



DENTAL BOARD OF CALIFORNIA

NOTICE OF MEETING May 12-13, 2022

Board Members

Alan Felsenfeld, MA, DDS, President
James Yu, DDS, MS, Vice President
Sonia Molina, DMD, MPH, Secretary
Steven Chan, DDS
Lilia Larin, DDS
Meredith McKenzie, Esq., Public Member
Angelita Medina, Public Member
Mark Mendoza, Public Member
Steven Morrow, DDS, MS
Rosalinda Olague, RDA, BA
Joanne Pacheco, RDH, MAOB

**Action may be taken on any
item listed on the agenda.**

The Dental Board of California (Board) will meet at 1:00 p.m., on Thursday, May 12, 2022, and 9:00 a.m., on Friday, May 13, 2022, at the following location¹:

Sheraton Garden Grove
12221 Harbor Blvd., Emerald/White Diamond Room
Garden Grove, CA 92840
(714) 703-8400 (Hotel) or
(916) 263-2300 or (877) 729-7789 (Board Office)

AGENDA

1:00 p.m., Thursday, May 12, 2022

1. Call to Order/Roll Call/Establishment of a Quorum
2. Public Comment on Items Not on the Agenda
Note: The Board may not discuss or take action on any matter raised during this Public Comment section, except to decide whether to place the matter on the agenda of a future meeting. (Government Code sections 11125 and 11125.7(a).)
3. Discussion and Possible Action on March 14, 2022 and March 28, 2022 Board Meeting Minutes **[6-39]**
4. Board President Report **[40]**

¹ Face masks may or may not be required at the location depending upon state and local laws and business preferences on the date of the meeting.

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5. Interim Executive Officer Report **[41]**
6. Report on Department of Consumer Affairs (DCA) Activities **[42]**
7. Budget Report **[43-48]**
8. Report on Dental Hygiene Board of California (DHBC) Activities **[49]**
9. Enforcement – Review of Statistics and Trends **[50-59]**
10. Examinations
 - a. Report from Commission on Dental Competency Assessment and Western Regional Examining Board (CDCA-WREB) **[60]**
 - b. Discussion and Possible Action on Prioritization of Examination Reviews to be Conducted by DCA, Office of Professional Examination Services (OPES) **[61-64]**
11. Licensing, Certifications, and Permits
 - a. Review of Dental Licensure and Permit Statistics **[65-77]**
12. Proposed Regulation Relating to California Dentistry Law and Ethics Examination: **[78-82]**
 - a. Discussion and Possible Action to Consider Comments Received During the 15-Day Public Comment Period Relative to Proposed Modified Text and Amendments to California Code of Regulations (CCR), Title 16, Section 1031
 - b. Discussion and Consideration of Proposed Regulation to Amend CCR, Title 16, Section 1031 Related to the California Dentistry Law and Ethics Examination
13. Update on Pending Regulatory Packages **[83-86]**
 - a. Diversion Evaluation Committee Membership (CCR), Title 16, Section 1020.4)
 - b. Dentistry Law & Ethics Examination Scoring (CCR, Title 16, Section 1031)
 - c. Continuing Education Requirements (CCR, Title 16, Sections 1016, 1016.2, and 1017)
 - d. Telehealth Notification (CCR, Title 16, Section 1065)
 - e. Dental Assisting Comprehensive Rulemaking (CCR, Title 16, Sections 1067-1081.3)
 - f. Radiographic Decision Making and Interim Therapeutic Restoration Course Requirements (CCR, Title 16, Section 1071.1)
 - g. Elective Facial Cosmetic Surgery Permit Application and Renewal Requirements (CCR, Title 16, Sections 1044.6 – 1044.8)
 - h. Mobile and Portable Dental Unit Registration Requirements (CCR, Title 16, Section 1049)
 - i. Minimum Standards for Infection Control (CCR, Title 16, Section 1005)
 - j. Senate Bill (SB) 501 Anesthesia and Sedation (CCR, Title 16, Sections 1021, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1043.8.1, 1043.9.1, 1043.9.2, 1044, 1044.1, 1044.2, 1044.3, 1044.4, 1044.5, 1070.8)
 - k. Dentists Administering and Initiating Vaccines (CCR, Title 16, Section 1066)
14. Recess Open Session Until May 13, 2022, at 9:00 a.m.

CLOSED SESSION (WILL NOT BE WEBCAST)

15. Convene Closed Session
16. Pursuant to Government Code Section 11126(c)(2), the Board Will Meet in Closed Session to Deliberate and Vote on Whether or Not to Grant, Deny, or Request Further Evaluation of a Conscious Sedation Permit as it Relates to an Onsite Inspection and Evaluation Failure
17. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate and Vote on Disciplinary Matters, Including Stipulations and Proposed Decisions
18. Adjourn Closed Session

9:00 a.m., Friday, May 13, 2022

19. Reconvene Open Session – Call to Order/Roll Call/Establishment of a Quorum
20. President’s Report on Closed Session Items: **[87]**
 - a. Actions Taken on Application(s) for Issuance of New License(s) to Replace Cancelled License(s)
21. Dental Assisting Council (DAC) Meeting Report **[88]**
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 - a. General Anesthesia and Conscious Sedation Permit Evaluations Statistics **[103-111]**
 - b. Discussion and Possible Action Regarding Appointment of General Anesthesia and Conscious Sedation Evaluators **[112-122]**
 - c. Update Regarding Board Implementation of SB 501 (Glazer, Chapter 929, Statutes of 2018) **[123-125]**
 - d. Discussion and Possible Action on Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards as Required by SB 501 (Glazer, Chapter 929, Statutes of 2018) and Business and Professions Code Section 1601.4, subdivision (a)(2) **[126-169]**
24. Update, Discussion, and Possible Action on 2021/2022 Legislation Impacting the Board, DCA, and/or the Dental Profession: **[170-481]**
 - a. 2022 Tentative Legislative Calendar – Information Only
 - b. [Assembly Bill \(AB\) 225](#) (Gray, 2021) Department of Consumer Affairs: boards: veterans: military spouses: licenses.
 - c. [AB 562](#) (Low, 2021) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services.

- d. [AB 646](#) (Low, 2021) Department of Consumer Affairs: boards: expunged convictions.
- e. [AB 657](#) (Cooper, 2021) State civil service system: personal services contracts: professionals.
- f. [AB 1102](#) (Low, 2021) Telephone medical advice services.
- g. [AB 1604](#) (Holden, 2022) The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.
- h. [AB 1662](#) (Gipson, 2022) Licensing boards: disqualification from licensure: criminal conviction.
- i. [AB 1733](#) (Quirk, 2022) State bodies: open meetings.
- j. [AB 1756](#) (Smith, 2022) Department of Consumer Affairs.
- k. [AB 1795](#) (Fong, 2022) Open meetings: remote participation.
- l. [AB 1982](#) (Santiago, 2022) Telehealth: dental care.
- m. [AB 1996](#) (Cooley, 2022) State government: administrative regulations: review.
- n. [AB 2055](#) (Low, 2022) Controlled substances: CURES database.
- o. [AB 2104](#) (Flora, 2022) Professions and vocations.
- p. [AB 2145](#) (Davies, 2022) Dental services: skilled nursing facilities and intermediate care facilities/developmentally disabled.
- q. [AB 2276](#) (Carrillo, 2022) Dental assistants.
- r. [AB 2539](#) (Choi, 2022) Public health: COVID-19 vaccination: proof of status.
- s. [AB 2948](#) (Cooper, 2022) Consumer protection: Department of Consumer Affairs: complaints
- t. [Senate Bill \(SB\) 49](#) (Umberg, 2020) Income taxes: credits: California Fair Fees Tax Credit.
- u. [SB 652](#) (Bates, 2021) Dentistry: use of sedation: training.
- v. [SB 731](#) (Durazo, 2021) Criminal records: relief.
- w. [SB 889](#) (Ochoa Bogh, 2022) Nurse anesthetists.
- x. [SB 1031](#) (Ochoa Bogh, 2022) Healing arts boards: inactive license fees.
- y. [SB 1237](#) (Newman, 2022) Licenses: military service.
- z. [SB 1310](#) (Leyva, 2022) Professions and vocations: consumer complaints.
- aa. [SB 1365](#) (Jones, 2022) Licensing boards: procedures.
- bb. [SB 1443](#) (Roth, 2022) The Department of Consumer Affairs
- cc. [SB 1471](#) (Archuleta, 2022) Dentistry: foreign dental schools.
- dd. [SB 1495](#) (Committee on Business, Professions and Economic Development, 2022) Professions and vocations.

25. Discussion of Prospective Legislative Proposals **[482]**

Stakeholders are encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future meeting.

26. Adjournment

This agenda can be found on the Dental Board of California website at dbc.ca.gov. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. Items scheduled for a particular day may be moved to an earlier or later day to facilitate the effective transaction of business. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public.

The meeting will be webcast, provided there are no unforeseen technical difficulties or limitations. To view the webcast, please visit thedcapage.wordpress.com/webcasts/. The meeting will not be cancelled if webcast is not available. Meeting adjournment may not be webcast if it is the only item that occurs after a closed session.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

This meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications to participate in the meeting may make a request by contacting Sarah Wallace, Interim Executive Officer, at Dental Board of California, 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by phone at (916) 263-2300. Providing your request at least five (5) business days prior to the meeting will help ensure availability of the requested accommodations. TDD Line: (877) 729-7789



**DENTAL BOARD OF CALIFORNIA
MEETING MINUTES
March 14, 2022**

NOTE: In accordance with Government Code Section 11133 and Governor Gavin Newsom's Executive Order N-1-22, the Dental Board of California (Board) met on March 14, 2022, via teleconference/WebEx Events, and no public locations or teleconference locations were provided.

Members Present:

Alan Felsenfeld, MA, DDS, President
James Yu, DDS, MS, Vice President
Sonia Molina, DMD, MPH, Secretary
Steven Chan, DDS
Lilia Larin, DDS
Meredith McKenzie, Esq., Public Member
Angelita Medina, Public Member
Alicia Montell, DDS
Steven Morrow, DDS, MS
Rosalinda Olague, RDA, BA
Joanne Pacheco, RDH, MAOB

Members Absent:

Mark Mendoza, Public Member

Staff Present:

Sarah Wallace, Interim Executive Officer
Tina Vallery, Chief of Administration and Licensing
Jessica Olney, Anesthesia Unit Manager
Wilbert Rumbaoa, Administrative Services Unit Manager
Paige Ragali, Acting Dentistry Licensing and Examination Unit Manager
Mirela Taran, Administrative Analyst
David Bruggeman, Legislative and Regulatory Specialist
Kristy Schieldge, Regulatory Counsel, Attorney IV, Department of Consumer Affairs (DCA)
Tara Welch, Board Counsel, Attorney III, DCA

12:00 p.m., Monday, March 14, 2022

Agenda Item 1: Call to Order/Roll Call/Establishment of a Quorum

The Board President, Dr. Alan Felsenfeld, called the meeting to order at 12:05 p.m. The Board Secretary, Dr. Sonia Molina, called the roll; 11 Board Members were present, and a quorum was established.

DRAFT - Dental Board of California
March 14, 2022 Meeting Minutes

Agenda Item 2: Public Comment on Items Not on the Agenda

Dr. Maura Tusso voiced concerns in relation to her California dentist license. Dr. Tusso was advised that her inquiries will be responded to by the Board's Interim Executive Officer.

Agenda Item 3: Discussion and Possible Action on February 10-11, 2022 Board Meeting Minutes

Ms. Sarah Wallace, Interim Executive Officer, requested an amendment to the meeting minutes on page 5 of the meeting materials, Agenda Item 4, first paragraph, first line, to add "he" before "attended".

Motion/Second/Call (M/S/C) (Yu/Pacheco) to approve the February 10-11, 2022 meeting minutes as revised.

Ayes: Chan, Felsenfeld, Larin, McKenzie, Medina, Molina, Montell, Morrow, Olague, Pacheco, Yu.

Nays: None.

Abstentions: None.

Absent: Mendoza.

Recusals: None.

The motion passed. The Board received public comment. Dr. Tusso inquired whether public comments are noted formally at Board meetings and how she would go about presenting a question. Dr. Felsenfeld responded that they are not and that topics can be brought up at any meeting to be requested as an agenda item at a future Board meeting.

Agenda Item 4: Discussion and Possible Action to Consider Comments Received During the 45-Day Comment Period and Proposed Responses Thereto for the Board's Rulemaking to Amend California Code of Regulations, Title 16, Sections 1021, 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1044, 1044.1, 1044.2, 1044.3, and 1044.5, 1070.8, Adopt Sections 1017.1, 1043.8.1, and 1043.9, 1043.9.1, 1043.9.2, and Repeal Section 1044.4 Relating to the SB 501 (Anesthesia and Sedation) Rulemaking

Regulatory Counsel, Ms. Kristy Schieldge, went over the rulemaking process and provided a brief explanation of where the Board is in this process and where the Senate Bill (SB) 501 rulemaking is headed. She provided members with a chart that is produced by the Office of Administrative Law to explain the rulemaking process. The Office of Administrative Law (OAL) is the agency that is responsible for reviewing and approving all regulations for state agencies in the state, including the Board. OAL will review regulations based on six standards, which include: authority, clarity, consistency, non-duplication, reference, and necessity.

Ms. Schieldge provided a brief background of the initiation of the rulemaking process, including the Board's action at its November 2021 Board meeting where it authorized the Executive Officer to initiate a rulemaking to implement these changes. Pursuant to that directive, the following documents were posted on the Board's website and sent to interested parties: Notice of Proposed Rulemaking; Initial Statement of Reasons; and the Proposed Text. Changes to proposed text are required by law to be shown in underline for addition of new text and strikethrough for deletion of existing text.

The notice was published by OAL, and the proposed text noticed for a 45-day written public comment period, which ended on February 15, 2022; there was also a hearing held on February 16, 2022, to take additional public comments. Ms. Schieldge advised the members that they are required to consider and respond to all comments received in response to the Board's proposal. The meeting materials contain the public comments received on the Board's proposal, including those provided at the public hearing held on February 16, 2022. She reminded the members that public comment closed at the February 16, 2022 hearing, and therefore her recommendation was that the Board does not entertain any new comments on this agenda item. Doing so would require the Board to re-open the public comment period. She advised the Board that this Board meeting item was simply to discuss the comments already received and whether to accept the comments and make further modifications to the proposed text or reject them.

If the Board agreed that changes should be made in response to comments, Ms. Schieldge advised the Board that it had a couple of options. If the comments are nonsubstantial (grammatical, technical or does not substantially affect a right or responsibility under the law) or substantial, sufficiently related (meaning a reasonable member of the public could have determined from the notice that these changes to the regulation could have resulted), then changes may be made after 15-day notice to the public is provided. Generally, the Board would look at what was struck out or underlined in the originally proposed regulatory language for guidance on this. If not sufficiently related (meaning it raised a new topic not covered by the original proposal – OAL refers to it as “major changes”), then the rulemaking would need to be re-started.

