consumer Protection (JCBCCP). During the previous sunset review, the JCBCCP raised 6 issues and included a set of recommendations to address those issues. Below, are actions which the Board and Legislature addressed over the past 8 years. Those which were not addressed and which may still be of concern to this Committee are addressed more fully under the "Current Sunset Review Issues" section.

In November, 2012, the Board submitted its required sunset report to this Committee. In the report, the Board described actions it has taken since its prior review to address the recommendations of the JCBCCP. According to the Board, the following are some of the more important programmatic and operational changes, enhancements, and other important policy decisions or regulatory changes made:

Addition of the Naturopathic Medicine Committee

The Board had a major change in 2009 when the Legislature placed the Naturopathic Medicine Committee within the Board. The Board was increased at that time from seven, five professional and two public, to nine members. The two added members were Naturopathic Doctors and were considered public members. These appointments were in violation of BPC § 3600 1.5 which states, "public members shall not be a licensee of any board...nor of any initiative act." In response, the Osteopathic Physicians and Surgeons of California (OPSC) sponsored SB 1050, supported by the Board and the Naturopathic Medicine Committee. Passage of SB 1050 made the Naturopathic Medicine Committee independent and resulted in the removal of the two naturopathic doctors from the Board. These two vacancies were replaced by two public members, one appointed by the Speaker of the Assembly and one by the Senate Pro Tempore.

Strategic Plan

The Board reported that in 2010 it completed its Strategic Plan. In April of 2012, the Board updated the plan. The Board reported that it is beginning a study for implementation of the Strategic Plan.

Code of Ethics

During the 2005 Sunset Review hearing, the JCBCCP inquired why the Board had not adopted a Code of Ethics. The opinion of the JCBCCP was that nearly all other licensed professions abide by a Code of Ethics enforceable by their respective licensing board.

In both its 2005 and 2012 report, the Board noted that its licensees are "expected" to abide by the American Osteopathic Association's (AOA) voluntary Code of Ethics. The Board indicated:

> *After a diligent study requested by the Sunset Review Committee, determined a Code of Ethics is not necessary and will not be included in the regulation as all ethical violations are currently in statute and duplication is unnecessary.*

This was presented in the form of a motion and was passed unanimously by the Board.

Board Merger

During the 2005 Sunset Review hearing, the JCBCCP raised the issue of the OMB merging with the MBC. The JCBCCP inquired:

> *In light of the fundamental and statutorily required equality between DOs and MDs, is there a continuing need for two separate Boards to regulate those who hold unrestricted licenses as physicians and surgeons?*

In its recent report, the Board responded:

> *The history of the interactions between the Board and the MBC has been rather stormy. The Board was created in 1922 by initiative in response to the refusal of the MBC to continue to license DOs....It is perceived that any attempt to eliminate the Board and place DOs under the MBC would be met with fierce opposition and the legality of altering the 1922 ~~initative~~ initiative which would also be challenged.*

Repayment of General Fund Loan

During the 2005 Sunset Review hearing, the JCBCCP inquired about the status of the loan the Board made to the General fund in 2002-2003. The Board indicated in its recent report that the $2,700,000.00 sum that was borrowed from the Board was subsequently repaid in full with interest in 2006-2007. In fiscal year 2010-2011,

the General Fund borrowed $1,500,00.00 with ~~an~~ no established schedule for repayment. On the basis of the prior repayment, the Board stated that they have confidence that the current loan will also be repaid.

Legislation Sponsored by or Affecting the Board

The Board reported, with the exception of SB 1050, there has been no sponsored legislation or major studies since the last sunset review.

Pending Regulations

Since the Board's last sunset review in 2005, the Board reports that there have been no regulatory changes. Currently, the Board is working to develop regulations in the following four areas:

- The Board has maintained the licensure fees at $200 for initial licensure and $400 for renewals. The Board has maintained the renewal fees at $400 whereas the Medical Board of California (MBC) has increased this fee to $800. In applying for the increase for renewals to $800 the MBC agreed to relinquish the option to obtain cost recovery from physicians who have violated the code of practice. The Board opines that the individuals who violate the code should be responsible for expenses associated with investigation and prosecution and on this basis has not requested an increase in renewal fees which would place the burden for costs on physicians who are practicing within the accepted standards. In 2005, the Board applied for and was granted an increase from $200 to $400 for initial licensure. The process has begun to generate the regulation to achieve the requested and approved increase.

- The Board is structuring a regulation to comply with 16 CA ADC §1355.4, which requires that a physician prominently display the name and contact information for the agency by which he/she is licensed.

- The Board is structuring a regulation for implementation of SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008).

- The Board is in the process of amending its Disciplinary Guidelines, to assist in better uniformity and applicably for enforcement actions.

- The Board is drafting a regulation to increase the maximum citation and fine amount to $5,000.00.

CURRENT SUNSET REVIEW ISSUES

The following are areas of concern for the Board to consider along with background information regarding the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The Board and other interested parties, including the professions, have been provided with this Background Paper and are asked to respond to both the issues identified and the recommendations of the Committee staff.

CODE OF ETHICS

ISSUE #1: Should DOs have to abide by a Code of Ethics enforceable by the Board?

Background: The Board does not currently have in place an enforceable Code of Ethics for its licensees. This is highly unusual among consumer protection boards and was highlighted during the 2005 sunset review process.

In both its 2005 and 2012 report, the Board notes that its licensees are "expected" to abide by the American Osteopathic Association's (AOA) voluntary Code of Ethics. However, this expectation is not enforceable by the Board. The Board responded: "Nothing in the law or regulations requires osteopathic physicians and surgeons to adhere to the AOA standards." Nor, as the board pointed out in 2005, does the AOA have any jurisdiction to enforce its voluntary Code if one of the Board's licensees does not abide by that Code. By not itself adopting the AOA Code, or something like it the Board appears to have abdicated its responsibility to adopt regulations in this exceptionally important area.

In 2005, the Board told Committee staff that the Attorney General had advised them there was no need for them to adopt a Code of Ethics (Conversation with Linda Bergmann, Executive Director, Board on Dec. 2, 2004). This advice was apparently oral since the Board had no documentary evidence for it. To date, Committee staff has not been able to confirm with the Attorney General's staff what specifically might underlie this advice, nor provide a reason that it might be sound.

The Board continues to suggest to the Committee that the Board lacks the ability to promulgate such regulations:

> *Regulations would be impossible to obtain as there is no statute defining ethics. Ethics means conforming to a set of standards of conduct of a given profession or group, and is not defined in law. (2005 Board Response to Committee's Sunset Review Follow-up Questions*, page 2).
>
> *Our interpretation of the law is that only the law defines the professional practices that are within the Board's regulatory authority. Therefore, we would not have the authority to enforce a set of standards that embellish what is found in the law. (2012 Board Oversight Report, page 13).*

However, the Board, like all regulatory entities with a mandate to protect the public interest, has full authority to promulgate regulations concerning the ethics and professional responsibility of its licensees. The fact that "ethics" is not, itself, defined in law, does not prevent the Board from promulgating regulations that will fulfill its ability to achieve its paramount duty to protect the public in carrying out its "licensing, regulatory and disciplinary functions." (BPC § 2450.1) That authority supports the ability of the Board to define what ethics are appropriate for DOs as a matter of protection of the public.

It appears there may be continued misunderstanding. In 2005, a Deputy Attorney General familiar with boards and commissions suggested to Committee staff that an Attorney General might have advised the Board that they should not adopt, *in its entirety*, the AOA Code of Ethics, since such national standards are frequently updated, and it would be incumbent on the Board to keep up with changes made at the national level as they are adopted. This is certainly an issue, but it is equally true of any set of standards. Even if the Board established its own Code of Conduct entirely independent of the AOA Code of Ethics, it would have to revisit it periodically to make certain it is up-to-date and appropriate in a changing environment.

The Board can easily address even the more obvious issue with the AOA Code. The Board could adopt the AOA Code in regulation by reference, in a manner that would incorporate any changes as they are adopted nationally. Or, the Board could adopt the AOA Code as it now stands, follow any national changes as they develop, and adopt the changes. Or, it could adopt parts of the AOA Code the Board agreed with, and modify or adapt others.

The Committee continues to reserve concern about the Board's lack of action in regards to this issue. This is especially since this kind of administrative decision making is not only commonplace among boards, it is an essential characteristic of an administrative agency of any kind. Moreover, any staff time that would have to be involved in tracking changes by the national organization is more than outweighed by the current problem of having no enforceable standards in place whatsoever.

Staff Recommendation: ***In line with its recommendation made during the 2005 Sunset Review Hearing, the Committee maintains that the Board utilizes either the existing AOA code of ethics or create its own set of ethical standards which will give licensees more guidance on ethical conduct, and which the Board will then have the ability to enforce with specificity by December 1, 2014.***

The Osteopathic Medical Board staff will prepare and present in draft, a Code of Ethics for the Board to review at its next Board Meeting on May 2, 2013 and will have an approved Code of Ethics in place with ability to enforce prior to December 1, 2014.

BOARD MERGER

ISSUE #2: Should the Board be merged with the MBC?

Background: Since the initiative establishing the Board in 1922, California's public policy has been clear that DOs are to be treated equally with MDs. For example, BPC § 2453(a) states: "It is the policy of this state that holders of MD. degrees and DO degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons."

Moreover, this equality is so firmly established that it extends to a statutorily mandated rule of non-discrimination. BPC § 2453(b) states:

> *Notwithstanding any other provision of law, no health facility subject to licensure under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, no health care service plan, nonprofit hospital service plan, policy of disability insurance, self-insured employer welfare benefit plan, and no agency of the state or of any city, county, city and county, district, or other political subdivision of the state shall discriminate with respect to employment, staff privileges, or the provision of, or contracts for, professional services against a licensed physician and surgeon on the basis of whether the physician and surgeon holds an MD or DO degree.*

This equality, as well as the vastly coextensive education and training of MDs and DOs, and the exact parity of their unrestricted licenses and scopes of practice, raise a perennial question: Is there a continual need to have two separate regulatory bodies for these virtually identical professions? The question is particularly timely in light of the Governor's well-publicized desire to eliminate redundancies and inefficiencies in state government, and particularly in the structure of the state's boards and commissions.

The primary difference between DOs and MDs appears to be essentially one of emphasis. According to the Board, DOs have a different philosophy of medicine, focused on the interrelationship of the body's systems, a focus MDs do not share. Aside from that, both professions apparently have identical licenses, identical scopes of practice, and must be treated by insurers, hospitals, and government entities identically. They are held to apparently virtually identical standards of practice by hospital Peer Review Organizations and liability insurers, and, both the Board and the MBC use the same prosecutors when their licensees are subject to formal accusations.

As was highlighted in the 2005 Sunset Review report, the Committee reiterates the question: In light of the fundamental and statutorily required equality between DOs and MDs, is there a continuing need for two separate boards to regulate those who hold unrestricted licenses as physicians and surgeons?

Staff Recommendation: *Consistent with the question raised during the 2005 Sunset Review hearing, the Committee encourages the Board to consider the feasibility of merging with the MBC.*

The Osteopathic Medical Board (OMBC) remains opposed to any suggestion for a merger with the Medical Board of California (MBC). The MBC on two occasions during the 20th century had the prerogative to license and monitor osteopathic physicians, and in both instances refused to accept the responsibility. From 1907 until 1919 the MBC licensed DO's who were considered drugless practitioners. During that time some of the DO's challenged and passed the examination which expanded their scope of practice and allowed them to write prescriptions. In 1919, the MBC arbitrarily decided to discontinue licensing DO's. The DO's became active and sponsored the 1922 Initiative Measure (The Osteopathic Act) which resulted in the establishment of the Board of Osteopathic Examiners (BOE) ensuring the viability of the profession in the State of California. DO's were licensed and monitored under the Osteopathic Act by the BOE from 1922 until 1962, when a merger was enacted by referendum (Chapter 48, 1962 First Extraordinary Session). The purpose of the referendum measure was to facilitate an agreement in principle to effectively merge the D.O. and M.D. professions. The key provisions of this measure were:

a. Osteopathic physicians and surgeons could choose to be licensed as M.D.'s, and if so would be under the jurisdiction of the Board of Medical Examiners instead of the BOE.
b. The Osteopathic Act was modified to rescind the authority of the BOE to issue new licenses to osteopathic physicians and surgeons, but the BOE would continue to have authority over D.O.'s who chose not to become M.D.'s.

The net result was that of the 2400 D.O.'s licensed in California in 1962, 2000 chose to accept the M.D. degree for a nominal fee of $65. The 400 D.O.'s who did not accept the M.D. degree continued to be licensed and governed by the BOE. The BOE was scheduled to become extinct when the number of D.O.'s dwindled to less than 40 licensees. THE MERGER OF 1962 WAS AN OVERT ATTEMPT TO ELIMINATE THE OSTEOPATHIC PROFESSION IN THE STAT OF CALIFORNIA, THE OPPORTUNITY TO OBTAIN THE M.D. DEGREE WAS A ONE-TIME OFFER AND THE MBC REFUSED TO LICENSE ANY ADDITIONAL D.O.'s ON THE BASIS THAT THEY WERE NOT GRADUATES OF ACCREDITED MEDICAL SCHOOLS. However, the provisions that rescinded the licensing authority of the BOE were successfully challenged by out-of-state osteopathic physicians, many of whom were returning from tours of duty in Southeast Asia, who were effectively barred by these provisions from being licensed to practice in California, unless they had been so licensed before 1962. In 1974 the California Supreme Court reinstated the BOE's licensing authority (see D'Amico v. Board of Medical Examiners 11 C.3d 1,24), and the BOE immediately resumed its function as the sole agency with authority to license D.O.'s in California. As late as 1982-84 D.O.'s were not credentialed by Kaiser on the basis of their training but on the basis of their degree; this issue was challenged and for the past 30 years, D.O.'s have been appropriately credentialed and professionally respected and treated by Kaiser. Overall, D.O.'s do not feel that they have been treated fairly by the MBC when licensure is discussed. Currently, if a D.O. and an M.D. incorporate and apply for a fictitious name permit, (Corporation Code states physicians and surgeons must own at least 51% of shares), the MBC will require the M.D. to own a minimum of 51% of the shares and the D.O. can only hold 49%. The OMBC feels that because D.O.'s are also physicians and surgeons and that a corporation owned by a D.O. and an M.D. can have a 50/50 split in shares.

The MBC will not grant a fictitious name to a corporation unless the M.D. is at least 51% shareholder. The OMBC will issue a fictitious name permit to a corporation with a D.O. and an M.D. being 50/50 shareholders.

The OMBC continues to participate in a well organized and legislatively required diversion program. The OMBC has not raised fees for license renewals to cover the costs of investigation and prosecution. It is the belief of the OMBC that physicians who are practicing within the accepted standards should be held harmless and that physicians who violate the standards should be held responsible and bear the burden of cost recovery.

This matter will be placed on the agenda at our next board meeting for further discussion.

USE OF TECHNOLOGY

ISSUE #3: Webcasting meetings.

Background: The Board reported that it has only webcast one meeting since joining DCA. The Board reported that it webcast a meeting in 2010 "...when the Governor added the Naturopathic Medicine Committee under its purview. Due to the amount of resistance the Board received from its licensee population, and after receiving a legal opinion from DCA, the Board decided to webcast the proceedings of that meeting."

The Committee is concerned about the Board's lack of use of technology in order to make the content of the Board meetings more available to the public. Webcasting is an important tool that can allow for remote members of the public to stay apprised of the activities of the Board as well as well as trends in the profession.

Staff Recommendation: *The Board should inform the Committee of the reason that they have been unsuccessful in webcasting meetings. The Committee recommends that the Board utilize webcasting at future meetings in order to allow the public the best access to meeting content, activities of the Board and trends in the profession.*

The availability of a webcasting staff was not made known to the Osteopathic Medical Board until recently, when Department of Consumer Affairs reached out to the Boards that their technical staff was available and would encourage the use of webcasting for all Board Meetings. Upon receiving this information, OMBC staff immediately contacted DCA and asked them to reserve staff for our next Board meeting to be held in Pomona on May 2, 2013. We were recently informed that DCA has lost their webcasting technical staff, however, they will be purchasing additional webcasting equipment to loan to Boards so they can webcast the meetings themselves. OMBC has no technical staff, however, will make every effort to webcast all future Board Meetings with equipment made available by DCA until they hire webcasting technical team.

ISSUE #4: Posting meeting materials to the website.

Background: The Board reported that it does not have an IT staff. Thus, the Board utilizes DCA's IT department to post "...only the mandated and very basic information" to their website. The Board explained that they do not post meeting materials or minutes to the website. However, the Board reported a desire to use the website as "...a tool to reach consumers and DOs. The Board wishes to educate consumers and recruit more DOs to California to meet the State's ever changing health care needs."

The Committee is concerned about the Board's lack of use of the website in order to make meeting content available to the public. The Committee has reviewed the process for posting information online and does not feel that an additional staff person is needed in order to complete this task.

Staff Recommendation: ***The Committee requests that the Board begin posting meeting materials to their website as well as sending links to the meeting materials via their listserve immediately.***

The Osteopathic Medical Board staff is currently working on posting board meeting materials on our website and will create an "E-mail list" of interested parties to notify them when materials are available on our website.

LICENSE PORTABILITY

ISSUE #5: License portability for military personnel and their spouses.

First Lady Michelle Obama and Dr. Jill Biden launched the Joining Forces campaign in order to assist military veterans and their spouses in accessing the workforce. In response to this campaign, Governors in over 20 states signed pro-military spouse license portability laws. Additionally, on January 24, 2011, U.S. President Barack Obama presented "Strengthening Our Military Families: Meeting America's Commitment," a document urging agencies to support and improve the lives of military families.

As a result of the Joining Forces campaign and the President's directive, the Department of Transportation and the Department of Defense issued a joint report to highlight the impact of state occupational licensing requirements on the careers of military spouses, who frequently move across state lines. Released in February 2012, the report, "Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines" revealed that approximately 35% of military spouses work in professions that require state licenses or certification and that military spouses are ten times more likely to have moved to another state in the last year compared to their civilian counterparts. In a 2008 Defense Manpower Data Center survey of active duty military spouses, participants were asked what would have helped them with their employment search after their last military move. Nearly 40% of those respondents who have moved indicated that 'easier state-to-state transfer of certification' would have helped them."

As a result of the survey, the Department of Transportation and the Department of Defense issued several recommendations, including the authorization of temporary licenses for military spouses if the applicant met state requirements. The report's recommendation specified:

> *Temporary licenses allow applicants to be employed while they fulfill all of the requirements for a permanent license, including examinations or endorsement, applications and additional fees. In developing expedited approaches that save military spouses time and money, DOD does not want to make licensure easier for military spouses to achieve at the expense of degrading their perceived value in their profession.*

Several bills have been presented to the Legislature across the past few years that deal with providing expedited licenses to military veterans and spouses, exempting active duty military personnel from continuing education requirements and licensing fees. In 2012, AB 1904 (Block, Chapter 399, Statues of 2012) was signed and

requires a Board under the DCA to expedite the licensure process for military spouses and domestic partners of a military member who is on active duty in California.

As part of the 2012-2013 Budget Package, the California Legislature directed the DCA to prepare a report on the implementation of BPC § 35 relating to military experience and licensure. The law indicates:

> *It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in their code shall provide for methods of evaluation education, training and experience obtained in the armed services, if applicable to the requirements of the business, occupation or profession regulated... Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. (BPC §35)*

The DCA provided a list of boards that accept military experience and those who do not. The Osteopathic Medicine Board was included in the list of boards that do not have specific statutes or regulations authorizing the acceptance of military experience towards licensure.

The Committee is supportive of the Federal and State efforts to assist licensed military personnel and their family members enjoy better license portability. The Committee encourages licensing boards to examine their ability to exempt licensees from CE and licensing fee requirements during duty as well as waiving any licensing fees that have accrued upon the end of their duty term. The Committee is also supportive of standards for granting temporary licenses or expediting the licensing process for military spouses.

Staff Recommendation: ***The Board should make every attempt to comply with BPC § 115.5 in order to expedite licensure for military spouses. The Board should also consider waiving the fees for reinstating the license of an active duty military licensee.***

The Board discussed this issue at their January 31, 2013 Board meeting. The Board is also supportive of the efforts to assist licensed military personnel and their family members and is willing to work to provide assistance in expediting the license At the January 31, 2013 meeting, the Board agreed that we will add a question box to our license application asking "Are you an Active Military Personnel or a spouse of an Active Military personnel"

Applications with "Yes" marked for this question will be escalated and priority will be given to these applications. This question will also be added to our On-Line application form once the BreEze On-Line license application is up and running.

As far as the issue of military experience being applied toward licensure requirements, military does not offer Osteopathic Medical School, or other training in the field of Osteopathic Medicine ; however, an individual completing his/her postgraduate training in an approved military hospital will be considered equivalent to those completing their training in any other approved residency program.

Additionally, Osteopathic Medical Board has created a link on our website to the DCA website posting this information for our osteopathic physician applicants and licensees.

BUDGET

ISSUE #6: Why are the operating expenses & equipment (OE&E) expenditures so high?

Background: In its recent report to the Committee, the Board detailed its expenditures by program component. The Board noted that over the past four years, 62% of its expenditures have been dedicated to OE&E. Specifically, the OE&E for the Board's enforcement activity has almost doubled in the past fiscal year. Additionally, the OE&E has decreased significantly for the licensing and diversion components.

Expenditures by Program Component

	~~FY 2008/09~~		~~FY 2009/10~~		~~FY 2010/11~~		~~FY 2011/12~~	
	~~Personnel Services~~	~~OE&E~~	~~Personnel Services~~	~~OE&E~~	~~Personnel Services~~	~~OE&E~~	~~Personnel Services~~	~~OE&E~~
~~Enforcement~~	~~128,736~~	~~232,096~~	~~127,764~~	~~216,202~~	~~143,842~~	~~185,289~~	~~144,956~~	~~335,359~~
~~Examination~~	-	-	-	-	-	-	-	-
~~Licensing~~	~~193,104~~	~~348,144~~	~~191,646~~	~~324,304~~	~~215,763~~	~~277,934~~	~~217,934~~	~~86,447~~
~~Administration *~~	~~64,368~~	~~116,048~~	~~63,882~~	~~108,102~~	~~71,921~~	~~92,645~~	~~153,151~~	~~28,816~~
~~DCA Pro Rata~~	-	~~99,700~~	-	~~105,766~~	-	~~161,665~~	-	~~195,372~~
~~Diversion (if applicable)~~	~~64,368~~	~~116,048~~	~~63,882~~	~~108,102~~	~~71,921~~	~~92,645~~	~~72,478~~	~~28,816~~
~~TOTALS~~	~~$450,576~~	~~$912,036~~	~~$447,174~~	~~$862,476~~	~~$503,447~~	~~$810,178~~	~~$588,019~~	~~$674,810~~

~~*Administration includes costs for executive staff, board, administrative support, and fiscal services.~~

The Committee is aware of the Board's reported budgetary constraints. As such, the Committee is curious about why there is such high OE&E for 2011-2012. The Committee is also interested in the low expenditures for licensing and diversion.

Staff Recommendation: ***The Board should advise the Committee of the significant inconsistencies in its OE&E, licensing, and diversion program components.***

After careful review of the table above, we noticed that the numbers are incorrect. We had our DCA budget analyst review and amend our figures. Listed below are the accurate numbers:

Table 3. Expenditures by Program Component - Modified to show additional data

	FY 2008/09			FY 2009/10			FY 2010/11			FY 2011/12		
	Per Services	OE&E	%	Per Services	OE&E	%	Per Services	OE&E	%	Per Services	OE&E	%
Enforcement	128,736	$ 603,066	54%	127,764	$ 577,745	54%	143,842	$ 452,541	45%	144,956	$ 633,591	48%
Examination	-	-	-	-	-	-	-	-	-	-	-	-
Licensing	193,104	$ 87,129	21%	191,646	$ 74,292	20%	215,763	$ 75,663	22%	217,434	$ 85,603	19%
Admin	64,368	$ 28,368	7%	63,882	$ 24,188	7%	71,920	$ 24,635	7%	153,151	$ 27,871	11%
Pro Rata*	-	$ 165,107	12%	-	$ 162,063	12%	-	$ 232,705	18%	-	$ 248,434	15%
Diversion	64,369	$ 28,368	7%	63,883	$ 24,188	7%	71,920	$ 24,635	7%	72,478	$ 27,871	6%
TOTALS	$ 450,577	$ 912,037	100%	$ 447,175	$ 862,475	100%	$ 503,445	$ 810,178	100%	$ 588,019	$ 1,023,369	100%

* Enforcement includes personnel OE&E, AG, OAH, and investigative service costs.
* Pro Rata includes DCA distributed costs and Statewide Pro Rata.