Mr. David Bruggeman, Legislative and Regulatory Specialist, provided the report, which is available in the meeting materials. He presented each comment and staff's recommendations to the written public comments on the proposed regulations and the comments that were made at the February 16, 2022 regulatory hearing:

A. Email, dated January 23, 2022, from Lois Richardson

Comment Summary: The commenter proposed edits to proposed California Code of Regulations (CCR), title 16, sections 1043(b), 1043.9(b), and 1044(a). The commenter noted that the Joint Commission on Health Care Organizations now operates under the name “The Joint Commission” (Comment No. 1), and the agency responsible for licensing hospitals in the State of California is the California Department of Public

Health, not the California Department of Health Services (Comment No. 2). She also recommended substituting the word “that” for the word “which” when it follows the phrase “treatment facility” in sections 1043, 1043.9(b), and 1044 (Comment No. 3).

Staff Recommended Response:

Accept Comments: Under Government Code section 11346.8(c), the Board may make changes to the originally proposed regulatory language that are not related to the original proposal without further notice if the proposed changes are nonsubstantial or solely grammatical in nature. At the time that the existing regulatory language was adopted in sections 1043(b) and 1044(a), the relevant accrediting body for general acute care hospitals was titled, “Joint Commission on Health Care Organizations,” but has apparently changed since that time to “The Joint Commission” (see attached “The Joint Commission 70-Year Historical Timeline,” published by the Joint Commission). The originally proposed regulatory language in proposed section 1043.9(b) mirrors the existing text, for consistency, found in sections 1043(b) and 1044(a). As a result of the renaming/branding of The Joint Commission, the Board proposes to accept Comment No. 1 as a nonsubstantial change and will amend the term in sections 1043, 1044, and 1043.9.

Comment No. 2 relates to the transfer of authority over health facilities (including general acute care hospitals) from the California Department of Health Services (the agency responsible for licensure of these hospitals at the time the regulation was adopted) to the California Department of Public Health (see Health & Saf. Code, §§ 20, 1250 and 131050) effective July 1, 2007. As a result, the Board considers changing of the name from “Health Services” to “Public Health” to be nonsubstantial and proposes to modify the text as recommended. The Board considers Comment No. 3 to be solely grammatical and agrees with the change, and therefore accepts the comment. As a result of the foregoing, the Board proposes to make the changes proposed by the commenter for sections 1043(b), 1043.9(b), and 1044(a).

B. 1. Mary Wilson, anesthesia nurse with the Indio Surgery Center, written comments dated January 24, 2022

Comment Summary: The commenter argued that many ambulatory dental surgery centers treat thousands of pediatric patients every year under general anesthesia, that many of these centers treat patients in an underserved demographic, and there are a limited number of pediatric dental offices accepting Medi-Cal and Denti-Cal. In light of these and other considerations, the commenter requested the Board take into consideration the language of “outpatient” as solely a dental office, thus leaving ambulatory centers exempt from the regulatory requirements.

The commenter did not cite to specific regulatory sections or proposals, but existing text at section 1043(b) defines “outpatient” for the purpose of determining when a general anesthesia permit is required, as follows:

(b) For purposes of this article, “outpatient” means a patient treated in a treatment facility which is not accredited by the Joint Commission on Health Care Organizations or licensed by the California Department of Health Services as a “general acute care hospital” as defined in subdivision (a) of Section 1250 of the Health & Safety Code.

Staff Recommended Response:

Reject Comment: Government Code section 11346.8(c) prohibits a state agency from adopting changes to originally noticed text, unless the change or modification is sufficiently related to the original text previously made available to the public that the public was adequately placed on notice that the change could result from the originally proposed action. A change is considered to be sufficiently related if "a reasonable member of the directly affected public could have determined from the notice that these changes to the regulation could have resulted." (Cal. Code Regs., tit. 1, § 42.)

Section 1043(b) was noticed without any changes to the originally adopted text (i.e., changes were not shown in underline and strikeout). As set forth in the Notice of Proposed Regulatory Action, the purpose of the current proposal is to implement the new requirements of Senate Bill 501 (Glazer, Chapter 929, Statutes of 2018). Although some provisions of that bill became effective on January 1, 2019, provisions governing the use of minimal, moderate, and deep sedation and general anesthesia became effective on January 1, 2022. Business and Professions Code section 1646.1(a), which section 1043(b), implements, requires, in pertinent part the following:

(a) A dentist shall possess either a current license in good standing and a general anesthesia permit issued by the board or a permit under Section 1638 or 1640 and a general anesthesia permit issued by the board in order to administer or order the administration of deep sedation or general anesthesia on an **outpatient basis** for dental patients. (Emphasis added.)

This requirement for a dentist to obtain a general anesthesia permit from the Board to order or administer general anesthesia on an outpatient basis was first enacted as part of the Dental Practice Act in 1979 (see Stats.1979, c. 886, p. 3071, § 1). As specified above, SB 501 does not alter that requirement. The current regulations have also not been amended since 2006 and the Board has previously rejected similar requests to exempt surgery clinics from the outpatient definition (see more detailed response below in response to comment H. below).

Since the commenter makes suggestions for changes not sufficiently related to the originally noticed regulatory proposal, Board Regulatory Counsel advises that any substantial changes to Section 1043(b) would require the Board to begin the regulatory process over again if the Board wanted to consider changes to that section. Business and Professions Code section (BPC) section 1646.11 provides:

A general anesthesia permitholder who has a permit that was issued before January 1, 2022, may follow the terms of that existing permit until it expires. Any permit issued or renewed pursuant to this article on or after January 1, 2022, shall require the permitholder to follow the new requirements of this article.

In the interests of existing and new general anesthesia permitholders and the public, it is therefore critically important that the Board complete the rulemaking process as expeditiously as possible. The Board therefore declines to make any changes to section 1043(b) at this time.

**B. 2. Mary Wilson, anesthesia nurse with the Indio Surgery Center,
written comments received at the hearing on February 16, 2022**

Comment Summary:

Comment 1: The commenter renewed her request to revise the “outpatient” definition to include an exemption for an accredited/Medi-Cal certified ambulatory surgery center and that the “outpatient” definition refer solely to the dental office.

Comment 2: The commenter also requested that an accredited/Medi-Cal certified ambulatory surgery center “be included within the acute care facilities in section 2827 [presumably of the Business and Professions Code] in reference to CRNA’s.”

Staff Recommended Response:

Reject Comments:

Comment 1: For the reasons set forth above under the response to the B.1. comments above, the Board rejects this comment.

Comment 2: BPC section 2827 provides the following in the Nursing Practice Act:

The utilization of a nurse anesthetist to provide anesthesia services in an acute care facility shall be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist. If a general anesthetic agent is administered in a dental office, the dentist shall hold a permit authorized by Article 2.7 (commencing with Section 1646) of Chapter 4 or, commencing January 1, 2022, Article 2.75 (commencing with Section 1646) of Chapter 4.

However, this provision is not part of the Dental Practice Act, relates to the provision of anesthesia services by nurse anesthetists in acute care facilities, and simply addresses the requirements for administration in a dental office, which is only one type of outpatient setting. According to Board Regulatory Counsel, this provision does not expressly or impliedly supersede the requirements in BPC section 1646.1. To the extent

the commenter is suggesting amendments to existing section 1043(b) or changes to BPC section 1646.1, the comments are rejected as neither not sufficiently related to this rulemaking or requiring statutory changes that are beyond the authority for the Board to address in this rulemaking.

C. Letter, dated January 27, 2022, via email from Tammy Kegler, from Kenneth D. Pierson, co-owner of Hapy Bear Surgery Center, LLC

Comment Summary: The commenter stated that an ambulatory surgical center should be allowed to contract with any properly licensed anesthesia provider, be that a dentist with an anesthesia permit from the Dental Board of California, a Medical Anesthesiologist with or without an anesthesia permit from the Dental Board of California, or a Certified Registered Nurse Anesthetist licensed in the state of California. The commenter requested that state licensed ambulatory surgical centers be exempted from SB 501.

Staff Recommended Response:

Reject Comments: As explained in the response to comments B.1. and B.2. above, to the extent the commenter is requesting amendments to existing section 1043(b) or BPC section 1646.1, the request is rejected as either not sufficiently related to this rulemaking or requiring statutory changes that are beyond the authority of the Board to address in this rulemaking.

D. Letter, dated January 31, 2022, from Jeremy Pierson, CEO and co-owner of Hapy Bear Surgery Center, LLC

Comment Summary: The commenter restated arguments raised in comment C. above. In addition, the commenter stated that the regulations associated with Senate Bill 501 that are being written at this time are attempting to allow the Board to overstep its regulatory limits by determining the necessary licenses needed by anesthesia professionals working in their ambulatory surgery center (ASC). The commenter further strongly requested that ASCs as outpatient treatment centers be exempted from these regulations.

The commenter argued that the Dental Board of California should have regulatory oversight for dental offices but not over ASCs that the commenter states are held to a much higher standard for patient safety by their own regulatory entities. The commenter stated that any dentist working in an ASC would be under the purview of the Dental Board but the ASC is not. He further asserted that if ASCs are not exempted from the regulations for SB 501, it will significantly impact the number of patients that are able to be seen due to the severe lack of anesthesia providers who have anesthesia permits from the Board.

Staff Recommended Response:

Reject Comments: The Board is not asserting, through this rulemaking, authority to regulate ASCs. The Board agrees with the commenter that “[a]ny dentist working in an ASC would be under the purview of the [Board]” The Board has statutory authority over dentists ordering the administration of or administering general anesthesia or deep sedation, moderate sedation, oral conscious sedation (adults), and pediatric minimal sedation to dental patients on an outpatient basis, which includes treatment at ASCs that are not general acute care hospitals and are considered an outpatient setting by law (see BPC, §§ 1646.1, 1647.2, 1647.19, and 1647.31; current Cal. Code Regs., tit. 16, § 1043(b); Health and Safety Code (HSC), §§ 1248.1(a), (f)).

Although the Board does not regulate ASCs directly, the Board’s statutory authority to require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee to administer or order the administration of anesthesia or sedation is established in BPC sections § 1646.4(a) (general anesthesia and deep sedation), and 1647.7(a) (moderate sedation). Further, in response to a complaint submitted to the Board alleging that a dentist or dental assistant has violated any Board law or regulation, the Board may inspect the books, records, and premises of any California licensed dentist, regardless of practice location, and the licensing documents, records, and premises of any dental assistant. (BPC, § 1611.5(a).)

With respect to the commenter’s request for exemption of ASCs from the Board’s regulations, the Board notes that existing section 1043(b) establishes that outpatient treatment does not include treatment in a general acute care hospital accredited by the Joint Commission on Health Care Organizations or licensed by the California Department of Health (in-patient facilities), and the regulatory proposal does not affect the current application of the Board’s regulations to dentists working at ASCs. As explained in the response to comments B.1., B.2., and C. above, to the extent the commenter is suggesting amendments to existing section 1043(b) or BPC section 1646.1, it is rejected as either not sufficiently related to this rulemaking or requiring statutory changes that are beyond the authority for the Board to address in this rulemaking. The Board therefore rejects this comment.

E. Letter, dated January 31, 2022, from Alan J. Vallerine, CEO of the Fresno Dental Surgery Center (FDSC), via email from Chelsea Parreira,

Comment Summary: The commenter raised concern that the regulatory proposal could have a major negative impact on access to care if not amended. The commenter noted that FDSC treats the underprivileged and special needs patients referred to them by over 500 conventional dental offices in the surrounding area, and patients are referred to FDSC only after all attempts have been made and documented to try and complete the patient’s dental treatment in a conventional setting. The commenter argued that any disruption of dental services at FDSC would have a dramatic increase

in children being referred to emergency rooms that are already overwhelmed. The commenter requested that their state licensed and accredited ASCs be exempt from the proposed regulation, proposed amended language, and the current law.

Staff Recommended Response:

Reject Comments: With respect to the comment requesting exemption from regulations, the Board presumes the comment is directed to possible changes to Section 1043(b). As explained in the response to comments B.1., B.2., C., and D. above, to the extent the commenter is suggesting amendments to existing section 1043(b) or BPC section 1646.1, it is rejected as either not sufficiently related to this rulemaking or requiring statutory changes that are beyond the authority for the Board to address in this rulemaking.

F. Letter, dated January 28, 2022, from John Bonutto, Indio Surgery Center (received on 2/3/22), follow-up email as sent via Lori Dean on 2/11/22 with a modified letter, and an additional email sent via Lori Dean on 2/15/22 with proposed text)

Comment Summary: The commenter indicated that some provisions of the proposed regulations seem ambiguous. The commenter stated that in general, there does not seem to be any differentiation between a standard dental office and a licensed and accredited ASC. The commenter reiterated ASC safety, protocol, and oversight comments made in comments B.1., B.2., C., D., and E. above. The commenter stated that “[w]ithout exemption from Bill-501, specifically their ability to utilize CRNAs [certified registered nurse anesthetists] as part of our Surgical Team, our operations would be drastically effected.” The commenter also noted the difficulty finding dental and medical anesthesiologist with a dental general anesthesia permit. The commenter requested that SB 501 be modified to reflect the following:

- (A) Accredited/Medicare certified ASCs should be exempt from the provisions of SB 501 (Comment No. 1) and the definition of outpatient should be solely dental offices (Comment No. 2); and, (B) Accredited ASCs should be included with acute care facilities in section 2827 addressing the use of certified nurse anesthetists. (Comment No. 3.)

Staff Recommended Response: The Board rejects these comments for the following reasons.

Comment No. 1, 2: For the reasons set forth above under the response to comments B.1., B.2., C., and D. above, the Board rejects this comment.

Comment 3: BPC section 2827 provides the following in the Nursing Practice Act:

The utilization of a nurse anesthetist to provide anesthesia services in an acute care facility shall be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist. If a general anesthetic agent is administered in a dental office, the dentist shall hold a permit authorized by Article 2.7 (commencing with Section 1646) of Chapter 4 or, commencing January 1, 2022, Article 2.75 (commencing with Section 1646) of Chapter 4.

However, this provision is not part of the Dental Practice Act, relates to the provision of anesthesia services by nurse anesthetists in acute care facilities, and simply addresses the requirements for administration in a dental office, which is only one type of outpatient setting. This provision does not expressly or impliedly supersede the requirements in BPC section 1646.1. The Board, pursuant to BPC section 1614, has the authority to issue regulations concerning the provisions of the Dental Practice Act. As BPC section 2827 is not part of the Act, the Board lacks authority to make the suggested change. To the extent the commenter is suggesting amendments to existing section 1043(b) or changes to BPC section 2427, the comments are rejected as neither not sufficiently related to this rulemaking or requiring statutory changes that are beyond the authority of the Board to address in this rulemaking.

G. Letter, dated February 13, 2022, from Robert Orr, CRNA, MS, MBA, BSN, Orr Anesthesia Services

Comment Summary: The commenter indicated that he is an anesthesia provider that has been providing pediatric dental cases for many years and thousands of cases. The commenter indicated that the new SB 501 needs clear language for all groups and stakeholders especially the children. He indicated that dental offices need the same safety for the children that hospitals and ASCs provide, and there is a huge difference in the way a dentist office is regulated as compared to hospitals and surgery centers that deal with agencies like CMS. The commenter indicated FDSC has done over 59,000 patients since September 2012, without any patient transfer to a higher level of care for a medical or dental complication. The commenter indicated that there is a misconception that CRNAs (certified registered nurse anesthetists) are not capable of taking care of these cases and that there is not enough anesthesiologist or pediatric anesthesiologists to do cases, much less do strictly pediatrics dental cases. The commenter urged the Board to thoughtfully consider all stakeholders in the wording of this and future legislative actions and that thousands of kids can be impacted by SB 501, and it won't be in a good way.