Over the last four fiscal years, approximately 50% of the Boards expenditures have been spent on Enforcement, 21% on Licensing, 8% on Administration, 14% on Pro Rata, and 7% on Diversion. During the same time period, Personnel Services represented 36% of the Boards expenditures, while OE&E was 64%.

ENFORCEMENT

ISSUE #7: How does the Board plan to regulate Internet prescribing?

Background: The Board indicated that it regulates Internet prescribing in accordance with BPC § 2242.1. According to the law, no licensee shall prescribe, dispense, or furnish on the Internet any "dangerous drug or device" defined as any drug or device bearing the legend: "caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import without prior examination of the patient. Violation of this law constitutes unprofessional conduct. In its recent report to the Committee, the Board reported that it "... investigates instances where osteopathic physicians are involved in this type of practice and prosecutes physicians found guilty of substandard care." They reported that "much of this activity goes without notice to the licensing agency...and internet prescribing is an ongoing problem for the Board."

The Committee is concerned with the Board's ability to effectively regulate DOs who may be engaged in the practice of Internet prescribing. The Committee notes that the Board indicated that there should be a national effort to monitor Internet prescribing.

Staff Recommendation: ***In light of the Board's concerns about regulating the practice of Internet prescribing and the board's recommendation about national regulation of this practice, the Committee recommends that the Board create a subcommittee to research the issue of Internet prescribing and create policy recommendations for regulating this practice.***

The Board will add as an agenda item "Internet Prescribing" and the creation of a subcommittee to research the issue and create policy to regulate the practice.

The Committee should be familiar that is considered unprofessional conduct for a licensee to prescribe medication without a prior good faith history and physical examination and the Board will take disciplinary action in cases where physicians are proven to violate these principles. Internet prescribing is on the Board's radar and the Board is vigilant in this respect. Identification of offenders is the current major impediment.

ISSUE #8: What has led to the time lag in cases referred to the Attorney General?

Background: According to the Board's recent report to the Committee, enforcement cases which were referred to the Attorney General for formal discipline extended considerably beyond the target time frame of 540 days. For fiscal year 2010-2012, the average time required to complete the entire enforcement process for cases resulting in formal discipline was 1152 days. The Board's enforcement staff recognized the significant lag time and "became more interactive with the Office of the Attorney General" resulting in a decrease from 1152 to 949 for completion of cases referred to the Attorney General for formal discipline. The Committee is encouraged by the recent decrease to the processing time, but remains concerned that the Board's 540 day target time frame is still being exceeded by a significant quantity. The Committee is also concerned with the potential harm to the public that may be incurred if an unscrupulous licensee continues to practice during a lengthy disciplinary case review by the Attorney General.

Staff Recommendation: *The Committee recommends that the Board specify how they "became more interactive" with the Attorney General's office and indicate what additional measures can be taken to expedite processing of enforcement cases.*

The Osteopathic Medical Board staff has made a dedicated effort to work with the Sworn Investigators of the Medical Board and the offices of the Attorney General in a collegial manner for public protection. The Osteopathic Medical Board has opted to not participate in vertical prosecution as the Medical Board investigators and the Deputy Attorney General on a give case take command and exclude consideration by the Osteopathic Medical Board staff and create a more expensive and delayed resolution to any specific case. It is felt that elimination of vertical prosecution has been a major factor in the decrease in time from 1152 to 949 days and it is believed that the number will further decrease in the absence of vertical prosecution. The Osteopathic Medical Board staff has begun a campaign of regular contact with the office of the Attorney General to hasten the process at that level. There have been instances in the past five years when there has been no liaison with the Attorney General's office apparently as a result of lack of shortage of staff at that level. It is the belief of the Osteopathic Medical Board staff that frequent calls and encouragement has expedited the time required to complete cases referred for prosecution. The Osteopathic Medical Board staff will continue to make the necessary contacts to expedite processing. It is hoped that the Attorney General's office will be able to attract and hire the necessary staff to help the Osteopathic Medical Board to meet the target time frame of 540 days.

ISSUE #9: What has contributed to increased complaints?

Background: In its recent report to the Committee, the Board indicated that case loads for complaints "...are steadily increasing each year. Cases are becoming increasingly complex." The Board attributes this increase to the increase in the licensing population. The Board has the option of utilizing the Sworn Investigators from the MBC. However, the Board indicated that they only utilize the MBC's officers Sworn Investigators on less than 1/3 of the enforcement cases (Conversation with Angie Burton, Executive Director, Board on February 14, 2013).

Considering the Board's noted difficulty monitoring enforcement cases, the Committee is concerned about the Board's ability to continue monitoring enforcement cases.

Staff Recommendation: *The Committee recommends that the Board indicate how they plan to address the increasing number of enforcement cases. The Committee recommends that the Board consider getting additional assistance with enforcement from the MBC?*

The Osteopathic Medical Board has more than doubled of the number of licensees in the past ten years and it is anticipated that there will be another doubling in the next ten years. The number of consumer complaints has increased proportionately with the additional number of osteopathic physician providers. It should be noted that the case loads are not increasingly more complex; the complexity has remained unchanged. There are, however, more of all types of cases including those of greater magnitude and legal difficulty. The Osteopathic Medical Board utilizes the Medical Board's sworn investigators in less than one-third of enforcement cases as the balance of cases do not require the enhanced degree of investigation and are handled in-house by the Osteopathic Medical Board's medical consultants. The Medical Board's sworn investigators are always called upon when their services are deemed needed and appropriate. The Osteopathic Medical Board's difficulty in

monitoring cases can and will be overcome and appropriate oversight will be achieved when the needed and requested staff are brought on board. With the recent addition of an enforcement analyst and in-house medical consultant, this is a start in achieving our goals. With an in-house medical consultant added to the Osteopathic Medical Board staff, the there is no longer a need to forward complaints out of office to outside medical consultants, which cuts weeks, even months in completing complaint reviews. The Osteopathic Medical Board has the budget and has requested approval for a supervisory staff to assist in the timely assignment of complaint cases to further reduce the time from intake to completion of cases. The Osteopathic Medical Board plans to submit another BCP in 2013 for additional staffing to keep up with the increasing number of osteopathic practitioners licensed in California, which undoubtedly will increase the number of complaints.

ISSUE #10: Should the OMB utilize the Franchise Tax Board's Interagency Intercept Collections program (IIC)?

Background: The Franchise Tax Board is responsible for administering the IIC program. The IIC intercepts (offsets) refunds when individuals have delinquent debts owed to government agencies and California colleges. The types of intercepted payments include personal income tax refunds, lottery winnings, and unclaimed property disbursements.

In its recent report to the Committee, the Board indicated that it does not utilize the Franchise Tax Board's program to collect outstanding fines.

The Committee is concerned that the Board is not using the Franchise Tax Board's intercepts to collect outstanding fines.

Staff Recommendation: *The Board should provide an explanation detailing why it is not using the Franchise Tax Board's intercepts.*

The Osteopathic Medical Board allows cost recovery payment ordered as a probationary term to be paid over the period of their probation, i.e. three-year probation, five-year probation, etc. and has success in collecting these costs. If respondent does not pay these costs, it would constitute a violation of their probation; therefore, respondents are willing to pay these costs without the need for FTB's interception. Osteopathic Medical Board is not against the use of FPT and will utilize them should the need arise.

STAFFING

ISSUE #11: Why was the Board's budget change proposal (BCP) denied?

Background: The Osteopathic Medicine Act provides authority for the Board to regulate the profession of osteopathic medicine. The Board is charged with protecting its licensees and the consumers of osteopathic medicine. Included in the Board's basic authority is the ability for the Board to approve or deny licenses, take enforcement actions, pursue legislation, and conduct administrative duties.

In its recent report to the Committee, the Board indicated that there have been various constraints that have affected its ability to carry out its mandates. Specifically, the following deficiencies were noted:

1. No major studies have been conducted.
2. No consumer outreach efforts have been initiated

3. No participation in national organizations such as the FSMB
4. Inability to process licenses in a timely manner
5. No NLI notifications are sent to DOJ
6. Inefficiency processing and renewing applications
7. Minimal cite and fine is utilized
8. Limited use of the Board's website to post information for the public
9. No meetings are webcast

The Board reported that these deficiencies are directly related to a lack of staff that would be responsible for completing these salient tasks. Currently, the Board has an Executive Officer and five additional support staff. Additionally, the Board reported that their 2013-2014 BCP for additional staff was denied by DCA.

The Committee is extremely concerned about the Board's ability to regulate the profession as they have limited staff which prevents them from performing essential tasks that will help ensure consumer protection.

Staff Recommendation: *The Board should inform the Committee of its plan to continue carrying out its various duties if no additional staff is allocated for the Board. The Board may want to explore the possibility of hiring temporary or part-time staff to assist with completing critical tasks. Additionally, the Committee encourages the Board to seriously consider the benefits of merging with the MBC in order to ensure that the essential duties of the Board are carried out in the spirit of consumer protection.*

The Board received information that the 2013/2014 BCP was approved by DCA, but rejected by the Agency as not meeting the Department of Finance requirements. We received no other information as to which requirements our BCP did not meet, although this information was requested. We asked for a meeting with Agency, however, this did not take place. The BCP submitted by DCA for staffing under the CPEI (Consumer Protection Enforcement Initiative), provided the Osteopathic Medical Board with one additional analyst in enforcement, along with a half-time medical consultant. With the addition of these two new positions, which were filled in December 2012 and January 2013, respectively, it is anticipated that the time it is taking for intakes and investigative processes of complaints will be reduced; additionally, with the added enforcement staff, we will be able to better utilize our Cite and Fine program.

With the growing number of licensees, the workload for processing new license applications and renewals of licenses increases. The implementation of the BreEze database, when the system becomes fully functioning, promises streamlining the license application process and license renewal process and decrease the time to process applications and renewals. The Board, however, does not have enough staff to perform other licensing related duties, such as sending out the "No Longer Interested" notifications to DOJ; and other "housekeeping duties" such as filing, and purging of old files. The Board also lacks staff for administrative duties, such as contracts and purchasing requests, web site maintenance, and oversight of personnel issues. The Board has submitted a request for a staff services manager to assist with these issues and are awaiting approval from HR. If the Board receives authorization to hire a staff services manager, we can request assistance from DCA in possibly bringing in temporary help for these "housekeeping" duties. Recently, due to the BreEze data base implementation, DCA has recommended that Boards look into hiring of Permanent Intermittent positions to help with the transition into this new system and assist with clerical

support needs. The Osteopathic Medical Board will be able to better determine in which units the critical needs for staffing exist, once the BreEze is up and running and staff can assess their needs.

The Osteopathic Medical Board contracts with the Medical Board of California to utilize their formal investigators. Most complaints received in this office are reviewed and enforcement analysts complete "desk investigations". Certified copies of medical records and other pertinent documents are requested from appropriate parties with the proper authorization from patient/complainant. These certified documents are reviewed by our medical consultant. The medical consultant can determine whether the complaint case has merit or no merit. Cases deemed without merit are closed in this office without further action and the complainant and respondent are both notified of the closure. For cases deemed "with merit," depending on the nature of the complaint, are closed with an "educational letter" sent to the respondent and letting the patient/complainant know that the case will be kept in the office for seven years and if complaints of a similar nature is received, the case could be re-opened. If the medical consultant feels the case needs additional review, the case file is sent to a specialist in the field of the respondent, i.e., cardiology, psychiatry, plastic surgery, etc. for their expert opinion. If the case warrants a formal investigation, it is forwarded to the Medical Board with a request to investigate. Less than one –third of complaints are sent to the Medical Board for formal investigation.

One case, which is mentioned in the Medical Board Background paper, the investigation of Lisa Tseng, D.O., was used as an example why the Osteopathic Medical Board enforcement should be handled by the Medical Board. This case was one that the Osteopathic Medical Board submitted to the Medical Board of California to investigate on behalf of the Osteopathic Medical Board. Placing the Osteopathic Medical Board under the Medical Board would not have made any difference in the outcome of this case, nor would it have sped up the investigation. When the Drug Enforcement Administration and or the District Attorney's office becomes involved with a case, especially cases involving overprescribing of narcotics, the MBC investigators have to work alongside their investigators. This sometimes takes longer than we would like, however, the Osteopathic Medical Board relies on the expertise of the Medical Board Investigators to work these cases to obtain the optimal results. The cases which are taking the longest to complete are the cases which are referred to the Medical Board for formal investigation and/or cases submitted to the Attorney General's Office for discipline.

With the increasing number of licensees, the Board will submit another BCP for additional staffing in 2014.

Continued Regulation of the Profession by the Current Members of the Board

ISSUE #11: Should the current Board continue to license and regulate DOs?

Background: The health and safety of consumers is protected by well-regulated professions. The Board is charged with protecting the consumer from unprofessional and unsafe licensees.

Staff Recommendation: ***The Committee recommends that DOs continue to be regulated by the current Board and be renewed again in four years. The Committee maintains its position, and will raise the issue again, that during their four year extension, the Board should seriously consider merging with the MBC.***

This should be ISSUE #12.

Please see response to ISSUE #2.

AOA CODE OF ETHICS AND WHERE THE SECTIONS ARE COVERED IN THE CALIFORNIA CODE OF REGULATIONS (CCRS) AND THE B & P (B&P) CODE

SECTION 1 ----B & P SECTION 2263

SECTION 2----B & P CODES: 2220.08 (B), 2225.5, 2261, 2262

SECTION 3----B & P CODES: 125.6. 2395-98

SECTION 4----SEE ATTACHED

SECTION 5----CCRS DIVISION 16, ARTICLE 9, SECTIONS 1635-1641, B&P CODES 2454.5. 2190.5

SECTION 6----MEMBERSHIP ISSUES

SECTION 7----B & P CODES 651, 2271-73

SECTION 8----B & P CODES 2235, 2274-76, 2288-89, 2453.5

SECTION 9----NOT FOUND

SECTION 10---NOT FOUND

SECTION 11---NOT FOUND

SECTION12---B & P CODES 650, 2284

SECTION 13---NOT FOUND

SECTION 14---NOT FOUND

SECTION 15---B & P CODES 726-29, 2246

SECTION 16---B & P CODES 729, 2246

SECTION 17---NOT FOUND

SECTION 18---NOT FOUND

SECTION 19---NOT FOUND

AMERICAN OSTEOPATHIC ASSOCIATION
CODE OF ETHICS (2012)

The American Osteopathic Association has formulated this Code to guide its member physicians in their professional lives. The standards presented are designed to address the osteopathic physician's ethical and professional responsibilities to patients, to society, to the AOA, to others involved in healthcare and to self.

Further, the American Osteopathic Association has adopted the position that physicians should play a major role in the development and instruction of medical ethics.

Section 1
The physician shall keep in confidence whatever she/he may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

Section 2
The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

Section 3
A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose her/his physician. The physician must have complete freedom to choose patients whom she/he will serve. However, the physician should not refuse to accept patients for reasons of discrimination, including, but not limited to, the patient's race, creed, color, sex, national origin sexual orientation, gender identity or handicap. In emergencies, a physician should make her/his services available. (Modified by H500-A/2012)

Section 4
A physician is never justified in abandoning a patient. The physician shall give due notice to a patient or to those responsible for the patient's care when she/he withdraws from the case so that another physician may be engaged.

Section 5
A physician shall practice in accordance with the body of systematized and scientific knowledge related to the healing arts. A physician shall maintain competence in such systematized and scientific knowledge through study and clinical applications.

Section 6
The osteopathic medical profession has an obligation to society to maintain its high standards and, therefore, to continuously regulate itself. A substantial part of such regulation is due to the efforts and influence of the recognized local, state and national associations representing the osteopathic medical profession. A physician should maintain membership in and actively support such associations and abide by their rules and regulations.

Section 7
Under the law a physician may advertise, but no physician shall advertise or solicit patients directly or indirectly through the use of matters or activities which are false or misleading.

Section 8
A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless he is actually licensed on the basis of that degree in the state in which she/he practices. A physician shall designate her/his osteopathic school of practice in all professional uses of her/his name. Indications of specialty practice, membership in professional societies, and related matters shall be governed by rules promulgated by the American Osteopathic Association.

Section 9
A physician should not hesitate to seek consultation whenever she/he believes it advisable for the care of the patient.

Section 10
In any dispute between or among physicians involving ethical or organizational matters, the matter in controversy should first be referred to the appropriate arbitrating bodies of the profession.

Section 11
In any dispute between or among physicians regarding the diagnosis and treatment of a patient, the attending physician has the responsibility for final decisions, consistent with any applicable hospital rules or regulations.

Section 12
Any fee charged by a physician shall compensate the physician for services actually rendered. There shall be no division of professional fees for referrals of patients.

Section 13
A physician shall respect the law. When necessary a physician shall attempt to help to formulate the law by all proper means in order to improve patient care and public health.

Section 14
In addition to adhering to the foregoing ethical standards, a physician shall recognize a responsibility to participate in community activities and services.

Section 15
It is considered sexual misconduct for a physician to have sexual contact with any current patient whom the physician has interviewed and/or upon whom a medical or surgical procedure has been performed.

Section 16
Sexual harassment by a physician is considered unethical. Sexual harassment is defined as physical or verbal intimation of a sexual nature involving a colleague or subordinate in the workplace or academic setting, when such conduct creates an unreasonable, intimidating, hostile or offensive workplace or academic setting.

Section 17
From time to time, industry may provide some AOA members with gifts as an inducement to use their products or services. Members who use these products and services as a result of these gifts, rather than simply for the betterment or their patients and the improvement of the care rendered in their practices, shall be considered to have acted in an unethical manner. (Approved July 2003).

Section 18
A physician shall not intentionally misrepresent himself/herself or his/her research work in any way.

Section 19
When participating in research, a physician shall follow the current laws, regulations and standards of the United States or, if the research is conducted outside the United States, the laws, regulations and standards applicable to research in the nation where the research is conducted. This standard shall apply for physician involvement in research at any level and degree of responsibility, including, but not limited to, research, design, funding, participation either as examining and/or treating provider, supervision of other staff in their research, analysis of data and publication of results in any form for any purpose.

AOA INTERPRETS SECTIONS OF CODE OF ETHICS (1996)

Interpretation of Section 7
This section is designed to discourage practices, which would lead to false, misleading or deceptive information being promulgated.

Section 7 does not prohibit advertising, so long as advertising is designed as making proper factual information available to the public. People seeking healthcare are entitled to know the names of osteopathic physicians, the types of practices in which they engage, their office hours, place of their offices, and other pertinent factual information. On the other hand, the public should be protected from subjective advertising material designed to solicit patients, which is essentially misleading. Such material would include attempts to obtain patients by influence or persuasion, employing statements that are self-laudatory and deceptive; the result of which is likely to lead a patient to a misinformed choice and unjustified expectations. (July 1985)

Guide to Section 8
This guide applies to AOA members' professional (as opposed to organizational) stationery, office signs,2 telephone directories, and to other listings referred to by the general public. (July 1985)

Part I-Indications of Specialty Practice

1. Osteopathic physicians who are not certified by the AOA or who do not devote their time exclusively to a specialty should not indicate any area of practice specialization. They may designate the nature of their practice in one of the following ways: General Practice, General Practice of Osteopathic Medicine, and Surgery.

2. Osteopathic physicians who are certified by the AOA or who devote themselves exclusively to a specialty may designate such specialty in one of the following ways: Practice Limited to Internal Medicine (or other practice area), or Internal Medicine.

The listing of terms in each of the two categories is illustrative and should act as a guideline.

Part II-Membership in Professional Organizations
The public has little or no knowledge of what membership in various professional organizations entails. Accordingly, use of the names or initials of such organizations tends to indicate unusual professional competence, which is usually not justified. Professional stationery should contain no indication whatever of membership in professional organizations or of any present or past office held in any professional organization.

Designation of membership in various professional organizations is permissible on organizational stationery (AOA, divisional and district society, practice organizations, etc.) provided the organizational stationery is not used in practice correspondence.

The above guidelines apply with respect to written signatures of physicians. For example, a physician should not use FACOI or other appropriate fellowship designation in signing a letter or other communications that will go to a patient. The physician may use such designation in correspondence with other physicians or third parties.

Part III-Osteopathic Identification

The following, in order of preference, are considered proper on practice stationery and office signs:

1. John Doe, DO
2. John Doe, Osteopathic Physician & Surgeon
3. John Doe, Doctor of Osteopathy

The following are not considered proper on practice stationery or office signs:

1. Dr. John Doe (this is considered improper even if the doctor signs his name John Doe, DO). The osteopathic identification should be printed.
2. Dr. John Doe, Specialist in Osteopathic Medicine. The term specialist should be avoided in this circumstance.

Part IV-Degrees (other than DO)

It is strongly recommended that only the degree DO appear on professional stationery. However, the following additional guides are offered: No undergraduate degree (BA, BS, etc.) should be used.

Graduate degrees (MA, MS, PhD, etc.) should not be used unless the degree recognizes work in a scientific field directly related to the healing arts. Therefore, advanced degrees in scientific fields such as public health, physiology, anatomy, and chemistry may be used but their use is not recommended.

Honorary degrees relating to scientific achievement in the healing arts or other achievements within the osteopathic profession (such as administrative excellence or educational achievement) may be used if the honorary nature of the degree is indicated by use after the degree of the abbreviation "Hon."

Law degrees may be used if the physician carries on medical-legal activities.

Part V-Telephone Directory Listings

1. It is desirable for divisional societies to have an established program to implement these guidelines and, where necessary, to meet with representatives of the telephone companies in furtherance of that objective.

2. In classified directories, it is recommended that DOs be listed under the heading "Physicians and Surgeons-(DO)" and that there be a cross-reference to that heading from the heading "Physicians and Surgeons-Osteopathic." This letter heading is also acceptable as the main listing if it has long been the heading customarily used in the community.

3. In telephone directory listings of doctors, it is recommended that the doctor's name be followed by the abbreviation DO.

4. The abbreviation "Dr" is not recommended because it is misleading. "Dr" can refer to dentists, doctors of medicine, etc. "Phys" is also misleading because it can refer to MDs.

5. In telephone directories, no indication of certification or membership in any osteopathic professional organization should appear by initials or abbreviations, because such would generally be confusing.

6. In classified telephone directories it is not improper to indicate "Practice limited to" or simply to name the field of specialty.

Only specialties or practice interests recognized as such by the American Osteopathic Association should be indicated.

Only physicians who are certified in or who limit their practice exclusively to a specialty should list themselves in a particular field.

Interpretation of Section 17

Section 17 relates to the interaction of physicians with pharmaceutical companies.

1. Physicians' responsibility is to provide appropriate care to patients. This includes determining the best pharmaceuticals to treat their condition. This requires that physicians educate themselves as to the available alternatives and their appropriateness so they can determine the most appropriate treatment for an individual patient. Appropriate sources of information may include journal articles, continuing medical education programs, and interactions with pharmaceutical representatives.

2. It is ethical and in the best interest of their patients for osteopathic physicians to meet with pharmaceutical companies and their representatives for the purpose of product education, such as, side effects, clinical effectiveness and ongoing pharmaceutical research.

3. Pharmaceutical companies may offer gifts to physicians from time to time. These gifts should be of limited value and the appropriate to patient care or the practice of medicine. Gifts unrelated to patient care are generally inappropriate. The use of a product or service based solely on the receipt of a gift shall be deemed unethical.

4. When a physician provides services to a pharmaceutical company, it is appropriate to receive compensation. However, it is important that compensation be in proportion to the services rendered. Compensation should not have the substance or appearance of a relationship to the physician's use of the employer's products in patient care.

Position Papers/Ethical Content

Position papers adopted by the AOA House of Delegates define official AOA policy. Many of the position papers further clarify issues with ethical content.

Specific areas and papers related to them are:

A. Responsibilities to the patient:
--Confidentiality of patient records
--Counseling female patients on reproductive issues
--Death: Right to die
--Physician treating minors without parental consent
--Patient confidentiality
--Patient's bill of rights
--Patient-physician relations

B. Responsibilities to society:
--Abused persons
--Ethical and sociological consideration for medical care
--Healthcare institutional responsibilities
--Impaired physician, assistance
--Medicare and Medicaid Abuse
--Medicare and Medicaid - ethical physician arrangements
--Substance abuse

C. Responsibilities to the AOA:
--Active institutional membership--AOHA
--Dual degrees
--Industry gifts to physicians
--Professional association by DOs

D. Responsibilities to others involved in healthcare:
--Acupuncture
--Osteopathic medicine in foreign countries

E. Responsibilities to self:
--Medicare-physician coverage
--Osteopathic Manipulative Treatment (OMT) programs
--Physician administered OMT

1. "Stationery" includes letterheads, billheads, professional cards, checks, prescription blanks and any other stationery products used in practice.

2. The guide applies to door signs, listings in building lobbies, and outside signs.

3. DOs with limited licenses may obtain rulings on permissible designations on requests addressed to the AOA Committee on Ethics.