Staff Recommended Response: The Board rejects these comments for the following reasons. It is unclear from this comment what specific area the commenter recommends be amended or addressed. It appears that the comment advocates for the Board to authorize CRNAs to perform general anesthesia for pediatric dental patients in an ASC. However, the Board's authority to authorize the order or administration of general anesthesia to pediatric patients is limited to dentists and physicians licensed by

the Medical Board of California (BPC, §§ 1646.1, 1646.9). This comment must therefore be rejected as beyond the authority of the Board to address in this rulemaking.

To the extent the commenter is suggesting amendments to existing section 1043(b) or changes to BPC section 2427, the comments are rejected as neither not sufficiently related to this rulemaking or requiring statutory changes that are beyond the authority for the Board to address in this rulemaking.

H. Letter, dated February 14, 2022, from Elizabeth DeBouyer, Executive Director, California Ambulatory Surgery Association (CASA)

General Background Comment Summary: The commenter explained there currently are approximately 64 ASCs in California providing some form of dental services with a small amount of those facilities providing dental procedures. The commenter noted that ASCs are regulated under a variety of state and federal requirements, and an ASC can perform procedures on patients if it meets one of three criteria:

- 1.) Licensed by the California Department of Public Health (CDPH) as a “surgical clinic” pursuant to Health and Safety Code Section 1204(b)(1);
- 2.) Accredited as an “outpatient setting” by one of the five accrediting bodies approved by the Medical Board of California (MBC) pursuant to Health and Safety Code Section 1248; or
- 3.) Certified by the Medicare Program as an “ambulatory surgical center.”

The commenter stated that under these regulatory scenarios, either CDPH, MBC, and/or accrediting bodies, or CMS and/or their contracting entity can take corrective action against the facility. The commenter stated that the Board has no statutory or regulatory authority to regulate these facilities, regardless of the level of sedation and anesthesia being provided nor the types of dental procedures that are being performed. The commenter argued that the only authority the Board has is over the licensed dentists performing these procedures in these “outpatient” settings. The commenter argued that the proposed regulations appear to miss the mark on the definition of “outpatient” and “outpatient setting.”

The commenter attached a memo, dated September 10, 2019, to the Board from attorneys Jeanne Vance and Jennifer Nguyen of the law firm Salem and Green, in which the following opinions were rendered:

- (1) California Business and Professions code section 1646.18 does not apply to services performed in a Medicare-certified ambulatory surgery center;
- (2) A dental ambulatory surgery center is not subject to the jurisdiction of the Dental Board if it is an outpatient setting subject to general anesthesia requirements under the Health and Safety Code;
- (3) the dental anesthesia permit requirements set forth in Section 1646.1 do not apply to services provided outside of a dental office; and,

(4) CRNA's may deliver general anesthesia at a Medicare-certified ambulatory surgery center by dentist's order without having a dental anesthesia permit.

Summary of Comment No. 1: The commenter recommended the Board revise the definition for "outpatient setting" in the proposed regulations, as follows:

For purposes of this article, "outpatient setting" means a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, an outpatient setting accredited by an accreditation agency, as defined in Section 1248 of the Health and Safety Code, or an ambulatory surgical center certified to participate in the Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

Staff Recommended Response to Comment No. 1: Reject the comment. The Board's current authority for mandating a permit to order or administer anesthesia or sedation is based upon whether the dentist is performing the procedure on an "outpatient basis" (see BPC, §§ 1646.1, 1647.2, 1647.19, and 1647.31). The words "outpatient setting" occur in existing text in Article 5 (without definition) and as a proposed additional definition to Article 5.5, section 1044(b) for "outpatient basis" as follows:

(a) "Outpatient basis" means "outpatient setting" as used in Health and Safety Code Sections 1248 and 1248.1 and means all settings where oral conscious sedation is being provided to dental patients with the exception of a treatment facility which is accredited by the Joint Commission on Health Care Organizations or licensed by the California Department of Health Services as a "general acute care hospital" as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

The Board's current proposal adds the words "outpatient setting" to the definition of "outpatient basis" at section 1044(a) to conform to the terminology used in HSC sections 1248 and 1248.1, which are already cross-referenced in section 1044(a). The commenter's proposal would expand the scope of the original rulemaking to include this new definition, which exceeds the scope of the Board's original rulemaking and, in the opinion of Board Regulatory Counsel, would require the Board to restart the rulemaking to consider these changes.

In addition, HSC section 1248.1 lists eight different types of permissible outpatient settings that may operate in California, including an ASC that is certified to participate in the Medicare program. However, nowhere in that section does it indicate that operation of these settings automatically exempts dentists or other personnel from complying with licensure requirements contained in the Dental Practice Act.

On the contrary, since the Board last reviewed this provision, HSC section 1248.1 still requires dentists and physicians to comply with the relevant portions of the Dental Practice Act in that outpatient setting. Section 1248.1 provides, in pertinent part:

No association, corporation, firm, partnership, or person shall operate, manage, conduct, or maintain an outpatient setting in this state, unless the setting is one of the following:

...

(f) Any outpatient setting to the extent that it is used by a dentist or physician and surgeon in compliance with Article 2.7 (commencing with Section 1646) or Article 2.8 (commencing with Section 1647) of Chapter 4 of Division 2 of the Business and Professions Code. (Emphasis added.)

...

Nothing in this section shall relieve an association, corporation, firm, partnership, or person from complying with all other provisions of law that are otherwise applicable.

The suggested definition by the commenter therefore appears inconsistent with the more exhaustive list of outpatient settings set forth in HSC section 1248.1 and the express legislative directive to comply with all other provisions of law that are otherwise applicable. This section specifically contemplates compliance with the relevant article of the Dental Practice Act (at the time, Article 2.7) dealing with requirements for obtaining a general anesthesia permit and which applies to “any outpatient setting to the extent that it is used by a dentists or physician.” For the aforementioned reasons, the Board rejects this comment.

Summary of Comment No. 2: The commenter requested that these outpatient settings (referenced in the above definition) must be exempt from the regulations and any regulatory oversight by the Board. Otherwise, the commenter asserted that what the Board is promulgating will be considered an “underground regulation” by creating barriers to access to care without proper enabling statute authorizing the Board regulatory oversight of these facilities.

Staff Recommended Response to Comment No. 2: Reject the comment. The Board is not asserting, through this rulemaking, authority to regulate ambulatory surgical center settings. The Board regulates dentists’ administration of anesthesia and sedation on an “outpatient basis,” which includes under existing regulation, administration in settings other than a general acute care hospital (see current subsections 1043(b) and 1044(a)). The Board’s regulatory action to implement relevant statutory provisions is not “underground” but rather existing law and regulation. The Board has statutory and regulatory authority over dentists administering or ordering the administration of general anesthesia or deep sedation, moderate sedation, oral conscious sedation (adults), and pediatric minimal sedation to dental patients on an

outpatient basis, which includes treatment at ASCs that are considered an outpatient setting by law (see BPC, §§ 1646.1, 1647.2, 1647.19, and 1647.31; current Cal. Code Regs., tit. 16, §§ 1043(b) and 1044(a); and HSC, §§ 1248.1(a), (f)).

The Board's statutory authority to require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee to administer or order the administration of anesthesia or sedation is established in BPC sections § 1646.4(a) (general anesthesia and deep sedation) and 1647.7(a) (moderate sedation). Further, in response to a complaint submitted to the Board alleging that a dentist or dental assistant has violated any Board law or regulation, the Board may inspect the books, records, and premises of any California licensed dentist, regardless of practice location, and the licensing documents, records, and premises of any dental assistant. (BPC, § 1611.5, subd. (a).) The Board therefore rejects this comment.

With respect to the comment requesting exemption from regulations, the Board presumes the comment is directed to possible changes to sections 1043(b) or 1044(a). As explained in the response to comments B.1., B.2., C., and D. above, to the extent the commenter is suggesting amendments to existing sections 1043(b) or 1044, it is rejected as not sufficiently related to this rulemaking. The regulatory proposal to add new subsection 1043.9(b) simply restates the Board's existing authority for pediatric patients receiving oral conscious sedation at section 1044(a). For the reasons discussed in more detail below, the Board wishes to retain this long-standing interpretation of outpatient basis for the newly titled "pediatric minimal sedation permit" (previously pediatric oral conscious sedation permit) that the Board believes has worked well to ensure public protection and to maintain consistency with the "outpatient" and "outpatient basis" definitions contained in sections 1043 and 1044. Consideration of possible changes to section 1043.9 and not the others would lead to inconsistent regulatory oversight. For these reasons, the comments are rejected.

Summary of Comment No. 3: The commenter recommended repealing the existing definition of "outpatient" in section 1043(b) and replacing it with the following (as represented in double underline):

(b) For purposes of this article, "outpatient" means a patient treated in a treatment facility which is not a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, an outpatient setting accredited by an accreditation agency, as defined in Section 1248 of the Health and Safety Code, or an ambulatory surgical center certified to participate in the Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or licensed by the California Department of Health Services as a "general acute care hospital" as defined in subdivision (a) of Section 1250 of the Health & Safety Code.

Staff Recommended Response to Comment No. 3: Reject the comment. As explained in the response to comments B.1., B.2., C., and D. above, this proposed

comment is not sufficiently related to this rulemaking. The Board also considers the following substantive legal and policy issues regarding this existing regulatory definition.

Surgical clinics licensed by the California Department of Public Health are specialty clinics defined under HSC section 1204(b)(1) as "a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours." The licensing and regulations covering these facilities are less stringent than those for general acute care hospitals, which are obligated to provide more services, be available 24 hours a day, and handle inpatient procedures. As a result, the Board's existing regulation at section 1043(b) recognizes that "outpatient basis" does not include accredited or licensed general acute care hospitals within the definition of "outpatient" because those health care facilities provide "staff that provides 24-hour **inpatient care**, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services . . ." (emphasis added) as specified in HSC section 1250(a).

HSC section 1225(c)(2) requires surgical clinics (as defined in HSC section 1204(b)) to comply with the federal certification standards for ASCs found in Code of Federal Regulations, title 42, sections 416.1 through 416.54. It is the Board's understanding that these standards are not equivalent to those required for Joint Commission accreditation as a hospital, or for licensure as a "general acute care hospital" by the California Department of Public Health.

In addition, the commenter's proposed amendment appears to conflict with the HSC section 1248(b)(1) definition of an "outpatient setting," which states:

"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.

The Board's current definition at section 1043(b) incorporates the definition in HSC section 1248.1, which includes the exemption, by law, for a general acute care facility, which is defined in HSC section 1250(a) as a general acute care hospital. The Board's current definition therefore is consistent with the definitions for outpatient settings noted above and contemplated by current HSC standards.

Finally, when the Board last considered revisions to section 1043(b) in 2006, the Board was asked by the California Association of Nurse Anesthetists (CANA) to consider a similar issue and exempt facilities accredited by an accrediting entity approved by the Medical Board of California (see p. 3 of Exhibit "E" Final Statement of Reasons attached to written comments provided by Andrew Kugler) and was advised by Board counsel at

the time that the requested changes would be inconsistent with the statute. Current Board Regulatory Counsel does not disagree with that assessment and advises that revising the definition for “outpatient” as recommended would require amendments to the Dental Practice Act.

For all of the foregoing reasons, this comment is rejected.

Summary of Comment No. 4: The commenter recommended repealing the existing introductory sentence in section 1043.3 as follows (as represented in double strikethrough):

~~All offices in which general anesthesia, deep sedation, or conscious-moderate sedation is conducted under the terms of this article shall, unless otherwise indicated, meet the standards set forth below. In addition, an office may in the discretion of the board be required to undergo an onsite inspection. For the applicant who administers in both an outpatient setting and at an accredited facility, the onsite must be conducted in an outpatient setting. The evaluation of an office shall consist of three parts:~~

Staff Recommended Response to Comment No. 4: Reject this comment. This comment appears related to the commenter’s position that the Board has no regulatory oversight over the premises, other than a dental office, in which a dentist administers general anesthesia to a patient. For the reasons set forth above under response to comment no. 2 for this commenter, the Board rejects this argument. In addition, the proposed requirement that an applicant who administers anesthesia in both an outpatient setting and at an accredited facility have their onsite inspection at an outpatient setting focuses the onsite inspection on the area where practice would occur and where an accurate assessment of the standards required for the permit may be made in an environment with possibly less stringent oversight than would be required for an accredited facility. The Board considers the existing requirement consistent with its consumer protection mission and therefore declines to make any modifications to the existing regulation.

Summary of Comment No. 5: The commenter recommended deleting the definition proposed by the Board for “outpatient basis” in section 1043.9(b) relating to pediatric minimal sedation permits, and replacing it with the following (as shown in double-underline):

(b) “Outpatient basis” as used in Section 1647.31 of the Code means all settings where pediatric minimal sedation is being provided to dental patients with the exception of a treatment facility which is a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, an outpatient setting accredited by an accreditation agency, as defined in Section 1248 of the Health and Safety Code, or an ambulatory surgical center certified to participate in the Medicare Program under Title XVIII of the federal Social Security

Act (42 U.S.C. Sec. 1395 et seq.) or licensed by the California Department of Health Services as a “general acute care hospital” as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

Staff Recommended Response to Comment No. 5: Reject this comment. The Board hereby incorporates the substantive legal and policy issues discussed in response to this commenter’s comment no. 3 above for this comment response. For the reasons discussed in that response, the Board wishes to retain this long-standing interpretation of outpatient basis for the newly titled “pediatric minimal sedation permit” (previously pediatric oral conscious sedation permit) that the Board believes has worked well to ensure public protection and to maintain consistency with the “outpatient” and “outpatient basis” definitions contained in sections 1043 and 1044. Consideration of possible changes to section 1043.9 but not the other sections would lead to inconsistent regulatory oversight. For these reasons, the comment is rejected.

Summary of Comment No. 6: The commenter recommended adding the following to the proposed 1043.9.1 requirements, as follows (as shown in double-underline):

(a) A licensed dentist who desires to administer or order the administration of pediatric minimal sedation on an outpatient basis is not required to apply to the Board for a pediatric minimal sedation permit if they possess another sedation permit from the Board and in compliance with Business and Professions Code 2725(b)(2).

Staff Recommended Response to Comment No. 6: Reject this comment. BPC section 2725(b)(2) is a provision in the Nursing Practice Act relating to the scope of practice for nursing. This provision does not relate to and is not referenced in any existing section of the Dental Practice Act. As the proposed regulations section is specific to the ability of a dentist to administer or order pediatric minimal sedation on an outpatient basis in compliance with the Dental Practice Act, this proposed change is unrelated to the current proposal and beyond the scope of the Board’s current authority to consider for this rulemaking proposal. For these reasons, the comment is rejected.

Summary of Comment No. 7: The commenter recommended repealing the existing definition of “outpatient basis” in Section 1044(a) and replacing it with the following (as shown in double-underline):

(a) “Outpatient basis” means a dental office where oral conscious sedation is being provided to dental patients with the exception of a treatment facility which is a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, an outpatient setting accredited by an accreditation agency, as defined in Section 1248 of the Health and Safety Code, or an ambulatory surgical center certified to participate in the Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or licensed by the

California Department of Health Services as a “general acute care hospital” as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

Staff Recommended Response to Comment No. 7: Reject the comment. The Board hereby incorporates the reasons set forth above in response to comment no. 3 for this commenter, in response to this comment. BPC section 1647.19 contains no such limitation on the provision of oral conscious sedation to only dental offices, but similar to other provisions of the Dental Practice Act, requires a permit for sedation on an “outpatient basis.” HSC section 1248.1(f) does not limit outpatient settings for dentists to only a “dental office.” On the contrary, subsection (f) indicates that compliance with Dental Practice Act requirements relates to “any outpatient setting.” The Legislature has been aware of this requirement since 2005 and has chosen to not act to limit the scope of the required permit to a specific outpatient setting as it has done for other types of permits (see BPC, § 1646.9(a) limiting the requirement for a physician to obtain a general anesthesia permit from the Board to administer anesthesia to the office of a licensed dentist).

When the Board last considered revisions to section 1044 in 2006, the Board was asked to consider a similar issue. It was suggested that the definition of “outpatient basis” be amended to include “a treatment facility which (that) is accredited as an office-based surgery facility by the Joint Commission on the Accreditation of Health Care Organizations...”

The Board considered the suggested language and agreed with the comment that an evaluation of the Joint Commission’s standards may be needed. The Board opted not to make the suggested change at that time to maintain consistency with the language for oral conscious sedation for minors. The Board also noted the review of Joint Commission standards would delay implementation of the regulations and impact the ability of patients to seek care. The Board did not make the change and requested staff research the issue and report back to the Board.

Board staff notes that further delaying implementation of the regulations at this time would lead to a lapse in permits for dental general anesthesia and sedation. A formal review of the current standards could be done, but staff recommends that such a review not delay implementation of the regulations. For these reasons, this comment is rejected.

Summary of Comment No. 8: The commenter proposed changes to BPC section 1647.2(c), including the requirement that a dentist be physically present in the treatment facility while the patient is sedated when receiving treatment at a surgical clinic.

Staff recommended response to Comment No. 8: Reject the comment. As the commenter acknowledges, the proposed change is to statute. Such a change is beyond the scope of this rulemaking process.

I. Letter, dated February 15, 2022, from Mary McCune on behalf of the California Dental Association

Ms. McCune offered several comments, which are summarized and responded to below:

Comment No. 1 Summary: Form PE-1 (NEW 05/2021), titled “Documentation of Deep Sedation and General Anesthesia or Moderate Sedation Cases for Pediatric Endorsement” appears to be missing the title and the fee information. The commenter believes this is intended to be the application form for the Pediatric Endorsement. The commenter also believes the form is missing a certification of training where the applicant certifies that they have completed the training specified in statute for moderate sedation of patients under age 13.

Staff recommended response to Comment No. 1: Reject this comment. The Board has considered the comment and has decided to make no changes to the text based thereon for the following reasons.

The proposed new regulatory section 1043.8.1 outlines the requirements for an application to the Board for a pediatric endorsement for a general anesthesia permit (in subsection (a)) and a pediatric endorsement for a moderate sedation permit (in subsections (b) and (c)). Those requirements include, among other things, completing Form PE-1, paying the appropriate application fee listed in section 1021, submitting a certificate of completion or other evidence showing completion of the training required by BPC section 1646.2 or 1646.9 (for pediatric endorsement of a general anesthesia permit), or BPC section 1647.3 (for pediatric endorsement of a moderate sedation permit).

Form PE-1 is for documenting the necessary cases required for the pediatric endorsement. The application for that endorsement consists of all items listed in the relevant portion of regulations section 1043.8.1. There is no specific form required for the endorsement application, only for the documentation of the cases required for the endorsement. Similarly, there is no certification by the applicant that they have completed the necessary training, applicants must submit proof of this training as part of their application.

Comment No. 2 Summary: The commenter would like the Board to include criteria for the board-approved training in pediatric life support and airway management consistent with BPC section 1601.8. Such criteria are not in the proposed regulations. The commenter’s organization has developed recommendations for such a course that they consider more appropriate for dental providers than the Pediatric Advanced Life Support (PALS) certification that applicants for the pediatric endorsement must complete.

Staff recommended response to Comment No. 2: Reject this comment. The Board has considered the comment and has decided to make no changes to the text based thereon for the following reasons.

The Board does not consider it necessary to put the specific course requirements for an alternative board-approved training in regulation. BPC section 1601.8 states that the Board “may approve a training standard” in lieu of PALS certification if a board-approved training standard is “an equivalent or higher level of training for pediatric dental anesthesia-related emergencies than PALS certification that includes, but is not limited to, pediatric life support and airway management.” The Board cited the American Red Cross, the American Hospital Association and the American Health and Safety Institute as these organizations work to establish and maintain standards in advanced cardiac life support and pediatric advanced life support. The Board does not feel that it could improve on the standards set by these organizations by developing its own criteria for alternative courses at this time.

Comment No. 3 Summary: Echoing concerns over the definition of “outpatient” and “outpatient facility,” the commenter believes the existing definition of “outpatient” in section 1043(b) of the regulations that is not proposed to be changed in this proposed regulatory action is inconsistent with definitions of “outpatient setting” found in HSC sections 1248 and 1248.1. The commenter suggests revising the definition of “outpatient” in section 1043(b) to include the definition of “outpatient setting” found in HSC sections 1248 and 1248.1.

Staff recommended response to Comment No. 3: Reject this comment. The Board has considered the comment and has decided to make no changes to the text based thereon for the following reasons.

As stated above, this proposed change is to existing text and not a change noticed required to implement SB 501. As a result, any possible changes to section 1043(b) would require the Board to start the regulatory process over to address these changes.

In addition, as explained in response to comments provided in H. above, the Board believes that its definitions of “outpatient” and “outpatient basis” are consistent with HSC sections 1248 and 1248.1 and the definition of “outpatient setting” used therein.

Comment No. 4 Summary: The commenter seeks clarity as to whether a dentist may order the administration of deep sedation/general anesthesia within their scope of practice in an outpatient setting as described in HSC section 1248.15(3). The commenter noted that the Board may not be able to speak to the authority of a dentist to order the administration of deep sedation/general anesthesia by a certified registered nurse anesthetist given pending legislation (SB 889).

Staff recommended response to Comment No. 4: Reject this comment. The Board has considered the comment and has decided to make no changes to the text based thereon for the following reasons.

The Board believes the commenter seeks clarity about whether a dentist is within their scope of practice to order the administration of deep sedation/general anesthesia in an outpatient setting by a certified registered nurse anesthetist. While there is pending legislation as of this writing that may change the ability of certified registered nurse anesthetists to administer anesthesia in dental settings, the Board can only speak to the laws and regulations in effect at the present time and to the proposed regulations at issue in this proceeding.

The Dental Practice Act at BPC sections 1646.1 and 1646.9, as enacted by SB 501, currently restricts the issuance of a general anesthesia permit (which would include deep sedation under the proposed regulations) to licensed dentists and physicians and surgeons (licensed by the Medical Board of California) who file an application and meet the necessary requirements. There currently is no provision in the Act for the Board to grant an anesthesia permit to a certified nurse anesthetist. The proposed changes to section 1043.1(b) would remove the reference to administration of general anesthesia by a nurse anesthetist to conform the current regulations to the requirements of SB 501, which were effective January 1, 2022.

While HSC section 1248.15(3) would allow the outpatient setting, in its discretion, to permit anesthesia service by a certified registered nurse anesthetist, a dentist could not, within their scope of practice, order a certified nurse anesthetist to administer deep sedation or general anesthesia.

Comment No. 5 Summary: The commenter suggested that the Board define equivalency standards for training in pediatric moderate sedation for inclusion on the form MSP-2 (Certification of Moderate Sedation Training). The commenter further suggested that the statutory requirement of 20 cases of moderate sedation in patients under BPC section 1647.3(d)(2) should be considered training equivalent to a Commission on Dental Accreditations (CODA) accredited pediatric residency.

Staff recommended response to Comment No. 5: Reject this comment. The Board has considered the comment and has decided to make no changes to the text based thereon for the following reasons.

The commenter seeks a statutory change, which is beyond the scope of this regulatory proceeding and confounds the competency demonstration requirements with the training requirements. BPC section 1647.3(d) sets out four requirements for a pediatric endorsement for a moderate sedation permit for which applicants must confirm **all** of the following:

- Completion of a Commission on Dental Accreditation (CODA) accredited residency in pediatric dentistry or the equivalent training in pediatric moderate sedation, as determined by the Board;
- Successful completion of at least 20 cases of moderate sedation to patients under 13 years of age;
- If providing sedation to patients under seven years of age, completion of 20 cases of moderate sedation for children under seven in the 24-month period preceding application or renewal; and
- Current certification in Pediatric Advanced Life Support and airway management or other board-approved training in these areas.

The statute requires all four requirements to be met, so absent a statutory change, it would not be permitted to substitute the 20 cases demonstration of *competency* requirement for the CODA-accredited residency in pediatric dentistry or the equivalent *training* requirement.

Comment No. 6 Summary: The commenter believes that Form PE-1 is the application for the pediatric endorsement and recommends Form PE-1 be retitled and a certification form added document training received as specified in BPC section 1647.2 for moderate sedation of patients under age 13.

Staff recommended response to Comment No. 6: Reject this comment. For the reasons set forth in response to comment no. 1 for this commenter, the Board rejects this comment. There is no form required but rather the requirements for application are contained in proposed section 1043.8.1.

Comment No. 7 Summary: The commenter believes that a certification of training form is missing from the application for the use of oral conscious sedation for adult patients. They recommended borrowing relevant language from forms OCS-2 and OCS-3 and using that language to replace form OCS-C. The purpose of such a form would be to ensure compliance with BPC Section 1647.20.

Staff recommended response to Comment No. 7: Accept this comment. The Board has considered the comment and has decided to make the following changes:

Currently proposed Form OCS-C (new 05/2021) was intended to cover all requirements for adult conscious sedation and incorporate all existing regulatory or statutory requirements. Upon review of this comment, it was discovered that the criteria for OSC-1 and OSC-4 were not captured on this new proposed form. As a result, the Board accepts this comment and the text of OSC-C will be modified to request that applicants identify which one of the four requirements listed in BPC section 1647.20 they meet, and to include evidence to demonstrate compliance with that requirement.

In addition, section 1044.4 will be retained, **and not repealed**. Applicants seeking to meet the requirement of BPC section 1647.20(d) – 10 cases or oral conscious

sedation satisfactorily performed by the applicant within any three-year period ending no later than December 31, 2005 – can still use Form OCS-4 (03/07) to document those cases.

J. Letter, dated February 15, 2022, from Alan Vallarine, DDS, Fresno Dental Surgery Center, Larry Church, DDS, Indio Surgery Center, Pankaj Patel, DMD, Bay Area Dental Surgery Center, Devin Larson, Blue Cloud Pediatric Surgery Centers, and Marcus Kasper, All Kids Dental Surgery Center

Comment Summary: The commenters recommended exempting certain facilities from the definition of “outpatient” in existing section 1043(b) and “outpatient basis” in existing section 1044(a) and the proposed “outpatient basis” definition contained in section 1043.9(b) (Comment No. 1). These revisions are consistent with the proposed changes recommended by another commenter in comment H. above. In addition, the commenters recommended striking the word “offices” or “office” and replacing it with “outpatient setting,” as follows (Comment No. 2):

1043.3. Onsite Inspections

All ~~offices~~ outpatient settings in which general anesthesia, deep sedation, or moderate sedation is conducted under the terms of this article shall, unless otherwise indicated, meet the standards set forth below. In addition, an ~~office~~ outpatient setting may in the discretion of the board be required to undergo an onsite inspection. For the applicant who administers in both an outpatient setting and at an accredited facility the onsite must be conducted in an outpatient setting. The evaluation of an ~~office~~ outpatient setting shall consist of three parts:

Staff recommended response to Comment No. 1: Reject the comment. For the reasons set forth above in response to comment H. above, the Board rejects this comment.

Staff recommended response to Comment No. 2: Reject the comment. The Board believes the term “office” is more commonly understood by dentists to include the premises or facility where general anesthesia services are provided and is a term used throughout the Dental Practice Act (see e.g., BPC sections 1646.1, 1646.9, 1647.16), and therefore declines to make this change.

K. Letter, dated February 15, 2022, from Jeanne Vance, on behalf of ASCs and other healthcare providers

Comment Summary: The commenter stated that application of minimum standards for the delivery of anesthesia intended for dental offices to the highly sophisticated operations of an ASC would run contra to the success of ASC, which have provided a less expensive alternative to hospital care with a similar surgical outcome. The commenter requested that the Board amend the proposed regulations to clarify sections 1043(b), 1043.3, 1043.9(b) and 1044 consistent with comment J. above.

Staff recommended response to Comments: Reject the comments. For the reasons set forth above in response to comment J. above, the Board declines to make the changes recommended by this commenter.

L. Letter, dated February 16, 2022, from Andrew Kugler on behalf of the California Association of Nurse Anesthetists

Comment Summary: The commenter stated that for more than 30 years, it was commonly understood that the definition of outpatient in section 1043(b) did not extend to patients treated at ASCs, meaning that dentists could order the administration of general anesthesia by a qualified provider (be it a CRNA or anesthesiologist) in an ASC, even if they did not hold an anesthesia permit, just as they do in acute care hospitals. However, the commenter understood that the Board has recently taken a contrary position that a dentist must hold a permit when ordering anesthesia in an ASC.

The commenter proposed changes to section 1043(b), 1043.9, and 1044(a) to exclude the following new types of facilities from the definition of “outpatient” and “outpatient setting”: (1) licensed by the California Department of Public Health as a “surgical clinic” pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health & Safety Code; (2) accredited by an accrediting agency approved by the Medical Board of California pursuant to Chapter 1.3 of Division 2 of the Health and Safety Code (commencing with section 128); or (3) certified to participate in the Medicare Program as an ambulatory surgical center pursuant to Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

Staff recommended response to comments: Reject this comment. The Board has considered the comment and has decided to make no revisions to the text thereon for the reasons set forth in responses to comments provided to the commenter under subsection H. above.

Oral and Written Comments Received at the Board’s February 16, 2022 Regulatory Hearing

A hearing was requested by several parties and was held via WebEx teleconferencing services on February 16, 2022, at 1:30 p.m., Pacific time.

Seven individuals offered comments, either on behalf of themselves or representing organizations. In many cases the same individuals had also provided written comments to the Board. In some cases, individuals who spoke at the hearing provided a copy of their remarks to the Board.

Repeated comments:

(1) Comments requesting further exemption for anesthesia and sedation in outpatient settings that include ambulatory surgery centers: Jeanne Vance, Bryan Docherty,

Monica Miller, Mary Wilson, Michael Warda, and Ken Pierson each echoed the suggestion found in many written comments that ASCs be exempted from the regulations defining outpatient or outpatient settings.