TAB 7

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
Proposed Language
[4/24/13 DRAFT]

Proposed changes to division 16 of title 16, of the California Code of Regulations are shown by underlining for new text and strikethrough for deleted text.

1. Section 1603 is amended to read as follows:

§1603. Delegation of Certain Functions.

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act, Section 11500, et seq. of the Government Code, the Board delegates and confers upon the executive director of the Board, or in his or her absence, the designee of the executive director, all functions necessary to the proper dispatch of the business of the Board in connection with all investigative and administrative proceedings, including, but not limited to, the ability to approve settlement agreements for the revocation, surrender or interim suspension of a licensee; additionally, authority is hereby delegated to the executive director to issue fictitious names and to register professional corporations.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; Sections 2018, 2451, ~~2454~~ and 3600-1, Business and Professions Code. Reference: Osteopathic Act, Section 1; ~~and~~ Sections 2018 and 2451, ~~2454~~, Business and Professions Code; and Sections 11500 and 11415.60, Government Code.

2. Section 1610 is amended to read as follows:

§1610. Applications and Refund of Fee.
(a) All applications (Application for Physician's and Surgeon's Certificate OMB.1 Rev.01/92) for a Physician and Surgeon Certificate shall be accompanied by the appropriate fees set forth in Section 1690.
(b) An application shall be denied without prejudice and the applicant shall be refunded whatever fee is due as set forth by Section 1690 when an applicant's credentials are insufficient.
(c) Applications shall be valid for one (1) year.
(d) The processing times for original Physicians and Surgeons applications are set forth in Section 1691.
(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to perform as a physician and surgeon safely because the applicant's ability to perform may be impaired due to mental illness, or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available to the applicant.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 2018, 2451, 3600-1, Business and Professions Code. Reference: Sections 820, 2099.5, 2154 and 2455, Business and Professions Code.

3. Section 1631 is added to Article 8 to read as follows:

§1631. Unprofessional Conduct.

In addition to the conduct described in Section 2234 of the Business and Professions Code, "unprofessional conduct" also includes, but is not limited to, the following:

(a)

Comment [m1]: See new BPC s 143.5.

(a) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(b) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege.

(c) Failure to report to the board within 30 days any of the following:

(1) The arrest of the licensee.

Comment [m2]: See new BPC s 802.1

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(d) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p.xciii), Section 1; Sections 2018, and 2451, Business and Professions Code. Reference: Sections 2018, 2234, and 2451, Business and Professions Code.

4. Section 1663 is amended to read as follows:

§1663. Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Osteopathic Medical Board of California shall consider the disciplinary guidelines entitled "Osteopathic Medical Board of California Disciplinary Guidelines of 1996" which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Osteopathic Medical Board of California in its sole discretion determines that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section11500) of Part 1 of Division 3 of

Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

(c) As used in this section, the term "sex offense" shall mean any of the following:
(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.
(2) Any offense defined in Section 261.5, 313.1, 647b, or 647 subdivisions (a) or (d) of the Penal Code or a finding that a person committed such an offense.
(3) Any attempt to commit any of the offenses specified in this section.
(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would be punishable as one or more of the offenses specified in this section.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p.xciii), Section 1; Sections 2018, 2451, and 3600-1, Business and Professions Code~~; and Section 11400.21, Government Code~~. Reference: Sections 726 and 729, Business and Professions Code; Sections ~~11400.21 and~~ 11425.50(e), Government Code; and Sections 261.5, 290, 313.1, 647b, and 647 subdivisions (a) or (d) of the Penal Code.

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100. - 472.5.] *(Heading of Division 1 amended by Stats. 1973, Ch. 77.)*

CHAPTER 1. The Department [100. - 144.] *(Chapter 1 enacted by Stats. 1937, Ch. 399.)*

143.5. (a) No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.

(b) Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

(c) As used in this section, "board" shall have the same meaning as defined in Section 22, and "licensee" means a person who has been granted a license, as that term is defined in Section 23.7.

(d) Notwithstanding any other law, upon granting a petition filed by a licensee or authorized agent of a licensee pursuant to Section 11340.6 of the Government Code, a board, bureau, or program within the Department of Consumer Affairs may, based upon evidence and legal authorities cited in the petition, adopt a regulation that does both of the following:

(1) Identifies a code section or jury instruction in a civil cause of action that has no relevance to the board's, bureau's, or program's enforcement responsibilities such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited under subdivision (a) will not impair the board's, bureau's, or program's duty to protect the public.

(2) Exempts agreements to settle such a cause of action from the requirements of subdivision (a).

(e) This section shall not apply to a licensee subject to Section 2220.7.

(Added by Stats. 2012, Ch. 561, Sec. 1. Effective January 1, 2013.)

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500. - 4999.129.] *(Division 2 enacted by Stats. 1937, Ch. 399.)*
CHAPTER 1. General Provisions [500. - 865.2.] *(Chapter 1 enacted by Stats. 1937, Ch. 399.)*

ARTICLE 11. Professional Reporting [800. - 809.9.] *(Article 11 repealed and added by Stats. 1975, 2nd Ex. Sess., Ch. 1.)*

802.1. (a) (1) A physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric medicine, and a physician assistant shall report either of the following to the entity that issued his or her license:

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

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

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

(Amended by Stats. 2012, Ch. 332, Sec. 3. Effective January 1, 2013.)

TAB 8

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
Proposed Language
[4/24/13 DRAFT]

Proposed changes to division 16 of title 16, of the California Code of Regulations are shown by underlining for new text and strikethrough for deleted text. NOTE: Italicized language reflects language that will is proposed to be added by another, separate rulemaking package. Italicized with strikeout will be deleted by that other package.

1. Section 1663 is amended to read as follows:

§1663. Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Osteopathic Medical Board of California shall consider the disciplinary guidelines entitled "Osteopathic Medical Board of California Disciplinary Guidelines of ~~1996~~2013" ("Guidelines"), which are hereby incorporated by reference. Deviation from these ~~g~~Guidelines and orders, including the standard terms of probation, is appropriate where the Osteopathic Medical Board of California in its sole discretion determines that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) (1) Notwithstanding the ~~disciplinary~~ ~~g~~Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

(2) As used in this section, the term "sex offense" shall mean any of the following:
(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.
(b) Any offense defined in Section 261.5, 313.1, 647b, or 647 subdivisions (a) or (d) of the Penal Code or a finding that a person committed such an offense.
(c) Any attempt to commit any of the offenses specified in this section.
(d) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would be punishable as one or more of the offenses specified in this section.

(c) If the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation.

(1) Each of the "Conditions Applying the Uniform Standards," as set forth in the Guidelines, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.
(2) The Substance Abuse Coordination Committee's *Uniform Standards Regarding Substance Abusing Healing Arts Licensees* (4/2011), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.

(a) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

NOTE: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p.xciii), Section 1; *Sections 2018, 2451, and* 3600-1, Business and Professions Code~~; and Section 11400.21, Government Code~~. Reference: *Sections* 315, *726 and 729, Business and Professions Code;* Sections ~~11400.21 and~~ 11425.50(e), Government Code; *and Sections 261.5, 290, 313.1, 647b, and 647 subdivisions (a) or (d) of the Penal Code.*

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
DISCIPLINARY GUIDELINES AND
~~UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE OF 2011~~MODEL TERMS OF PROBATION
[4/24/13 DRAFT for Discussion at the Board's 5/2/13 Meeting]

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INTRODUCTION

The Osteopathic Medical Board is charged with protecting the consumers of osteopathic physicians's services within the State of California. In keeping with its mission and obligation to ensure the safe and qualified practice of Osteopathic Medicine, the Osteopathic Medical Board of California has adopted the following recommended guidelines for disciplinary orders and model conditions of probation for violations of the Osteopathic and Medical Practice Acts.

Each disciplinary matter must be considered on a case-by-case basis. The Board carefully considers the totality of the facts and circumstances of each case, with the safety of the consuming public for medical services being paramount. Consequently, in reaching a resolution via a Stipulated Settlement and Disciplinary Order, or a Proposed Decision following an administrative hearing, the Board requests that the factual basis for each resolution be clearly delineated.

Except as provided in the terms implementing the Uniform Standards Related to Substance Abuse, the Board recognizes that an individual case may necessitate the departure from these guidelines. If there are deviations from the guidelines, the Board requests that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

In those cases where the violation involved the use of drugs or alcohol, certain terms must be included in any probationary order to determine if the ~~involving a~~ licensee ~~who is determined to be a~~ substance abusing licensee, terms implementing the the Uniform Standards Related to Substance Abuse ~~shall be applied~~must be included in any disciplinary order.

If at any time, it is determined that a licensee cannot practice safely, the Board favors the suspension, and/or, revocation of a license.

If, however, it is determined that a licensee has demonstrated the ability to practice safely, the Board recommends a stayed revocation with probation consideration.

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Comment [m1]: This contradicts the Factors to be Considered on the next page. (Unless this was just supposed to relate to SA licensees.)

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DISCIPLINARY GUIDELINES AND STANDARD TERMS OF PROBATION

The terms and conditions of probation are divided into two general categories:

~~(1)~~ **Standard Conditions.** T~~are~~ those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and

~~(2) Optional~~ **Conditions Specific to Violation.** ~~are~~ Those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

Conditions Implementing Uniform Standards. Those conditions which must be used in cases where the misconduct found involved the use of drugs or alcohol.

GENERAL CONSIDERATIONS

The Board requests that Proposed Decisions following administrative hearings include the following:

1. Specific code sections violated with their definitions.
2. Clear description of the violation.
3. Respondent's explanation of the violation if he/she is present at the hearing.
4. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
5. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

Factors to be Considered - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the general public.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.

10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

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TYPES OF DISCIPLINE AND DEFINITIONS

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Revocation: Permanent loss of a license, unless the respondent takes affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

Suspension: Invalidation of a license for a fixed period of time.

Stayed Revocation: Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Stayed Suspension: Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Probation: A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to ~~improving his/her conduct or preventing the likelihood of a recurrence of~~ the violation.

Uniform Standards Related to Substance Abuse. The standards adopted pursuant to Business and Professions Code section 315 by the Substance Abuse Coordination Committee in April, 2011, relating to substance-abusing licensees. ~~The terms and conditions that shall~~ The conditions implementing these provisions must be included in any order granting probation where the violation involved drugs or alcohol. In such cases, every ~~apply to any~~ Respondent must be evaluated ~~determined to be a substance abusingsubstance abusing licensee following a Rule Out Evaluation~~and the other conditions may be waived depending on the outcome of the evaluation.

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MODEL LANGUAGE FOR PROBATION

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The Board has adopted ~~two~~ different categories of conditions for probation: (1) standard, which are to be used in all disciplinary matters; ~~and~~ (2) ~~optional terms and~~ conditions specific to violation, which may be used when appropriate and necessary to protect the public and (3) conditions implementing the Uniform Standards for Substance Abusing Licensees, which must be used where a violation involved the use of drugs or alcohol.

A. STANDARD CONDITIONS OF PROBATION

The standard conditions of probation are as follows:

~~(~~1.~~)~~ Obey all laws
~~(~~2.~~)~~ File quarterly reports
~~(~~3.~~)~~ Probation surveillance program
~~(~~4.~~)~~ Interviews with medical consultants
~~(~~5.~~)~~ Cost Recovery
~~(~~6.~~)~~ License Surrender
~~(~~7.~~)~~ Tolling of probation, if out of state
~~(~~8.~~)~~ Probation violation/completion of probation
~~(~~9.~~)~~ Notification of Employers

B. OPTIONAL CONDITIONS OF PROBATION

~~(~~10.~~)~~ Actual Suspension
~~(~~11.~~)~~ Controlled Drugs – Total Restriction
~~(~~12. ~~2)~~ Controlled Drugs – Surrender of DEA Permit
~~(~~13.~~)~~ Controlled Drugs – Partial Restriction
~~(~~14.~~)~~ Controlled Drugs – Maintain Record
~~(~~15.~~)~~ Pharmacology Course
~~(~~16.~~)~~ Education Course
~~(~~17.~~)~~ Medical Ethics Course
~~(~~18.~~)~~ Clinical Assessment and Training Program
~~(~~19.~~)~~ Written Examination
~~(~~20.~~)~~ Third Party Presence – Sexual Violations

(21.) Prohibited Practice
(22.) Psychiatric Evaluation
(23.) Psychotherapy
(24.) Medical Evaluation
(25.) Clinical Diagnostic Evaluation
(26.) Medical Treatment
(27.) Community Service
(28.) Restitution
(29.) Worksite Monitor
(30.) Monitoring – Billing/Practice
(31.) Solo Practice Prohibition/Supervised Structure
_____ (32.) Substance Abuse and Addiction Evaluation
(33.) Diversion Program - Alcohol and Drugs
(34.) Drugs - Abstain from Use
(35.) Alcohol - Abstain from Use
(36.) Biological Fluid testing - Submit Biological Fluid Samples
_____ (37.) Uniform Standards Related to Substance Abuse.