Proposed Staff Response: Reject the comments. As noted above, the Board has decided not to make the suggested change, in part because it considers the definitions of outpatient and outpatient basis in current and proposed regulations are consistent with the statutory definition of “outpatient setting” in HSC sections 1248 and 1248.1. Please see the analysis in response to comment H. above.

(2) Bruce Witcher spoke on behalf of the California Dental Association, summarizing the written comments the organization submitted. (See comment F. for those comments and proposed Board responses.)

(3) Bryce Docherty, representing the California Ambulatory Surgery Association, summarized the written comments the organization submitted. (See comment E. for those comments and proposed Board responses.)

(4) Monica Miller, presenting the California Association of Nurse Anesthetists, referenced the written comments submitted by her association and emphasized their agreement with previous comments about the status of ASCs. (See comment L. for those comments and proposed Board responses.)

(5) Mary Wilson echoed the written comments she submitted, suggesting that ASCs be included as acute care facilities in BPC section 2827. (See comments B.1 and B.2 above for those comments and proposed Board responses.)

Dr. Felsenfeld invited counsel to provide any further guidance on the issues presented. Ms. Schieldge addressed the largest comment concern, the definition of outpatient or outpatient basis, that has been brought forward by public commenters in this rulemaking. She stated that the issue is a statutory authority issue. Ms. Schieldge noted in the meeting materials [see page 436], the first iteration of the Board’s authority to issue general anesthesia permits was enacted in 1979 and that outpatient-basis authority existed then and has continued to exist for the next 40 plus years. The Board can adopt rules related to profession, but they have to be grounded in reality. Ms. Schieldge stated the reality is that facilities mentioned in the public comments are in fact providing services on an outpatient basis and therefore dentists administering anesthesia and sedation in those settings are required to have a permit. Ms. Schieldge noted the dictionary definition of “outpatient” is a patient who receives medical treatment without being admitted to a hospital and stated that the Board’s existing regulations follow that commonly understood meaning. She also noted the Health and Safety Code provisions that are currently cross-referenced in the Board’s regulations are consistent with the Health and Safety Code’s definition of outpatient setting. Ms. Schieldge does not think the Board can make the legal argument to OAL that the Board has the power to carve out exceptions to different outpatient settings and cherry-pick which dentists have to comply in which setting. She stated that would be something before the

Legislature and the Board would want discussed on a policy basis, she stated that she did not believe that this rulemaking is the appropriate place for that discussion.

Dr. Felsenfeld commented that the Board needs to move forward with these regulations to protect those who are providing anesthesia services; if the rulemaking gets further bogged down, there will be fewer anesthesia providers. In addition, Dr. Felsenfeld stated there will be discussion on the role of nurse anesthetists and ambulatory surgical centers at a future Board meeting.

(M/S/C) (Chan/Yu) to direct staff to proceed as recommended to accept or reject comments as specified and provide the responses to the comments as indicated in the meeting materials.

Dr. Felsenfeld requested public comment before the Board acted on the motion.

The Board received public comment. Elizabeth DeBouyer, Executive Director of the California Ambulatory Surgery Association (CASA), noted that CASA strongly believes that these proposed regulations miss the mark on the definition of outpatient and outpatient setting. CASA has identified five specific areas of the regulations that need to be amended in order to comport with existing law. Additionally, it recommends one section of the Business and Professions Code (BPC) that needs to be amended in order to comport with existing law. Ms. DeBouyer stated the regulations as presented create a significant access to care issue particularly for the children served by Medi-Cal. CASA believes that the definitions and exemptions in these regulations need to be specific to an ambulatory surgery center (ASC) that is accredited, Medicare certified, and/or state licensed.

Ms. Jeanne Vance, a healthcare attorney with the law firm Weintraub Tobin. Ms. Vance stated the purpose of this law was to increase the standards for providing anesthesia in dental offices, which were not regulated settings. She stated there is nothing unique about dental anesthesia that makes it more inherently dangerous than anesthesia provided in other settings. Ms. Vance noted that she submitted comments at the February 16, 2022 public hearing that would have clarified that these general anesthesia permit requirements would not apply in settings that are highly regulated outside of dental offices merely because the patients have an issue in their mouth. Ms. Vance verbalized that staff for the bill recommended clarifying the definition of outpatient basis to provide that it does not include the services of a general acute hospital, even if the services were provided in an outpatient department of a general acute care hospital on outpatients, and the Board adopted this regulation. Weintraub Tobin believes it was adopted in error. Ms. Vance stated that the original statute did not contain any such exemption or clarification, but the Dental Board appropriately determined it was in its discretion to define what outpatient basis means. They believe that discretion needs to be exercised to further clarify that these rules do not apply to ASCs. ASCs are Medi-care certified and licensed. While there was a comment that ASCs' licensing standards being less than a general acute care hospital, which is true

from a licensing standpoint. But that ignores the fact that they are subject to Medi-care certification and accreditation standards, which are very extensive and is the reason the Board's meeting package is so lengthy, because it includes the Medi-care standards that apply to ASCs.

Dr. Bruce Witcher thanked the Board for the presentation. Dr. Witcher stated that although ASCs do provide a high level of care, it should be recognized that the topic discussed is a regulatory legal issue, and what many of the commentators have requested is to try to amend statute through regulation, which is not allowed and would cause the rulemaking to be rejected. He urged the Board to adopt staff recommendations and move this forward in order for the Board to issue new permits. He stated that if anything will affect access to care, it is the Board's inability to issue new sedation and anesthesia permits, which is hinging on this particular motion.

Mr. Michael Warda, attorney, indicated that under the BPC, the use of a nurse anesthetist can operate and be directed by a physician, dentist, or podiatrist in a hospital; ASCs have the same procedures in place to protect patients with respect to the anesthesia procedure. Mr. Warda asked the Board to address this issue and help modify state law. Mr. Warda verbalized that he believes the Board has been tasked by the Office of Oral Health (OOH) to implement rules, part of which is to assess dental needs by race, ethnicity, geography, and income. Mr. Warda stated that kids being treated at ASCs need access to this care, and if a nurse anesthetist by statute can work in a hospital under the direction of a doctor or dentist who does not carry an anesthesia permit, a dentist should not be treated differently; he should be treated as a doctor. Mr. Warda stated the Board should protect dentists and state that the Board wants dentists to have the ability to use anesthesia the same way a dentist can in a hospital, provided that the dentist is in a certified facility. Mr. Warda urged the Board to work with this group and the communities to immediately get the issue resolved. He stated the issue is critical, will move in that directly anyway, and it is important for the Board to be involved.

Dr. Tuso stated her appreciation of how in-depth this entire presentation was about using general anesthesia in the dental offices and the Board policing or ensuring that the public safety is preserved. She went on to inquire on how to have her prior statements and concerns addressed officially at a Board meeting. Dr. Felsenfeld stated that Dr. Tuso's comments were off-topic.

Dr. Felsenfeld called for the vote on the proposed motion. Dr. Molina took a roll call vote on the proposed motion as follows:

Ayes: Chan, Felsenfeld, Larin, McKenzie, Medina, Molina, Montell, Morrow, Olague, Pacheco, Yu.

Nays: None.

Abstentions: None.

Absent: Mendoza.

Recusals: None.

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The motion passed.

Agenda Item 5: Discussion and Possible Action to Consider Adoption of Proposed Amendments to California Code of Regulations, Title 16, Sections 1021, 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1044, 1044.1, 1044.2, 1044.3, 1044.5, 1070.8, 1017.1, 1043.8.1, 1043.9, 1043.9.1, 1043.9.2, and 1044.4 Relating to the SB 501 (Anesthesia and Sedation) Rulemaking

Mr. Bruggeman provided the report, which is available in the meeting materials. He reviewed the proposed modified text and emphasized that he will be referring to modifications being made to the proposed regulations. Mr. Bruggeman mentioned that modifications to the originally proposed regulatory language are shown in double underline for new text and double strikethrough for deleted text and would be in yellow highlight.

(M/S/C) (Chan/Montell) to approve the proposed modified text and documents added to the rulemaking file and direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes and notice of the addition of documents added to the rulemaking file for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulations (including the decision not to repeal section 1044.4) as described in the modified text notice for 16 CCR sections 1017.1, 1021, 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1043.8.1, 1044, 1044.1, 1044.2, 1044.3, 1044.4, 1044.5, 1070.8, 1043.9, 1043.9.1 and 1043.9.2.

Dr. Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment. Dr. Tusso asked for clarification on how she can get her concerns fully addressed at a meeting. Dr. Felsenfeld advised Dr. Tusso her comments were out of order unless directed to the agenda item. Dr. Tusso made no comments on this specific agenda item.

Dr. Felsenfeld called for the vote on the proposed motion. Dr. Molina took a roll call vote on the proposed motion as follows:

Ayes: Chan, Felsenfeld, Larin, McKenzie, Medina, Molina, Montell, Olague, Pacheco, Yu.

Nays: None.

Abstentions: None.

Absent: Mendoza, Morrow (due to technical difficulties).

Recusals: None.

The motion passed.

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At 2:13 p.m., the Board recessed for a break.

At 2:30 p.m., the Board reconvened.

Agenda Item 6: Discussion and Possible Action to Initiate an Emergency Rulemaking, Adopt Regulations and a Finding of Emergency, and Initiate a Regular Rulemaking to Adopt California Code of Regulations, Title 16, Section 1066 Relating to Dentists Initiating and Administering Vaccines

Mr. Bruggeman provided the report, which is available in the meeting materials. Ms. Schieldge explained the differences between an emergency rulemaking and a regular rulemaking. Emergency regulations are a process for adopting regulations on a temporary basis in response to a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare, or if a statute deems a situation to be an emergency under the Administrative Procedure Act, as it does in this case under BPC section 1625.6. Because emergency regulations are intended to avoid serious harm and require immediate action, the emergency rulemaking process is substantially abbreviated compared to the regular rulemaking process that was just discussed, including the notice, comment period and the time within which OAL has to review (10 calendar days after filing).

Board Member, Dr. Lilia Larin, raised concerns that dentists who want to volunteer in administering vaccines in the future might have the impression that they must apply these written regulations when doing so. She inquired how this rulemaking would apply to dentists who are volunteering at another facility that is not their own. Ms. Schieldge replied that the statute states that in addition to the actions authorized under BPC section 1625, a dentist may independently prescribe and administer influenza and COVID-19 vaccines approved or authorized by the United States Food and Drug Administration (FDA). Dr. Larin asked if this would be sufficient wording to eliminate any confusion posed on volunteering dentists. Ms. Schieldge indicated that she does not want to presume that there is an ulterior meaning in “independently prescribe.”

Dr. Larin expressed concern that volunteering dentists, as they are acting independently, may think that this rulemaking also applies to them. Ms. Schieldge replied that it does apply to them wherever they practice; it is independent in the sense that they are doing it pursuant to their current scope. Dr. Larin noted that her concerns lay with recordkeeping. Ms. Schieldge responded that the dentist is in compliance as long as the administration of vaccination is recorded. The rulemaking is simply making it specific to the dental practice; however, it does not change the fact that dentists must have documentation somewhere of that information. The one difference is that the documentation of immunization training would have to be on premises. Dr. Larin stated that volunteering dentists would not have that documentation on premises. Ms. Schieldge replied that the training requirements is for training certificates, which have to

be readily retrievable during normal business operating hours. Wherever the information is stored, it has to be available to the Board for inspection.

Board Counsel, Ms. Tara Welch, pointed out that this rulemaking is primarily for the administration of vaccines in a dental office and not on voluntary terms. To the extent that dentists have been voluntarily administering the COVID-19 vaccination, they have likely been doing so under an executive order. In the event that dentists continue to voluntarily administer the COVID-19 vaccine, they would be doing so under a different law, rather than the Dental Practice Act (DPA). Ms. Welch specified that these regulations are only fleshing out the new authority under the DPA to administer vaccines in the dental office. Dr. Larin asked if it is possible to clarify this verbiage somewhere in the rulemaking. Ms. Schiedge replied that the question to be addressed would be whether dentists are independently administering vaccines or whether they are doing it under someone else's supervision. Ms. Welch clarified that dentists who were administering COVID-19 vaccines were doing so under Department of Consumer Affairs (DCA) waiver orders, which have already expired or will be expiring once the state of emergency comes to an end. As such, Ms. Welch stated there are no statutes to cross-reference, because the current authority is under executive or DCA waiver orders. Going forward with voluntary administration, if there is any authority to administer these vaccines, it likely would be under the Health and Safety Code, which staff have not researched because they are solely focused on implementing the new bill that centers the administration of these vaccines in the dental office. She advised that it would be beneficial to get moving with this rulemaking. If dentists want to continue to voluntarily administer vaccines, Ms. Welch stated that would be a different question for the Legislature and would no longer fall under the executive orders. Dr. Chan indicated that he does advocate initiating this emergency rulemaking and suggested the Board do this initial format and initial rulemaking and modify the format as it moves forward and the shortfalls become apparent.

(M/S/C) (Chan/Morrow) to (1) direct staff to take all steps necessary to complete the emergency rulemaking process, including the filing of the emergency rulemaking package with the Office of Administrative Law (OAL), authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the finding of emergency and the proposed regulatory language as written in the Order of Adoption; if no adverse comments are received and the text is approved by OAL, authorize re-adoption as needed and authorize the staff to take all steps necessary to complete the regular rulemaking process to make the regulations permanent and adopt the proposed regulations at Title 16, CCR Section 1066 as noticed; and (2) if OAL or another control agency disapproves the emergency rulemaking, direct staff to submit the proposed text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the regular rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing, if requested; if no adverse comments are received during the 45-day public comment period and no hearing is requested, authorize the Executive Officer

to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Title 16, CCR Section 1066 as noticed.

Dr. Felsenfeld took public comment on the proposed motion. The Board received public comment. Dr. Whitcher, on behalf of the California Dental Association (CDA), disclosed that they are in support of this proposal and thanked the Board for bringing this forward and conducting the rulemaking so promptly. Dr. Tuso presented comments regarding an enforcement case. Dr. Tuso was advised that her comments did not pertain to the agenda item.

Dr. Felsenfeld called for the vote on the proposed motion. Dr. Molina took a roll call vote on the motion as follows:

Ayes: Chan, Felsenfeld, Larin, McKenzie, Medina, Molina, Montell, Morrow, Olague, Pacheco, Yu.

Nays: None.

Abstentions: None.

Absent: Mendoza.

Recusals: None.

The motion passed.

Agenda Item 7: Adjournment

Dr. Felsenfeld adjourned the meeting at 3:01 p.m.



**DENTAL BOARD OF CALIFORNIA
MEETING MINUTES
March 28, 2022**

NOTE: In accordance with Government Code Section 11133 and Governor Gavin Newsom's Executive Order N-1-22, the Dental Board of California (Board) met on March 28, 2022, via teleconference/WebEx Events, and no public locations or teleconference locations were provided.