A. STANDARD CONDITIONS OF PROBATION

1. Obey all Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

2. Quarterly Reports

Respondent shall submit to the Board quarterly declaration under penalty of perjury on the Quarterly Report of Compliance Form, OMB 10 (5/97) which is hereby incorporated by reference, stating whether there has been compliance with all the conditions of probation.

3. Probation Surveillance Program

Respondent shall comply with the Board's probation surveillance program. Respondent shall, at all times, keep the Board informed of his or her addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Board. Under no circumstances shall a post office box serve as an address of record.
Respondent shall also immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

4. Interviews with Medical Consultants

Respondent shall appear in person for interviews with the Board's medical consultants upon request at various intervals and with reasonable notice.

5. Cost Recovery

The respondent is hereby ordered to reimburse the Board the amount of $_____ within 90 days from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

6. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her certificate to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

7. Tolling for Out-of-State Practice or Residence, or in-state non-practice (inactive license)

In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the board or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Section 2051 and/or 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Board or its designee in or out of state shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period.

8. Probation Violation/Completion of Probation

If respondent violates probation in any respect, the Board may revoke probation and carry out the disciplinary order that was stayed after giving respondent notice and the opportunity to be heard. If an Accusation and/or Petition to revoke is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. Upon successful completion of probation, respondent's certificate will be fully restored.

9. Notification of Employers

Respondent shall provide to the board the names, physical addresses, mailing addresses, and telephone numbers of all employers, and supervisors and shall give specific, written consent that the licensee authorizes the board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

Respondent shall notify any employer of the terms of this probation by providing a copy of this decision to the employer within ___ days of the effective date of the decision.

Comment [m2]: This is a pretty standard condition for most boards. Does OMBC want to include it?

B. ~~OPTIONAL~~ CONDITIONS OF PROBATION SPECIFIC TO VIOLATION

10. Actual Suspension

Respondent shall be suspended from the practice of medicine for _____ beginning the effective date of this decision.

[Optional: Respondent shall be suspended from the practice of medicine until terms ____ are completed and evidence of the completion is submitted to the Board.]

Comment [m3]: Option for the board.

11. Controlled Drugs - Total Restriction

Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined in the California Uniform Controlled Substance Act except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

12. Controlled dDrugs - Surrender of DEA Permit

Respondent is prohibited from practicing medicine until respondent provides documentary proof to the Board or its designee that respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any triplicate prescription forms and federal order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Board.

13. Controlled Drugs - Partial Restriction

Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedule(s) _____ of the Act and prescribed to respondent for a bona fide illness or condition by another practitioner.

(or)

Respondent is permitted to prescribe, administer, dispense or order controlled substances listed in Schedule(s)_____ of the Act for in-patients in a hospital setting, and not otherwise.

NOTE: Use the following paragraph only if there is an actual elimination of the authority to prescribe a Scheduled Controlled Substance.

[Option] Respondent shall immediately surrender his/her current DEA permit to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order.

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14. Controlled Drugs - Maintain Record

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Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following: (1) the name and address of the patient, (2) the date, (3) the character and quantity of controlled substances involved and (4) the pathology and purpose for which the controlled substance was furnished. Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.

15. Pharmacology Course -

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a pharmacology/prescribing practices course equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices/pharmacology course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirement for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board.

Respondent shall submit evidence of successful completion of the course within fifteen (15) calendar days after successful completion.

16. Education Course -

Within 90 calendar days of the effective date of this Decision, Respondent shall enroll in an education course (i.e., medical records keeping, professional boundaries, professionalism, etc.) related to the charges in the Accusation which would be equivalent the similar courses offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices/pharmacology course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirement for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision, may, in the sole discretion of the Board, or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board.

Respondent shall submit evidence of successful completion of the course within fifteen (15) calendar days after successful completion.

17. Medical Ethics Course

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in medical ethics which respondent shall successfully complete during the first year of probation.

18. Clinical Assessment and Training Program.

Within 90 days of the effective date of this decision, respondent shall submit to the Board for its prior approval, an intensive cClinical Aassessment and Ttraining program (Program) equivalent to the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine ~~(Program)~~. The exact number of hours and the specific content of the program shall be determined by the Board or its designee and shall be related to the violations ~~charged in the accusation~~. Respondent shall successfully complete the ~~training p~~Program within six (6) months from the date of enrollment, and may be required to pass an examination administered by the Board or its designee related to the pProgram's contents.

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of Respondent's physical and mental health, basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Respondent's area of practice in which Respondent was alleged to be deficient, and at a minimum, a 40 hour program of clinical education in the area of practice in which Respondent was alleged or found to be deficient and which takes into account date obtained from the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the ~~Clinical Assessment and Training p~~Program.

Comment [m4]: ? What was intent?

Based upon Respondent's performance and test results in the assessment and clinical education, the Program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or training, treatment needed ~~ing~~ for any medical or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the recommendations of the Program.

The Board may immediately Order Respondent to cease the practice of medicine without a hearing if the Respondent should fail to enroll, participate in, or successfully complete the Program within the time specified. The Respondent may not resume the practice of medicine until enrollment or participation in the Program is complete.

OPTION #1: Condition precedent

Respondent shall not practice medicine until respondent has successfully enrolled, participated in, and completed the Program.

NOTE: The condition precedent option is preferred in all cases involving findings of gross negligence or incompetence or repeated acts of negligence or any other case where the physician ~~is~~ may be a present danger to the public.

OPTION #2: Additional Professional Enhancement Program

Within 60 days after Respondent has successful completed the ~~C~~clinical ~~A~~assessment and ~~T~~training program, Respondent shall participate in a professional enhancement program (Enhanced Program) equivalent to the one offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine ~~(Program)~~, which shall include quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in such ~~a program~~ Enhanced Program at Respondent's own expense during the term of probation, or until the Board, or its designee, determines that further participation is no longer necessary.

19. Written Examination

Within 60 days of the effective date of this decision, (or upon completion of the required education course) (or upon completion of the required clinical training program) respondent shall take and pass a written examination to be administered by the Board or its designee. Written examination will be the Comvex. If respondent fails this examination, respondent must wait three months between reexaminations, except that after three failures respondent must wait one year to take each necessary reexamination thereafter. The respondent shall pay the costs of all examinations.

(Use ~~either~~ one of the following two options with the above paragraph.)

OPTION #1: Condition precedent

Respondent shall not practice medicine until respondent has passed this examination and has been so notified by Board in writing.

NOTE: The condition precedent option is preferred in all cases involving findings of gross negligence or incompetence or repeated acts of negligence where the physician or any other case where the respondent may be ~~is~~ a present danger to the public.

OPTION #2: Condition subsequent

If respondent fails to take and pass this examination by the end of the first six months of probation, respondent shall cease the practice of medicine until this examination has been successfully passed and respondent has been so notified by the Board in writing.

20. Third Party Presence ~~–Sexual Violations~~

During probation, respondent shall have a third party present while examining or treating (male, female, minor) patients. Respondent shall, within 30 days of the effective date of the decision, submit to the Board or its designee for its approval name(s) of persons who will act as the third party present. The respondent shall execute a release authorizing the third party(s) present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis.

NOTE: Sexual ~~transgressors~~ contact may require revocation without probation. This term should ~~normally~~ be used where public protection requires monitoring of a licensees contact with specific patient populations. ~~placed in a supervised structured environment.~~

Comment [m5]: This is for consistency with the other proposed regulations.

21. Prohibited Practice

During probation, respondent is prohibited from practicing _____.

22. Psychiatric Evaluation -

Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychiatric evaluation by a Board appointed psychiatrist who shall furnish a psychiatric report to the Board or its designee. The respondent shall pay the cost of the psychiatric evaluation.

If respondent is required by the Board or its designee to undergo psychiatric treatment, respondent shall within 30 days of the requirement notice submit to the Board for its prior approval the name and qualifications of a psychiatrist of respondent's choice. Upon approval of the treating psychiatrist, respondent shall undergo and continue psychiatric treatment until further notice from the Board. Respondent shall have the treating psychiatrist submit quarterly status reports to the Board indicating whether the defendant is capable of practicing medicine safely.

~~([OPTION]AL)~~

Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is mentally fit to practice safely.

23. Psychotherapy

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluation by a board appointed psychiatrist. Respondent shall pay all costs of the psychiatric evaluation.

NOTE: This condition is for those cases where the evidence demonstrated that the respondent has had impairment (impairment by mental illness, alcohol abuse and drug self-abuse) related to the violations but is not at present a danger to his/her patients.

24. Medical Evaluation

Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board appointed physician who shall furnish a medical report to the Board or its designee. Respondent shall pay all costs of the medical evaluation.

If respondent is required by the Board or its designee to undergo medical treatment, respondent shall within 30 days of the requirement notice submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval of the treating physician, respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is medically fit to practice safely. Respondent shall pay the costs of such medical treatments.

NOTE: This condition is for those cases where the evidence demonstrates drug or alcohol impairment or medical illness or disability was a contributing cause of the violations.

[OPTION]

Respondent shall not engage in the practice of medicine until notified by the Board of its determination that respondent is mentally fit to practice safely.

26. Medical Treatment

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports of the periodic medical evaluations by a Board appointed physician. Respondent shall pay the costs of such medical treatments.

27. Community Service

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a community service program in which respondent shall provide free medical

services on a regular basis to a community or charitable facility or agency for at least _____ hours a month for the first _____ months of probation.

NOTE: Not for quality of care issues.

28. Restitution

Respondent shall provide restitution to _____ in the amount of _____ prior to the completion of the first year of probation.

NOTE: Restitution should be issued to patients only.

29 Worksite Monitor

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and respondent, respondent shall not resume practice until another worksite monitor is approved by the Board

30. Monitoring – Practice/Billing

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee for approval a _____ [**insert:** practice, billing or practice and billing] monitor(s), the name and qualifications of one or more licenses physicians (D.O., or M.D.) whose licenses are valid and in good standing, and who are preferable Board certified. A monitor shall have no prior business relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to be neutral and objectively monitor the Respondent. Respondent shall pay for all monitoring costs. The monitor shall be provided with copies of all Decisions(s), Accusations(s) and other information deemed relevant by the Board or its designee. Failure to comply with this term and condition may result in an automatic order from the Board for the Respondent to cease the practice of medicine until such a monitor has been approved by the Board.

31. Solo Practice Prohibition/Supervised Structure

Respondent shall not engage in the solo practice of medicine, and shall be employed as a physician in which there is a supervised structure and environment, and wherein Respondent reports to another licenses physician (D.O. or M.D.). Notice of changes to Respondent's employment or nature of practice must be provided to the Board or its designee within five (5) days of such change. Respondent shall cease the practice of medicine if Respondent is no longer in a supervised environment.

C. CONDITIONS APPLYING THE UNIFORM STANDARDS SPECIFIC TO ALCOHOL AND SUBSTANCE USE

(NOTE: These conditions must be included in any probationary order where the violation involved drugs or alcohol.)

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25. Clinical Diagnostic Evaluation

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation consistent with the provisions of the Uniform Standards for Substance-Abusing Licensees. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the ~~R~~respondent is ordered to undergo a clinical diagnostic evaluation, ~~the~~ ~~R~~respondent must cease practice pending the results of a clinical diagnostic evaluation. During such time, ~~the~~ ~~R~~respondent shall submit to random drug testing at least two (2) times per week.

The evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years' experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation. Any evaluation shall be conducted in accordance with acceptable professional standards for conducting clinical diagnostic evaluations for substance abuse.

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Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. The ~~C~~cost of such evaluation shall be paid by ~~the~~ ~~R~~respondent.

Respondent's license shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least thirty (30) days of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

The Board will review the clinical diagnostic evaluation to determine whether or not respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on respondent after considering the following criteria: License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

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~~26. Medical Treatment~~

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports of the periodic medical evaluations by a Board appointed physician. Respondent shall pay the costs of such medical treatments.

27. Community Service

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a community service program in which respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for at least _____ hours a month for the first _____ months of probation.

NOTE: Not for quality of care issues.

28. Restitution

Respondent shall provide restitution to _____ in the amount of _____ prior to the completion of the first year of probation.

NOTE: For patients only.

29 Worksite Monitor

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board

30. Monitoring – Practice/Billing

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee for approval a _____ [**insert:** practice, billing or practice and billing] monitor(s), the name and qualifications of one or more licenses physicians (D.O., or M.D.) whose licenses are valid and in good standing, and who are preferable Board certified. A monitor shall have no prior business relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to be neutral and objectively monitor the Respondent. Respondent shall pay for all monitoring costs. The monitor shall be provided with copies of all Decisions(s), Accusations(s) and other information deemed relevant by the Board or its designee. Failure to comply with this term and condition may result in an automatic order from the Board for the Respondent to cease the practice of medicine until such a monitor has been approved by the Board.

~~31. Solo Practice Prohibition/Supervised Structure~~

~~Respondent shall not engage in the solo practice of medicine, and shall be employed as a physician in which there is a supervised structure and environment, and wherein Respondent reports to another licenses physician (D.O. or M.D.). Notice of changes to Respondent's employment or nature of practice must be provided to the Board or its designee within five (5) days of such change. Respondent shall cease the practice of medicine if Respondent is no longer in a supervised environment.~~

~~32. Substance Abuse and Addiction Evaluation~~

Comment [m6]: Duplicative

~~Within ____ days of the effective date of the Board's decision and order, Respondent shall undergo an evaluation with a Board approved specialist in substance abuse and addiction medicine. If the examiner conducting the examination determines that the respondent is dependent upon drugs or alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol dependence in remission), that might reasonably affect the safe practice of medicine, then Respondent shall be subject to the terms 31 through 34, below as recommended by the evaluator in consultation with the Board, and as prescribed in the Uniform Standards for Substance Abuse.~~

33. Diversion Program - Alcohol and Drugs

Within 30 days of the effective date of this decision, respondent shall enroll and participate in the Board's Diversion Program until the Board determines that further treatment and rehabilitation is no longer necessary. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by respondent. Such ~~a~~ diversion program shall ~~comply~~ utilize ~~with~~ the Uniform Standards for Substance Abuse.

[OPTIONAL:]

This condition may be waived by the Board or its designee upon a written finding by the Clinical Diagnostic Evaluator that Respondent is not a substance-abusing licensee.

Comment [m7]: This is the means to comply with the terms

34. Drugs - Abstain from Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by the Business and Professions Code, or any drugs requiring a prescription except for

ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

[OPTIONAL:]

This condition may be waived by the Board or its designee upon a written finding by the Clinical Diagnostic Evaluator that Respondent is not a substance-abusing licensee.

35. Alcohol - Abstain from Use

Respondent shall abstain completely from the use of alcoholic beverages.

[OPTIONAL:]

This condition may be waived by the Board or its designee upon a written finding by the Clinical Diagnostic Evaluator that Respondent is not a substance-abusing licensee.

36. Biological Fluid testing - Submit Biological Fluid Samples

Respondent shall immediately submit to random and directed biological fluid testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation, and at minimum of fifty (50) random tests per year thereafter, for the duration of the probationary term. Drug testing may be required on any day, including weekends and holidays. Collection of specimens shall be observed. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit to his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

If Respondent tests positive for a banned substance, Respondent shall automatically cease practice and leave work. If the positive drug test is evidence of prohibited use, it shall be considered a major violation.

[OPTIONAL:]

This condition may be waived by the Board or its designee upon a written finding by the Clinical Diagnostic Evaluator that Respondent is not a substance-abusing licensee.

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~~37. Uniform Standards Related to Substance Abuse.~~

~~This term shall apply when a licensee is found to be a substance abusing licensee following a rule-out evaluation by a licensed medical professional approved by the Board. Such terms are incorporated below.~~

37. Worksite Monitor

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Work Site Monitor Requirements:

[OPTIONAL]

Respondent shall obtain a worksite monitor. The worksite monitor must meet criteria established in Uniform Standard #__, which include the following requirements:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee. The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor's license scope of practice shall include the scope of practice of the respondent or, if no monitor with a like scope of practice is available, be another licensed health care professional who meets the criteria above.

The worksite monitor must adhere to the following methods of monitoring the licensee:

a) Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.
b) Interview other staff in the office regarding the licensee's behavior, if applicable.
c) Review the licensee's work attendance.

The worksite monitor shall report to the Board as follows:

Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

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38. Group Support Meetings:

[OPTIONAL]

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Respondent shall participate in group support meetings. The licensee's history, the documented length of sobriety/time that has elapsed since substance use, the recommendation of the clinical evaluator, the scope and pattern of use, the licensee's treatment history, and the nature, duration, and severity of substance abuse shall be used when determining the frequency of required group meeting attendance.

The group meeting facilitator must have the following qualifications and meet the following requirements:

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1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.

2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.

3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.

4. The facilitator shall report any unexcused absence within 24 hours.

[OPTION:]

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This condition may be imposed or waived by the Board or its designee contingent upon a written finding by the clinical diagnostic evaluator that respondent is not a substance abusing licensee.

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39. Testing Positive for Banned Substances:

If a licensee tests positive for a banned substance, the Board shall order the licensee to cease practice and contact the licensee and instruct him or her to leave work immediately. The Board shall also immediately notify the licensee's employer that the licensee may not work.

Thereafter, the board should determine whether the positive drug test is in fact evidence of prohibited use by consulting the specimen collector and the laboratory, communicating with the licensee and/or any physician who is treating the licensee, and communicating with any treatment provider, including group facilitator/s.

If no prohibited use exists, the board shall immediately lift the cease practice order. If the board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation.

40. Major and Minor Violations

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to obtain biological testing for substance abuse when ordered;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee commits a major violation, consequences include, but are not limited to:

a. A Board's order to cease practice. The Board may also order the licensee to undergo a new clinical diagnostic evaluation. The Board's order may state that the licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
b. The termination of a contract/agreement.
c. Referral for disciplinary action, such as suspension, revocation, or other action as determined by the board.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

If a licensee commits a minor violation, consequences include, but are not limited to:

a. Removal from practice;
b. Practice limitations;
c. Required supervision;
d. Increased documentation;
e. Issuance of citation and fine or a warning notice;
f. Required re-evaluation/testing;
g. Other action as determined by the board.

~~UNIFORM STANDARDS FOR THOSE LICENSEES IN DIVERSION OR WHOSE LICENSE IS ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM~~

~~The following standards shall be adhered to in all cases in which a licensee is in diversion or where a licensee's license is placed on probation due, in part, to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public. For the purposes of these Uniform Standards Related to Substance Abuse and Disciplinary Guidelines, "drug test" means any test meant to detect a banned substance, including alcohol.~~

~~Providing Employer Information to the Board:~~

~~If the licensee who is either in a board diversion program or whose license is on probation has an employer, the licensee shall provide to the board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent that the licensee authorizes the board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.~~

~~Clinical Diagnostic Evaluations:~~

~~Whenever a licensee who is either in a diversion program or whose license is on probation due to a substance abuse problem is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.~~

~~For a licensee that undergoes a clinical diagnostic evaluation, the Board shall order the licensee to cease practice during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the diversion program/board staff.~~

~~While awaiting the results of the clinical diagnostic evaluation the licensee shall be randomly drug tested at least two (2) times per week.~~

~~Clinical Diagnostic Evaluation Report:~~

~~The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.~~

~~The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.~~

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

No licensee shall be returned to practice until he or she has had at least 30 days of negative drug tests.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

Work Site Monitor Requirements:

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

~~The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.~~

~~The worksite monitor must adhere to the following required methods of monitoring the licensee:~~

~~a) Have face to face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.~~
~~b) Interview other staff in the office regarding the licensee's behavior, if applicable.~~
~~c) Review the licensee's work attendance.~~

~~Reporting by the worksite monitor to the Board shall be as follows:~~

~~Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.~~

~~The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.~~

~~The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.~~

~~**Group Support Meetings:**~~
~~If a board requires a licensee to participate in group support meetings either because it is the decision of the Board or it is within the discretion of the Board staff when determining the nature of group support meetings, the board shall give consideration to the licensee's history, the documented length of sobriety/time that has elapsed since substance use, the recommendation of the clinical evaluator, the scope and pattern of use, the licensee's treatment history, and the nature, duration, and severity of substance abuse when determining the frequency of required group meeting attendance.~~

~~Group Meeting Facilitator Qualifications and Requirements:~~

~~1.The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.~~ Formatted: Bullets and Numbering

~~2.The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.~~ Formatted: Bullets and Numbering

3.The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.

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4.The facilitator shall report any unexcused absence within 24 hours.

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Testing Positive for Banned Substances:

If a licensee tests positive for a banned substance, the Board shall order the licensee to cease practice and contact the licensee and instruct him or her to leave work immediately. The Board shall also immediately notify the licensee's employer that the licensee may not work.

Thereafter, the board should determine whether the positive drug test is in fact evidence of prohibited use by consulting the specimen collector and the laboratory, communicating with the licensee and/or any physician who is treating the licensee, and communicating with any treatment provider, including group facilitator/s.

If no prohibited use exists, the board shall immediately lift the cease practice order. If the board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation.

Major and Minor Violations

Major Violations include, but are not limited to, the following:

1.Failure to complete a board-ordered program;
2.Failure to undergo a required clinical diagnostic evaluation;
3.Committing multiple minor violations of probation conditions and terms;
4.Treating a patient while under the influence of drugs or alcohol;
5.Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6.Failure to obtain biological testing for substance abuse when ordered;
7.Testing positive for a banned substance;
8.Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

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If a licensee commits a major violation, consequences include, but are not limited to:

a.A Board's order to cease practice. The Board may also order the licensee to undergo a new clinical diagnostic evaluation. The Board's order may state that the licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
b.The termination of a contract/agreement.

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e.Referral for disciplinary action, such as suspension, revocation, or other action as determined by the board.

Minor Violations include, but are not limited to, the following:

1.Failure to submit required documentation in a timely manner; Formatted: Bullets and Numbering
2.Unexcused attendance at required meetings;
3.Failure to contact a monitor as required;
4.Any other violations that do not present an immediate threat to the licensee or to the public.

If a licensee commits a minor violation, consequences include, but are not limited to:

a.Removal from practice; Formatted: Bullets and Numbering
b.Practice limitations;
c.Required supervision;
d.Increased documentation;
e.Issuance of citation and fine or a warning notice;
f.Required re-evaluation/testing;
g.Other action as determined by the board.

Request to Return to Practice:
A licensee shall meet the following criteria before submitting a request to return to practice after a cease practice order:

1.Demonstrated sustained compliance with current recovery program. Formatted: Bullets and Numbering

2.Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse. Formatted: Bullets and Numbering

3.Negative drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program. Formatted: Bullets and Numbering

Request for Reinstatement:
A licensee must meet the following criteria to remove a condition of practice placed upon the licensee pursuant to a clinical diagnostic evaluation.

1.Demonstrated sustained compliance with the terms of the disciplinary order, if applicable. Formatted: Bullets and Numbering

2.Demonstrated successful completion of recovery program, if required. Formatted: Bullets and Numbering

3.Demonstrated a consistent and sustained participation in activities that promote and support their recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities. Formatted: Bullets and Numbering

4.Demonstrated that he or she is able to practice safely.

5.Continuous sobriety for three (3) to five (5) years.

DRUG TESTING STANDARDS

The following drug testing standards shall apply to each licensee subject to drug testing:

1.Licensees shall be randomly drug tested at least 104 times per year for the first year or probation, and at any time as directed by the board. After the first year, licensees who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.

2.Drug testing may be required on any day, including weekends and holidays.

3.Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.

4.Licensees shall be required to make daily contact as directed to determine if drug testing is required.

5.Licensees shall be drug tested on the date of notification as directed by the board.

6.Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

7.Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

8.Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

9.Collection of specimens shall be observed.

10.Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

11.Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be

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~~notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.~~

VIOLATIONS AND RECOMMENDED DISCIPLINE

The following conditions of probation, generally listed by statute order as set forth in the Business and Professions Code, are recommended by the Board for proven or stipulated violations. In all circumstances, the maximum penalty for any violation of the Business and Professions Code will be revocation. Additionally, violations of Business and Professions Code sections 2235 (obtaining license by fraud), 2288 (impersonation of an applicant in an examination), and 2306 (practice under suspension) shall all result in an order of revocation.

The following disciplinary penalties for selected Business and Professions Code violations are guidelines for use by administrative law judges at hearings as well as for use in the settlement of cases. Individual penalties may vary depending upon the particular circumstances of the case resulting in aggravation or mitigation of the offenses alleged. If probation is imposed as part of a penalty, the probation should include: (1) standard conditions, which will appear in all cases; and (2) the optional conditions, which will be tailored according to the nature of the offense.