Members Present:

Alan Felsenfeld, MA, DDS, President
James Yu, DDS, MS, Vice President
Sonia Molina, DMD, MPH, Secretary
Steven Chan, DDS
Lilia Larin, DDS
Meredith McKenzie, Esq., Public Member
Angelita Medina, Public Member
Steven Morrow, DDS, MS
Rosalinda Olague, RDA, BA
Joanne Pacheco, RDH, MAOB

Members Absent:

Mark Mendoza, Public Member
Alicia Montell, DDS

Staff Present:

Sarah Wallace, Interim Executive Officer
Tina Vallery, Chief of Administration and Licensing
Jessica Olney, Anesthesia Unit Manager
Wilbert Rumbaoa, Administrative Services Unit Manager
Mirela Taran, Administrative Analyst
Tara Welch, Board Counsel, Attorney III, Department of Consumer Affairs

3:30 p.m., Monday, March 28, 2022

Agenda Item 1: Call to Order/Roll Call/Establishment of a Quorum

The Board President, Dr. Alan Felsenfeld, called the meeting to order at 3:35 p.m. The Board Secretary, Dr. Sonia Molina, called the roll; 10 Board Members were present, and a quorum was established.*

Agenda Item 2: Finding of Necessity for Special Meeting (Government Code section 11125.4)

Dr. Felsenfeld stated that the meeting had been noticed as a special meeting pursuant to Government Code section 11125.4. He explained that in accordance with Government Code section 11125.4, subdivision (c), at the commencement of the meeting, the Board must make a finding that the delay necessitated by providing notice 10 days prior to the meeting as required by Government Code section 11125 would cause a substantial hardship on the Board or that immediate action was required to protect the public interest. He further explained that such a finding must set forth the specific facts that constitute the hardship to the Board or the impending harm to the public interest, and the finding must be adopted by a two-thirds vote of the Board or a unanimous vote those members present. Dr. Felsenfeld stated that the meeting was convened to discuss a pending litigation matter on which the Board must take immediate action.

Motion/Second/Call (M/S/C) (Felsenfeld/Chan) to move the finding that the delay necessitated by providing notice 10 days prior to the meeting as required by Government Code section 11125 would impose a substantial hardship on the Board because the Board will not be able to meet and adopt a position on the filing of a petition for rehearing relative to pending litigation in sufficient time for such request to be drafted, approved, and filed in the Court of Appeal by the March 31, 2022 filing deadline.

Dr. Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on this item.

Dr. Felsenfeld called for the vote on the proposed motion. Dr. Molina took a roll call vote on the proposed motion as follows:

Ayes: Chan, Felsenfeld, Larin, McKenzie, Medina, Molina, Morrow, Olague, Pacheco, Yu.

Nays: None.

Abstentions: None.

Absent: Mendoza, Montell.

Recusals: None.

The motion passed.

Agenda Item 3: Public Comment on Items Not on the Agenda

Dr. Felsenfeld requested public comment on this agenda item. There were no public comments made on items not on the agenda.

Agenda Item 4: Recess Open Session

Dr. Felsenfeld recessed Open Session at 3:43 p.m.

Agenda Item 5: Convene Closed Session

At 3:46 p.m., the Board convened Closed Session.

Agenda Item 6: Pursuant to Government Code Sections 11125.4(a)(1) and 11126(e), the Board will Confer with and Receive Advice from Legal Counsel and Deliberate Regarding SmileDirectClub, LLC, et al. v. Tippins et al., United States Court of Appeals for the Ninth Circuit, Case No. 20-55735, District Court, Central District of California, Western Division, Case No. 2:19-cv-08902-GW-MAA

The Board convened in Closed Session to discuss a pending litigation matter.

Agenda Item 7: Adjourn Closed Session

Dr. Felsenfeld adjourned Closed Session at 4:16 p.m.

Agenda Item 8: Reconvene Open Session

At 4:17 p.m., the Board reconvened Open Session.

Agenda Item 9: Adjournment

Dr. Felsenfeld adjourned the meeting at 4:18 p.m.

**Due to audio connectivity issues, Dr. Lilia Larin was not able to verbally state that she was present.*



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 4: Board President Report

Background:

Dr. Alan Felsenfeld, President of the Dental Board of California, will provide a verbal report.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 5: Interim Executive Officer Report

Background:

Ms. Sarah Wallace, Interim Executive Officer of the Dental Board of California, will provide a verbal report.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 6: Report on Department of Consumer Affairs (DCA) Activities

Background:

Ms. Carrie Holmes, Deputy Director of Board and Bureau Relations of the Department of Consumer Affairs, will provide a verbal report.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 29, 2022
TO	Members of the Dental Board of California
FROM	Wilbert Rumbaoa, Administrative Services Manager Dental Board of California
SUBJECT	Agenda Item 7: Budget Report

Background:

The Dental Board of California (Board) administers the State Dentistry Fund (Fund), which derives revenues (primarily) through licensing-related fees to fund the Board’s administrative, licensing, and enforcement activities.

The Board receives a proposed annual budget appropriation upon the release of the Governor’s Budget (January 10th), which is finalized upon enactment of the Budget Act. The Board is statutorily required to remain within its appropriation spending limit and to ensure the Fund’s ongoing solvency.

2022-23 Governor’s Budget Summary:

The following chart provides an overview of the newly released Governor’s Budget for the Dental Board of California.

2022 23 Governor’s Budget		
Fund	Revenue	Expenditures*
State Dentistry Fund	\$18,540,000	\$19,139,000

* \$283,000 (net) reimbursements – probation monitoring and fingerprints

Analysis of Fund Condition Statement (see Attachment 1A):

The attached fund condition statement (FCS) is based on the 2022-23 Governor’s Budget and 2021-22 Fiscal Month 8 Revenue and Expenditure projections. It has been updated with 2020-21 prior-year actual revenues and expenditures, which resulted in a fund balance reserve of \$12.5 million (9.7 months). Other adjustments have also been included.

Revenues – The Board began 2020-21 with a fund balance of \$14.1 million and collected approximately \$18.7 million in revenues with \$3.2 million from initial license fees and \$14.9 million from license renewals.

For 2021-22 (current year), the Board projects revenues of \$19.0 million and anticipates revenues to remain relatively stable in the future. Approximately \$3 million is projected from initial license fees and \$15.3 million from renewal fees.

The Board notes, Chapter 929, Statutes of 2018 (SB 501), created additional anesthesia permit and certificate types and fees. The Board is currently in the process of promulgating regulations to implement SB 501, and as a result, any revenues are not included in the FCS at this time.

Expenditures – The Board’s 2021-22 current year appropriation is \$18.8 million, and projects expenditures to be \$16.75 million. The FCS projects ongoing expenditures in the future with a three percent (growth factor) increase per year. The FCS shows the Board fully expending its appropriation ongoing. To the extent the Board does not fully expend its appropriation, any savings remains in the Fund for future use.

Overall expenditures are projected to rise approximately \$1.8 million over the previous year. Personal services and Attorney General make up the largest part of the increase. Personal Services have increased just under \$700,000 primarily due to the 4.55% General Service Increase beginning July 1, 2021.

The Board notes, future legislation or other events could require the Board to request additional resources through the annual budget process, which would increase cost pressure on the Fund.

General Fund Loan – Item 1111-011-0741, Budget Act of 2020, authorizes a \$5 million loan transfer from the Fund to the General Fund (GF). The loan is required to be repaid with interest in the event the Board needs the funds, or if the GF no longer needs the funds.

The interest accrued is estimated at \$25,000 per year. The FCS currently indicates repayment in 2023-24, which includes approximately \$75,000 of interest income.

The Board notes, the \$5 million repayment will be coordinated as part of any future regulatory and/or statutory fee increase proposals.

Dental Assistant Fund (disposition) – Chapter 865, Statutes of 2019 (AB 1519) abolished the Dental Assistant Fund, effective July 1, 2022, and any remaining funds shall be deposited into the Fund.

The current projected balance of \$2.9 million has remained in the Dental Assistant Fund since 2020 to ensure any financial obligations are paid and the remaining balance will be transferred to the Fund, no later than July 1, 2022.

Fund Balance Reserve – The fund balance reserve reports the amount of funds remaining in the Fund at the end of any given fiscal year. Typically, 3 to 6 months is considered sufficient.

The fund balance reserve is currently stable but does show a declining balance in future years due to a structural imbalance, and the Fund is projected to become insolvent in 2026-27.

Structural Imbalance – A structural imbalance occurs when projected revenues are less than anticipated expenditures.

The Fund is not projected to have a structural imbalance for CY 2021-22 due to better-than-expected revenues and lower than anticipated expenditures. However, future year's budgets are projected to be imbalanced.

Action Required (future) – The Board will continue to monitor the Fund and work with the DCA Budget Office to ensure solvency.

As previously noted, the Board had significant 2020-21 prior-year savings of approximately \$2.1 million related to vacant positions, and those savings are projected to continue for 2021-22. However, the Board is actively recruiting to fill these positions and any savings will likely be reduced in the future.

The Board further notes, most (all) existing license fee types currently being assessed are set below their statutory maximums and may be increased through regulations, which could eliminate the existing structural imbalance. Regulatory fee change proposals typically take 18 to 24 months to promulgate.

Board staff will be working with the DCA Budget Office to identify possible actions to reduce or eliminate the structural imbalance to ensure the Board remains solvent and able to fully meet its licensing and enforcement mandates.

Board staff will present the findings and recommendations at future board meetings to allow for public input and Board Member consideration.

0741 - State Dentistry Fund Analysis of Fund Condition

Prepared 4/8/2022

Based on FY 8 2021-22

	PY 2020-21	CY 2021-22	Governor's Budget BY 2022-23	BY + 1 2023-24
BEGINNING BALANCE	\$ 14,318	\$ 12,447	\$ 13,264	\$ 13,871
Prior Year Adjustment	-\$138	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 14,180	\$ 12,447	\$ 13,264	\$ 13,871
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	\$ 314	\$ 319	\$ 285	\$ 285
4127400 Renewal fees	\$ 14,934	\$ 15,331	\$ 14,903	\$ 14,903
4129200 Other regulatory fees	\$ 151	\$ 178	\$ 144	\$ 144
4129400 Other regulatory licenses and permits	\$ 3,184	\$ 2,985	\$ 2,966	\$ 2,966
4143500 Miscellaneous services to the public	\$ -	\$ 48	\$ 48	\$ 48
4163000 Income from surplus money investments	\$ 75	\$ 163	\$ 177	\$ 163
4171400 Escheat of unclaimed checks and warrants	\$ 12	\$ 8	\$ 15	\$ 15
4172500 Miscellaneous revenues	\$ -	\$ 2	\$ 2	\$ 2
4173500 Settlements and Judgements	\$ 7	\$ -	\$ -	\$ -
Total Revenues	\$ 18,677	\$ 19,034	\$ 18,540	\$ 18,526
Transfers to Other Funds				
T00001 Loan from the State Dentistry Fund (0741) to the General Fund (0001) per Item 1111-011-0741, Budget Act of 2020	\$ -5,000	\$ -	\$ -	\$ -
Revenue Transfer from the State Dental Assistant Fund (3142) to the State Dentistry Fund (0741) per Business and Professions Code Section 205.2			\$ 2,877	
Total Revenues, Transfers, and Other Adjustments	\$ 13,677	\$ 19,034	\$ 21,417	\$ 18,526
Total Resources	\$ 27,857	\$ 31,481	\$ 34,681	\$ 32,397
EXPENDITURES				
Disbursements:				
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 14,309	\$ 16,750	\$ 19,139	\$ 19,713
9892 Supplemental Pension Payments (State Operations)	\$ 318	\$ 318	\$ 318	\$ 318
Statewide	\$ 783	\$ 1,149	\$ 1,353	\$ 1,353
Total Expenditures and Expenditure Adjustments	\$ 15,410	\$ 18,217	\$ 20,810	\$ 21,384
FUND BALANCE				
Reserve for economic uncertainties	\$ 12,447	\$ 13,264	\$ 13,871	\$ 11,013
Months in Reserve	9.7	8.7	8.0	6.2

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR BEGINNING IN BY+1.
- C. ASSUMES INTEREST RATE AT 1.5% FOR INCOME FROM SURPLUS MONEY AND INVESTMENTS

Department of Consumer Affairs
 Expenditure Projection Report
 Dental Board of California

Fiscal Month: 8
 Fiscal Year: 2021 - 2022
 Run Date: 03/22/2022

PERSONAL SERVICES

Fiscal Code	PY Budget	PY FM13	Budget	YTD + Encumbrance	Projections to Year End	Balance
5100 PERMANENT POSITIONS	\$5,928,000	\$4,717,037	\$6,777,000	\$3,359,479	\$5,294,311	\$1,482,689
5100 TEMPORARY POSITIONS	\$284,000	\$48,134	\$284,000	\$5,000	\$5,000	\$279,000
5105-5108 PER DIEM, OVERTIME, & LUMP S	\$130,000	\$124,882	\$130,000	\$161,390	\$171,723	-\$41,723
5150 STAFF BENEFITS	\$3,367,000	\$2,718,488	\$3,654,000	\$1,822,140	\$2,870,010	\$783,990
PERSONAL SERVICES	\$9,709,000	\$7,608,542	\$10,845,000	\$5,348,008	\$8,341,043	\$2,503,957

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	PY Budget	PY FM13	Budget	YTD + Encumbrance	Projections to Year End	Balance
5301 GENERAL EXPENSE	\$172,000	\$116,396	\$150,000	\$195,610	\$69,621	\$80,379
5302 PRINTING	\$79,000	\$176,644	\$79,000	\$165,015	\$165,646	-\$86,646
5304 COMMUNICATIONS	\$49,000	\$43,843	\$44,000	\$44,040	\$59,177	-\$15,177
5306 POSTAGE	\$72,000	\$18,850	\$52,000	\$36,468	\$36,837	\$15,163
5308 INSURANCE	\$2,000	\$9,457	\$2,000	\$9,156	\$10,360	-\$8,360
53202-204 IN STATE TRAVEL	\$159,000	\$5,379	\$159,000	\$22,519	\$63,600	\$95,400
5322 TRAINING	\$12,000	\$19,586	\$10,000	\$3,023	\$4,986	\$5,014
5324 FACILITIES	\$827,000	\$684,553	\$827,000	\$947,129	\$978,843	-\$151,843
5326 UTILITIES	\$1,000	\$0	\$1,000	\$0	\$0	\$1,000
53402-53403 C/P SERVICES (INTERNAL)	\$2,564,000	\$2,303,068	\$2,564,000	\$1,163,208	\$2,434,828	\$129,172
53404-53405 C/P SERVICES (EXTERNAL)	\$869,000	\$786,171	\$805,000	\$930,952	\$1,014,026	-\$209,026
5342 DEPARTMENT PRORATA	\$2,955,000	\$2,820,346	\$3,276,000	\$2,396,250	\$3,328,114	-\$52,114
5342 DEPARTMENTAL SERVICES	\$74,000	\$228,521	\$74,000	\$109,266	\$249,356	-\$175,356
5344 CONSOLIDATED DATA CENTERS	\$28,000	\$61,543	\$28,000	\$9,970	\$61,543	-\$33,543
5346 INFORMATION TECHNOLOGY	\$32,000	\$6,778	\$32,000	\$9,616	\$10,522	\$21,478
5362-5368 EQUIPMENT	\$77,000	\$29,737	\$125,000	\$156,636	\$172,523	-\$47,523
5390 OTHER ITEMS OF EXPENSE	\$5,000	\$19,133	\$5,000	\$20,633	\$26,745	-\$21,745
54 SPECIAL ITEMS OF EXPENSE	\$0	\$5,157	\$0	\$4,214	\$5,933	-\$5,933
OPERATING EXPENSES & EQUIPMENT	\$7,977,000	\$7,335,160	\$8,233,000	\$6,223,705	\$8,692,660	-\$459,660
Reimbursements			\$283,000		\$283,000	\$0
OVERALL TOTALS	\$17,686,000	\$14,943,702	\$18,795,000	\$11,571,714	\$16,750,703	\$2,044,297

16%

10.88%

Department of Consumer Affairs

Revenue Projection Report

Dental Board of California

Fiscal Month: 8

Fiscal Year: 2021 - 2022

Run Date: 03/21/2022

Revenue

Fiscal Code	Budget	Year to Date	Projection To Year End	Balance
Delinquent Fees	\$280,000	\$223,274	\$319,358	(\$39,358)
Other Regulatory Fees	\$142,000	\$121,735	\$177,835	(\$35,835)
Other Regulatory License and Permits	\$2,961,000	\$1,737,471	\$2,985,352	(\$24,352)
Other Revenue	\$228,000	\$47,082	\$221,073	\$6,927
Renewal Fees	\$14,909,000	\$11,834,731	\$15,330,586	(\$421,586)
Revenue	\$18,520,000	\$13,964,292	\$19,034,203	(\$514,203)



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 8: Report on Dental Hygiene Board of California (DHBC) Activities

Background:

The President, Dr. Carmen Dones, and the Executive Officer, Mr. Anthony Lum, of the Dental Hygiene Board of California will provide a verbal report.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 16, 2022
TO	Members of the Dental Board of California
FROM	Patrick Morrissey, Supervising Special Investigator I Dental Board of California
SUBJECT	Agenda Item 9: Enforcement – Review of Statistics and Trends

The following are the Enforcement Division statistics:

Complaint & Compliance Unit (CCU):

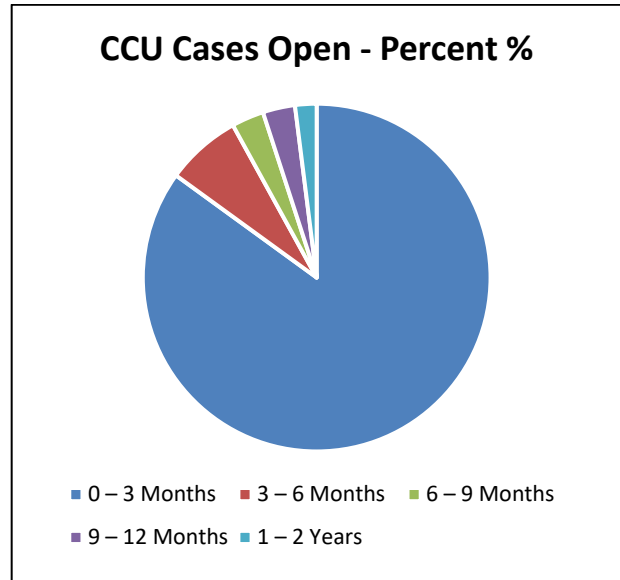
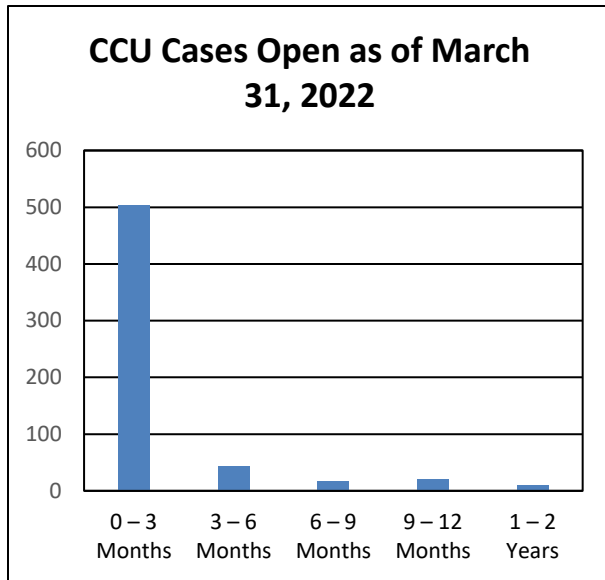
Number of Complaint Cases Received between January 1, 2022, and March 31, 2022:

Between January 1, 2022, and March 31, 2022, CCU received **1129** complaints. During this time. The monthly average of complaints received was **376**.

Number of Complaint Cases Open:

As of March 31, 2022, there are **592** complaint cases open in CCU. A breakdown of the case aging is as follows:

Complaint & Compliance Cases Open		
Complaint Age	# As of March 31, 2022	Percent (%)
0 – 3 Months	503	85%
3 – 6 Months	43	7%
6 – 9 Months	17	3%
9 – 12 Months	20	3%
1 – 2 Years	9	2%
Total	592	100%



Number of Complaint Cases Closed:

Between January 1, 2022, and March 31, 2022, a total of **840** complaint cases were closed in CCU. The monthly average of complaints closed during this time was **280**.

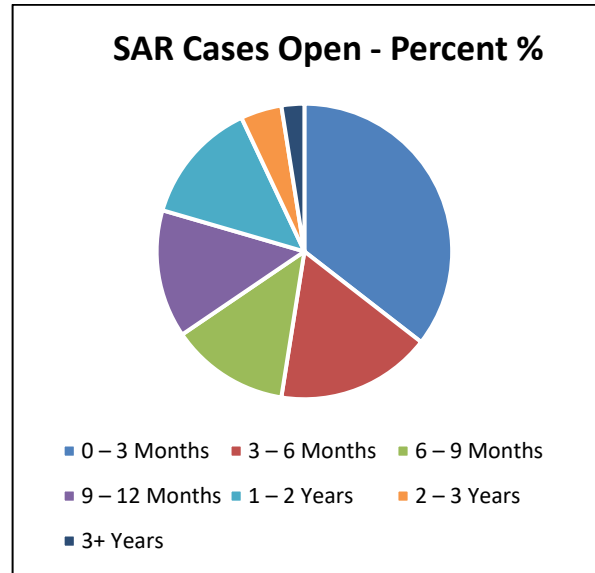
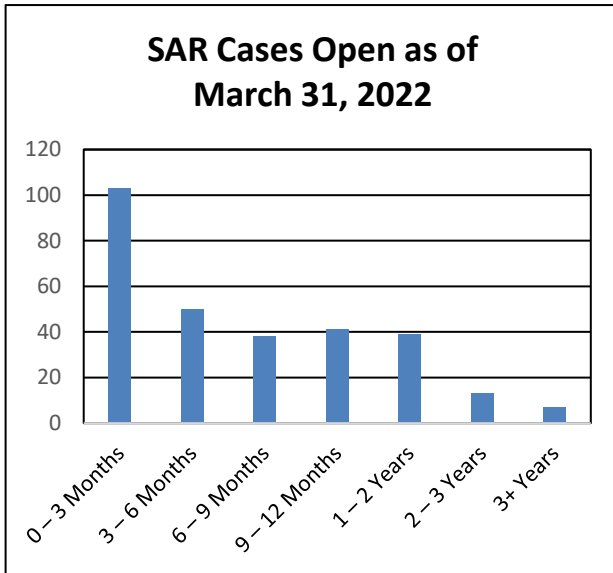
Investigative Analysis Unit (IAU):

Number of Subsequent Arrest Report (SAR) Cases Open in the IAU:

As of March 31, 2022, there are **291** SAR cases are open in the IAU. A breakdown of the case aging is as follows:

SARS Cases Open		
SAR Age	# As of March 31, 2022	Percent (%)
0 – 3 Months	103	35.5%
3 – 6 Months	50	17%
6 – 9 Months	38	13%
9 – 12 Months	41	14%
1 – 2 Years	39	13.5%
2 – 3 Years	13	4.5%
3+ Years	7	2.5%
Total	291	100%

***SARS are classified as investigative cases once all records requested are received and have been recommended for investigation by either Supervising Investigator or Enforcement Chief**



Number of SAR Cases Closed:

Between January 1, 2022 and March 31, 2022, a total of **89** SAR cases were closed in the Investigative Analysis Unit.

Enforcement Units:

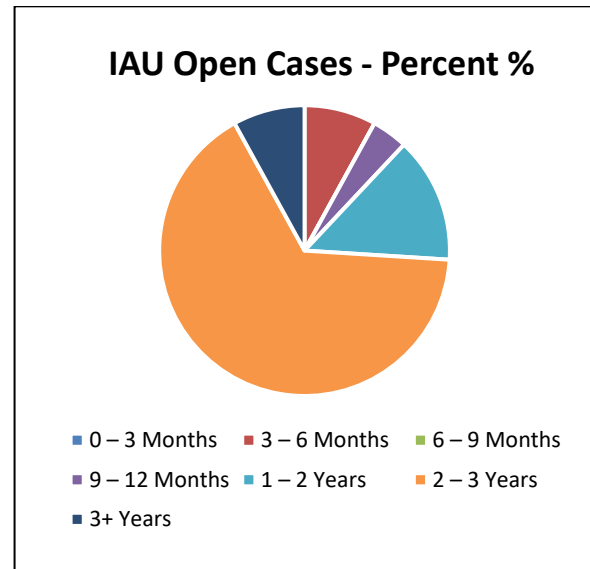
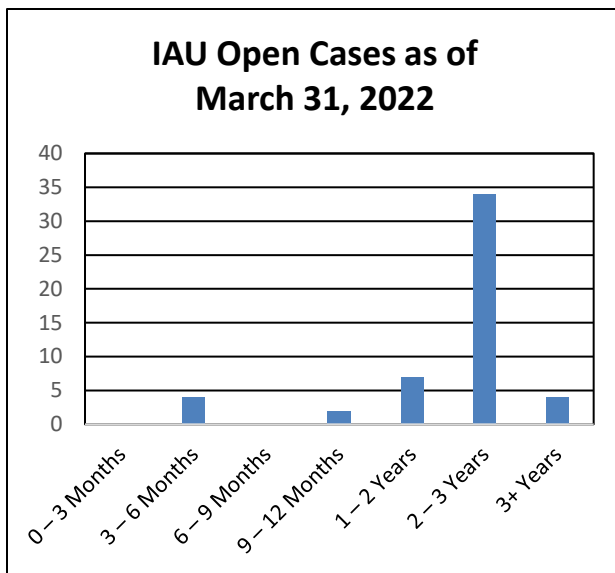
As of March 31, 2022, there **1276** investigative cases open in the Board’s Enforcement Units. A breakdown of the cases is as follows:

Enforcement Cases Open	
Enforcement Units	# As of March 31, 2022
IAU (Non-Sworn)	51
Orange Field Office (OFO) (Non-Sworn)	51
Sacramento Field Office (SFO) (Sworn)	99
Orange Field Office (OFO) (Sworn)	114
Pending Assignment	961
Total	1276

Number of Investigative Cases Open IAU (Non-Sworn):

As of March 31, 2022, there are **51** investigative cases open in the IAU. A breakdown of the cases is as follows:

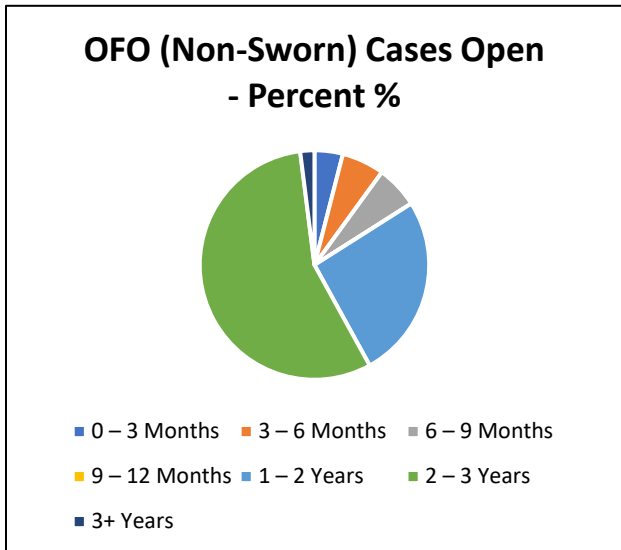
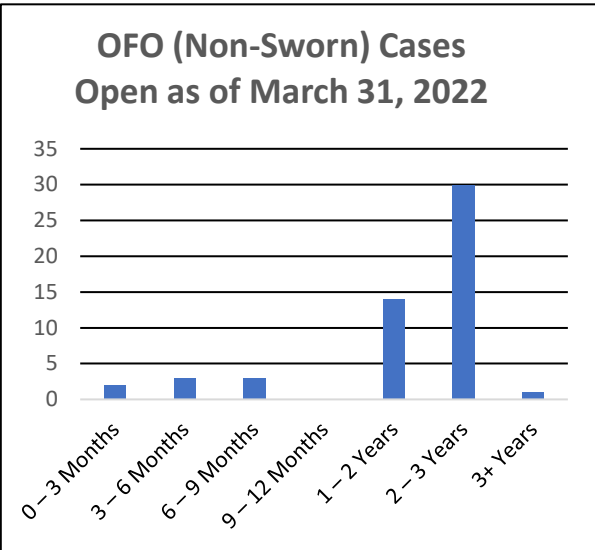
IAU Cases Open		
Investigation Age	# As of March 31, 2022	Percent (%)
0 – 3 Months	0	-
3 – 6 Months	4	8%
6 – 9 Months	0	-
9 – 12 Months	2	4%
1 – 2 Years	7	14%
2 – 3 Years	34	66%
3+ Years	4	8%
Total	51	100%



Number of Investigative Cases Open in the OFO (Non-Sworn) Special Investigators Complaint Cases:

As of March 31, 2022, there are **52** investigative cases open in the OFO (Non-Sworn). A breakdown of the case aging is as follows:

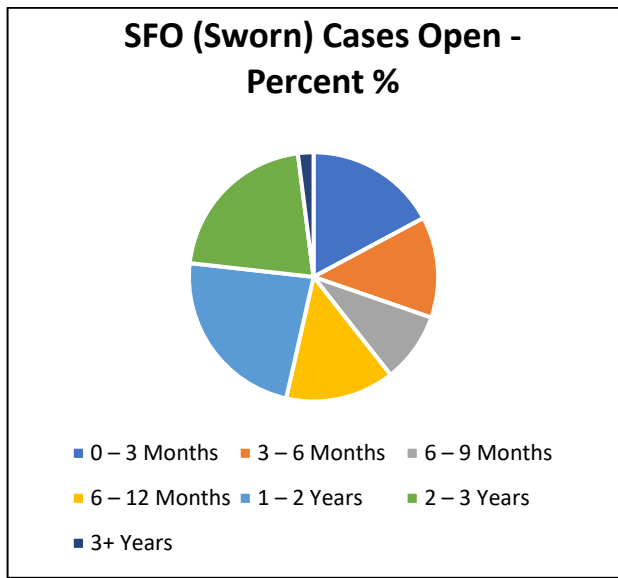
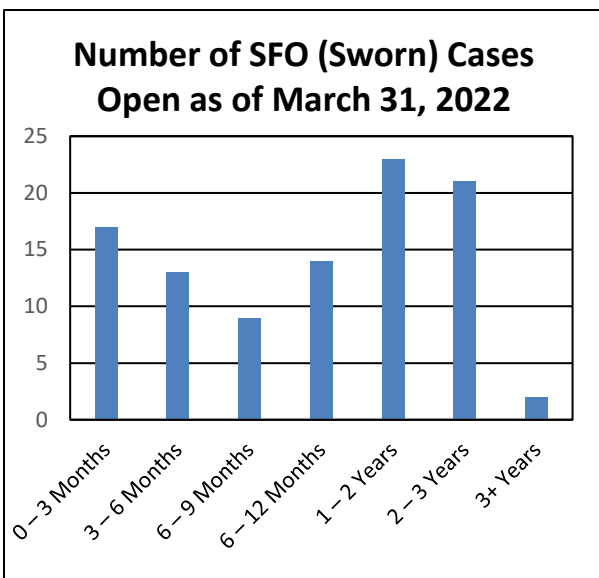
Orange Field Office (Non-Sworn) Special Investigator Complaint Cases Open		
Investigation Age	# As of March 31, 2022	Percent (%)
0 – 3 Months	2	4%
3 – 6 Months	3	6%
6 – 9 Months	2	4%
9 – 12 Months	0	0%
1 – 2 Years	14	27%
2 – 3 Years	30	57%
3+ Years	1	2%
Total	52	100%