B&P 725 - EXCESSIVE PRESCRIBING OR TREATMENTS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Drugs - Total DEA restriction
   Surrender DEA permit
   (or) - Partial DEA restriction
2. Pharmacology course (19)
3. Education Course
4. Work-site Monitor
5. Written Examination
6. Clinical Assessment and Training Program
7. Monitor – Practice
8. If warranted, suspension – 30 days or more.

B&P 726 - SEXUAL MISCONDUCT

Minimum discipline: Stayed revocation, 10 years probation, standard terms, and

1. Suspension – 90 days or more.
2. Education Course
3. Clinical Assessment and Training Program
4. Psychiatric Evaluation/Psychotherapy
5. Third Party Presence
6. Worksite Monitor

B&P 729 - SEXUAL EXPLOITATION

Automatic Revocation.

See. Business and Professions Code section 2246. Said revocation may not be stayed by the Administrative Law Judge or the Board.

B&P 820 - MENTAL OR PHYSICAL ILLNESS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Psychiatric Evaluation/Psychotherapy
2. Written or Oral Examination
3. Worksite Monitor
4. Solo Practice Prohibition/Supervised Environment
5. Prohibited Practice
6. Monitoring -Practice/Billing
7. Clinical Assessment and Training Program

B&P 810 - INSURANCE FRAUD

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and, unless suspension or revocation mandated by law

1. Suspension – 30 days or more.
2. Education Course
3. Clinical Assessment and Training Program
4. Worksite Monitor
5. Monitor – Practice/Billing
6. Solo Practice Prohibition/Supervised Structure
7. Ethics Course
8. Restitution

B&P 2234(b) - GROSS NEGLIGENCE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more.
2. Education Course
3. Pharmacology Course [if warranted]
4. Written Examination
5. Clinical Assessment and Training Program
6. Worksite Monitor

7. Monitor – Practice/Billing
8. Solo Practice Prohibition/Supervised Structure
9. Prohibited Practice
10. Ethics Course

B&P 2234(c) – REPEATED NEGLIGENT ACTS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more.
2. Education Course
3. Pharmacology Course [if warranted]
4. Written Examination
5. Clinical Assessment and Training Program
6. Worksite Monitor
7. Monitor – Practice/Billing
8. Solo Practice Prohibition/Supervised Structure
9. Prohibited Practice
10. Ethics Course

B&P 2234(d) - INCOMPETENCE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more.
2. Education Course
3. Pharmacology Course [if warranted]
4. Written Examination
5. Clinical Assessment and Training Program
6. Worksite Monitor
7. Monitor – Practice/Billing
8. Solo Practice Prohibition/Supervised Structure
9. Prohibited Practice
10. Ethics Course

B&P 2234(e) – DISHONESTY

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more.
2. Education Course
3. Clinical Assessment and Training Program
4. Worksite Monitor
5. Monitor – Practice/Billing
6. Solo Practice Prohibition/Supervised Structure
7. Ethics Course

8. Community Service
9. Restitution

B&P 2236 - CRIMINAL CONVICTION – FELONIES/MULTIPLE MISDEMEANORS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Suspension – 30 days or more.
2. Psychiatric Evaluation/Psychotherapy
3. Education Course
4. Clinical Assessment and Training Program
5. Worksite Monitor
6. Monitor – Practice/Billing
7. Ethics Course
8. Community Service
9. Restitution

B&P 2236 - CRIMINAL CONVICTION - SINGLE MISDEMEANOR

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Education Course
2. Psychiatric Evaluation/Psychotherapy
3. Worksite Monitor
4. Monitor – Practice/Billing
5. Ethics Course
6. Community Service
7. Restitution

B&P 2237 - DRUG RELATED CONVICTION

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 10 days or more.
2. Psychiatric Evaluation/Psychotherapy
3. Clinical Diagnostic Evaluation
4. Worksite Monitor
5. Monitor- Practice
6. Ethics Course
7. Substance Abuse and Addiction Evaluation
8. Drugs – Abstain from Use
9. Alcohol – Abstain from Use
10. Random Bodily Fluid Testing

11. Diversion Program - Alcohol and Drugs Uniform Standards if Licensee is determined to be a Substance Abusing Licensee.

B&P 2238 - VIOLATION OF DRUG STATUTE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 90 days or more.
2. Pharmacology Course
3. Clinical Assessment and Training Program
4. Ethics Course
5. Controlled Drugs – Total Restriction
6. DEA – Surrender o DEA Permit
7. Controlled Drugs – Partial Restriction
8. Controlled Drugs – Maintain Record
9. Psychiatric Evaluation/Psychotherapy
10. Worksite Monitor
11. Monitor- Practice
12. Substance Abuse and Addiction Evaluation
13. Drugs – Abstain from Use
14. Alcohol – Abstain from Use
15. Random Bodily Fluid Testing
16. **Diversion**
17. Uniform Standards if Licensee is determined to be a Substance Abusing Licensee.

B&P 2239 - SELF-ABUSE OF DRUGS OR ALCOHOL

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and and apply the Uniform Standards for Substance Abuse.

1. Actual Suspension – 10 days or more.
2. Controlled Drugs – Total Restriction
3. DEA – Surrender o DEA Permit
4. Controlled Drugs – Partial Restriction
5. Controlled Drugs – Maintain Record
6. Psychiatric Evaluation/Psychotherapy
7. Worksite Monitor
8. Monitor- Practice
9. Ethics Course
10. Substance Abuse and Addiction Evaluation
11. Drugs – Abstain from Use

12. Alcohol – Abstain from Use
13. Random Bodily Fluid Testing
14. Diversion
15. Uniform Standards if Licensee is determined to be a Substance Abusing Licensee.

B&P 2241 - FURNISHING DRUGS TO AN ADDICT

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If warranted,

1. Actual Suspension – 10 days or more.
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Controlled Drugs – Total Restriction
7. DEA – Surrender o DEA Permit
8. Controlled Drugs – Partial Restriction
9. Controlled Drugs – Maintain Record
10. Psychiatric Evaluation/Psychotherapy
11. Worksite Monitor
12. Monitor- Practice
13. Substance Abuse and Addiction Evaluation
14. Drugs – Abstain from Use
15. Alcohol – Abstain from Use
16. Random Bodily Fluid Testing
17. Diversion
18. Uniform Standards if Licensee is determined to be a Substance Abusing Licensee.

B&P 2242 - PRESCRIBING DRUGS WITHOUT PRIOR EXAMINATION

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

If, Warranted,

1. Actual Suspension – 10 days or more.
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course

6. Controlled Drugs – Total Restriction
7. DEA – Surrender o DEA Permit
8. Controlled Drugs – Partial Restriction
9. Controlled Drugs – Maintain Record
10. Psychiatric Evaluation/Psychotherapy
11. Worksite Monitor
12. Monitor- Practice

B&P 2250 – Failure to Comply with Sterilization Consent Provisions.

1. Education Course
2. Pharmacology Course [if warranted]
3. Written Examination
4. Clinical Assessment and Training Program
5. Worksite Monitor
6. Monitor – Practice/Billing
7. Solo Practice Prohibition/Supervised Structure
8. Prohibited Practice
9. Ethics Course

B&P 2251 - USE OF SILICONE

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more.
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Prohibited Practice [if warranted]

B&P 2252 - ILLEGAL CANCER TREATMENT

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more.
2. Pharmacology Course
3. Education Program
4. Clinical Assessment and Training Program
5. Ethics Course
6. Worksite Monitor
7. Monitor Billing/Practice
8. Ethics Course

9. Prohibited Practice
10. Solo Practice Prohibition/Supervised Structure

B&P 2261 - MAKING OR SIGNING FALSE DOCUMENT

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more.
2. Education Course
3. Ethics Course
4. Monitoring Billing/Practice
5. Prohibited Practice
6. Solo Practice Prohibition/Supervised Structure

B&P 2262 – ALTERATION OF MEDICAL RECORDS/FALSE MEDICAL RECORDS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, and

1. Actual Suspension – 30 days or more.
2. Education Course
3. Pharmacology Course
4. Ethics Course
5. Monitoring Billing/Practice
6. Prohibited Practice
7. Solo Practice Prohibition/Supervised Structure

B&P 2263 - VIOLATION OF PROFESSIONAL CONFIDENCE

Minimum Discipline: Stayed revocation, 5 years probation, standard terms, and.

1. Actual Suspension – 30 days or more.
2. Education Course
3. Ethics Course
4. Monitoring Billing/Practice
5. Prohibited Practice
6. Solo Practice Prohibition/Supervised Structure

B&P 2264 - AIDING AND ABETTING UNLICENSED PRACTICE

Minimum Discipline: Stayed revocation, 5 years probation, standard terms, and.

1. Actual Suspension – 90 days or more.
2. Education Course
3. Ethics Course
4. Monitoring Billing/Practice

5. Prohibited Practice
6. Solo Practice Prohibition/Supervised Structure

B&P 2265 - USE OF QUALIFIED PHYSICIAN ASSISTANT WITHOUT APPROVAL

Minimum discipline: 90 days stayed suspension, one year probation

B&P 2271, 651 - DECEPTIVE ADVERTISING

Minimum Discipline: Stayed revocation, 1 year probation.
Maximum Discipline: Revocation

B&P 2272 - ANONYMOUS ADVERTISING

Minimum Discipline: Stayed revocation, 1 year probation.
Maximum Discipline: Revocation

B&P 2273 - EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS

Minimum Discipline: Stayed revocation, 3 years probation, standard terms, and.

1. Actual Suspension – 90 days or more.
2. Education Course
3. Ethics Course
4. Monitoring Billing/Practice
5. Prohibited Practice
6. Solo Practice Prohibition/Supervised Structure

B&P 2274 - MISUSE OF TITLE

Minimum Discipline: Stayed revocation, 1 year probation.
Maximum Discipline: Revocation

B&P 2275 - USE OF "M.D."

Minimum Discipline: Stayed revocation, 1 year probation.
Maximum Discipline: Revocation

B&P 2276 - MISUSE OF "D.O."

Minimum Discipline: Stayed revocation, 1 year probation.
Maximum Discipline: Revocation

B&P 2280 - INTOXICATION WHILE TREATING PATIENTS

Minimum discipline: Stayed revocation, 5 years probation, standard terms, Uniform Standards for Substance Abuse, and

1. Actual Suspension – 10 days or more.
2. Controlled Drugs – Total Restriction
3. DEA – Surrender o DEA Permit
4. Controlled Drugs – Partial Restriction
5. Controlled Drugs – Maintain Record
6. Psychiatric Evaluation/Psychotherapy
7. Worksite Monitor
8. Monitor- Practice
9. Ethics Course
10. Substance Abuse and Addiction Evaluation
11. Drugs – Abstain from Use
12. Alcohol – Abstain from Use
13. Random Bodily Fluid Testing
14. Diversion
15. Uniform Standards if Licensee is determined to be a Substance Abusing Licensee.

B&P 2285 - USE OF FICTITIOUS NAME WITHOUT PERMIT

Minimum discipline: 90 days stayed suspension, 1 year probation
Maximum Discipline: Revocation

B&P 2288 – IMPERSONATION OF APPLICATION IN EXAM

Revocation

B&P 2306 – PRACTICE DURING SUSPENSION

Revocation

B&P 2305 - DISCIPLINE BY ANOTHER STATE OR FEDERAL AGENCY

Minimum discipline: add actual period of suspension
Maximum discipline: impose discipline that was stayed

VIOLATION OF PROBATION – REPEATED VIOLATIONS

A repeated similar offense or a violation of probation evidencing an unreformed attitude should call for the maximum discipline. Other violations of probation should call for at least a meaningful period of actual suspension, preferably 90 days or more.

TAB 9

Osteopathic Medical Board

Future Agenda Items

Agenda Item	Requestor

TAB 10

Osteopathic Medical Board

Future Meeting Dates

Date	Place	Time
September 26, 2013 (Tentative)	Touro College of Osteopathic Medicine Vallejo, CA	10am-5pm

**Please note that all meetings should be held in the best interest of the Board. Meetings in resorts or vacation areas should not be made. Using Conference areas that do not require contracts and or payment is the best option for the Board. No overnight travel. If an employee chooses a mode of transportation which is more costly than another mode, a Cost Comparison form must be completed. Reimbursement by the State will be made at the lesser of the two costs. Taxi Service should be used for trips within but not over a 10-mile radius. Receipts are required for taxi expenses of $10.00 and over. Tips are not reimbursable.*