Number of Investigative Cases Open in the SFO (Sworn):

As of March 31, 2022, there are **99** investigative cases open in the SFO (Sworn). A breakdown of the case aging is as follows:

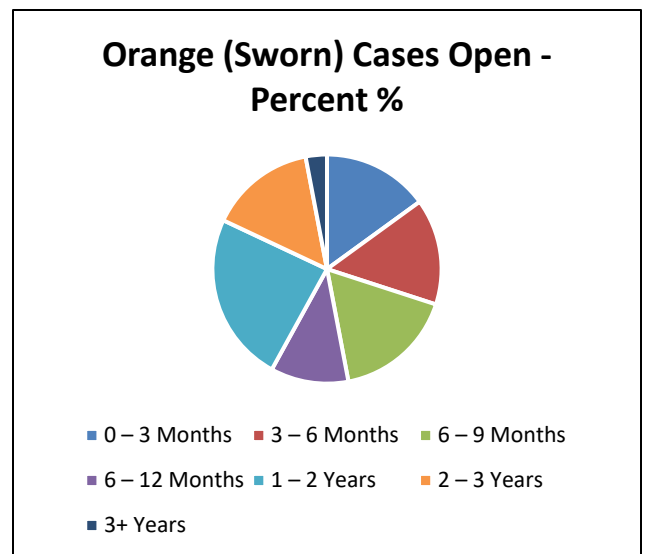
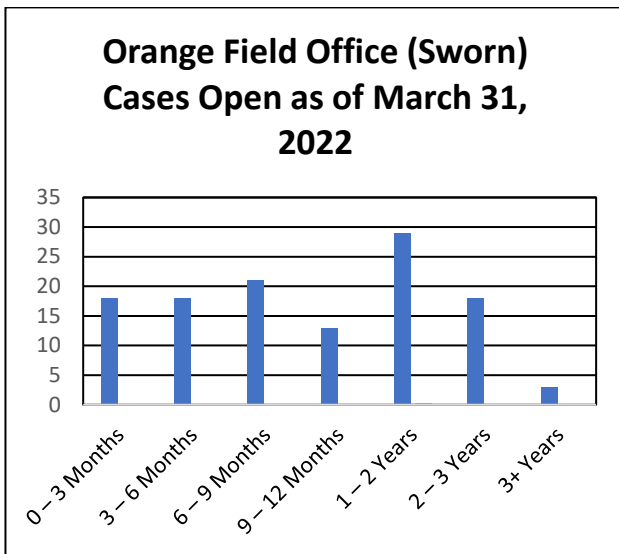
Sacramento Field Office (Sworn) Cases Open		
Investigation Age	# As of March 31, 2022	Percent (%)
0 – 3 Months	17	17%
3 – 6 Months	13	13%
6 – 9 Months	9	9%
9 – 12 Months	14	14%
1 – 2 Years	23	24%
2 – 3 Years	21	21%
3+ Years	2	2%
Total	99	100%



Number of Investigative Cases Open in the OFO (Sworn):

As of March 31, 2022, there are **120** investigative cases open with the Sworn investigators, in the Orange Field Office. A breakdown of the case aging is as follows:

Orange Field Office (Sworn) Cases Open		
Investigation Age	# As of March 31, 2022	Percent (%)
0 – 3 Months	18	15%
3 – 6 Months	18	15%
6 – 9 Months	21	17%
9 – 12 Months	13	11%
1 – 2 Years	29	24%
2 – 3 Years	18	15%
3+ Years	3	3%
Total	120	100%



Number of Investigation Cases Closed:

Between January 1, 2022, and March 31, 2022, a total of 200 investigative cases were closed in IAU, the Sacramento Field Office and the Orange Field Office.

Number of Inspection Cases Open:

As of March 31, 2022, there are **120** Inspection Cases open in the Sacramento and Orange Field Offices. A breakdown is as follows:

Field Office	Number of Cases
IAU	6
SFO	27
OFO	87
Total	120

Number of Inspection Cases Closed:

Between January 1, 2022, and March 31, 2022, a total of **37** inspection cases were closed in the Sacramento Field Office and the Orange Field Office.

Administrative and Disciplinary Action

As of March 31, 2022, there are **230** open cases in the Board’s Discipline Coordination Unit.

There is **1** case in which a WRIT has been filed to appeal the final decision.

There is **1** case in which a Petition for Reinstatement has been submitted and is pending response from the licensee.

There are **3** cases in which a Petition for Reinstatement has been submitted and is pending referral to the Attorney General’s Office.

There is **1** citation case pending an Administrative Hearing.

The above-mentioned cases have not been referred to the Office of the Attorney General (AG) for disciplinary action, therefore they are not counted in the total pending cases at the AG.

Accusations:

Between January 1, 2022, and March 31, 2022, there were **31** accusations filed with the AG.

Cases Assigned to the Office of the Attorney General:

Between January 1, 2022, and March 31, 2022, there were **48** cases transmitted to the AG.

As of March 31, 2022, there are **224** cases pending at the AG.

Citations:

Between January 1, 2022, and March 31, 2022, there were **27** citations issued.

Number of Probation Cases Open:

As of March 31, 2022, there are **128** probationer cases being monitored. Of those, **118** are active probationers and **10** are tolling. A breakdown of the probation cases is as follows:

Field Office	Active	Tolling Probationers
Investigative Analysis Unit	14	0
Sacramento Field Office	18	5
Orange Field Office	76	4
DCU-Referred to AG	10	1
Total	118	10

Enforcement Statistics for Fiscal Years 2018-2021			
	FY 2018/19	FY 2019/20	FY 2020/21
COMPLAINTS			
Intake			
Received	3566	3301	3718
Closed without Referral for Investigation	9	7	0
Referred to INV	3568	3264	3778
Pending (close of FY)	12	40	28
Conviction / Arrest			
CONV Received	800	665	586
CONV Closed Without Referral for Investigation	0	1	0
CONV Referred to INV	751	686	576
CONV Pending (close of FY)	56	13	35
Source of Complaint	4330	3992	3760
Public	2565	2254	2770
Licensee/Professional Groups	456	337	229
Governmental Agencies	847	702	212
Internal	274	270	142
Other	33	36	16
Anonymous	155	393	391
Average Time to Refer for Investigation (from receipt of complaint / conviction to referral for investigation)	3	7	6
Average Time to Closure (from receipt of complaint / conviction to closure at intake)	3	5	9
Average Time at Intake (from receipt of complaint / conviction to closure for referral for investigation)	3	5	9
INVESTIGATION			
Desk Investigations			
Opened	3361	3914	3441
Closed	3992	3467	3617
Average days to close (from assignment to investigation closure)	145	61	86
Pending (close of FY)	790	1239	1044
Non-Sworn Investigation			
Opened	366	120	288
Closed	549	96	182
Average days to close (from assignment to investigation closure)	270	251	307
Pending (close of FY)	146	172	279
Sworn Investigation			
Opened	622	356	478
Closed	671	424	500
Average days to close (from assignment to investigation closure)	378	378	363
Pending (close of FY)	565	552	584
All investigations			
Opened	4374	3950	4354
Closed	4795	3836	3977
Average days for all investigation outcomes (from start investigation to investigation closure or referral for prosecution)	205	150	154
Average days for investigation closures (from start investigation to investigation closure)	200	135	131
Average days for investigation when referring for prosecution (from start investigation to referral prosecution)	565	603	539

Average days from receipt of complaint to investigation closure	202	124	142
Pending (close of FY)	1887	2249	2677
CITATION AND FINE			
Citations Issued	259	206	72
Average Days to Complete (from complaint receipt / inspection conducted to citation issued)	221	70	301
Amount of Fines Assessed	231,450	102,900	42,450
Amount of Fines Reduced, Withdrawn, Dismissed	67,000	18,000	0
Amount Collected	89,750	64,225	21,650
CRIMINAL ACTION			
Referred for Criminal Prosecution	12	4	6
ACCUSATION			
Accusations Filed	80	60	96
Accusations Declined	0	0	1
Accusations Withdrawn	5	1	6
Accusations Dismissed	0	0	0
Average Days from Referral to Accusations Filed (from AG referral to Accusation filed)	86	55.37	70.5
INTERIM ACTION			
ISO & TRO Issued	2	2	6
PC 23 Orders Issued	2	1	3
Other Suspension/Restriction Orders Issued	0	0	0
Referred for Diversion	1	0	0
Petition to Compel Examination Ordered	2	1	2
DISCIPLINE			
AG Cases Initiated (cases referred to the AG in that year)	152	83	209
AG Cases Pending Pre-Accusation (close of FY)	46	25	44
AG Cases Pending Post-Accusation (close of FY)	50	27	82
DISCIPLINARY OUTCOMES			
Revocation	13	15	21
Surrender	14	11	19
Suspension only	0	0	3
Probation with Suspension	0	0	0
Probation only	44	21	38
Public Reprimand / Public Reproval / Public Letter of Reprimand	24	16	7
Other	1	0	16
DISCIPLINARY ACTIONS			
Proposed Decision	22	14	21
Default Decision	14	12	8
Stipulations	49	51	31
Average Days to Complete After Accusation (from Accusation filed to closure of the case)	375	370	387
Average Days from Closure of Investigation to Imposing Formal Discipline	533	544	555
Average Days to Impose Discipline (from complaint receipt to final outcome)	1184	1104	1080
PROBATION			
Probations Completed	31	24	35
Probationers Pending (close of FY)	187	225	171
Probationers Told	39	26	16

Petitions to Revoke Probation / Accusation and Petition to Revoke Probation Filed	7	13	18		
SUBSEQUENT DISCIPLINE					
Probations Revoked	4	4	13		
Probationers License Surrendered	1	2	9		
Additional Probation Only	0	0	3		
Suspension Only Added	0	0	0		
Other Conditions Added Only	0	0	0		
Other Probation Outcome	0	0	0		
SUBSTANCE ABUSING LICENSEES					
Probationers Subject to Drug Testing	33	35	25		
Drug Tests Ordered	394	368	319		
Positive Drug Tests	30	24	71		
PETITIONS					
Petition for Termination or Modification Granted	5	4	4		
Petition for Termination or Modification Denied	2	0	1		
Petition for Reinstatement Granted	2	3	1		
Petition for Reinstatement Denied	1	4	0		
DIVERSION					
New Participants	6	1	3		
Successful Completions	2	3	2		
Participants (close of FY)	18	15	12		
Terminations	2	3	1		
Terminations for Public Threat	0	0	0		
Drug Tests Ordered	727	498	415		
Positive Drug Tests	0	0	1		
Enforcement Aging					
	FY 18/19	FY 19/20	FY 20/21	Cases Closed	Average %
Investigations (Average %)					
Closed Within:					
90 Days	1,895	2051	2603	6549	52
91 - 180 Days	1118	1080	601	2799	22
181 - 1 Year	1002	313	190	1505	12
1 - 2 Years	467	228	364	1059	8
2 - 3 Years	256	145	190	591	5
Over 3 Years	57	19	29	105	1
Total Investigation Cases Closed	4795	3836	3977	12608	100%
Attorney General Cases (Average %)					
Closed Within:					
0 - 1 Year	5	27	42	97	28
1 - 2 Years	22	21	33	92	26
2 - 3 Years	17	41	11	100	29
3 - 4 Years	47	4	6	59	17
Over 4 Years	*	*	*		
Total Attorney General Cases Closed	116	93	92	185	100%



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 10(a): Report from Commission on Dental Competency Assessment and Western Regional Examining Board (CDCA-WREB)

Background:

Representatives from CDCA-WREB will be available to provide a verbal update of the examination.

Action Requested:

No action requested.



MEMORANDUM

DATE	May 3, 2022
TO	Members of the Dental Board of California (Board)
FROM	Sarah Wallace, Interim Executive Officer Dental Board of California
SUBJECT	Agenda Item 10(b): Discussion and Possible Action on Prioritization of Examination Reviews to be Conducted by Department of Consumer Affairs (DCA), Office of Professional Examination Services (OPES)

Background:

At the November 2021 Board meeting, representatives from OPES provided a presentation regarding the use of dentist licensing examinations, expressed concern regarding the number and varied formats of dental examinations available for consideration by the Board, and provided the attached memorandum on OPES Recommendations for Prioritizing and Accepting Multiple National Examinations for the Board’s review.

At the meeting, it was reported that Board staff had met with OPES to discuss examination review services for the various dentist examinations. In these discussions, it was determined that the Integrated National Board Dental Examination (INBDE) had never been psychometrically evaluated as mandated by Business and Professions Code section 139. Staff conveyed that the Board is considering potential evaluations of additional examinations for licensure as a dentist in California, and that the California Portfolio Examination needs its periodic evaluation.

During the meeting, the Board took action to prioritize examination review of the Dental Licensure Objective Structured Clinical Examination (DLOSCE) developed by the Joint Commission on National Dental Examinations (JCNDE) and the Department of Testing Services (DTS) of the American Dental Association (ADA) before the review of the California Portfolio Examination.

The DLOSCE is not currently accepted in California; if OPES concludes the DLOSCE is psychometrically valid and legally defensible, the Board would need to seek statutory authority through the legislative process before the examination could be accepted. The California Portfolio Examination is a current pathway to licensure in California.

Following the November 2021 Board meeting, Board staff met with OPES to discuss the examination review schedule, and it was recommended that the review of the INBDE be delayed until Fiscal Year (FY) 2022-23. If the OPES review of the INBDE is delayed, the Board could reprioritize the OPES review of the DLOSCE and California Portfolio Examination to an earlier date. Since the California Portfolio Examination is a Board administered examination and current pathway to licensure in California, staff recommends the Board consider reprioritizing the OPES review of the California Portfolio Examination before or concurrent with the OPES DLOSCE review.

Action Requested

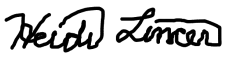
Board staff requests the Board discuss and take action to prioritize the order in which examination evaluations should be conducted by OPES. Board staff recommends the Board consider the following order of priority:

1. Dental Licensure Objective Structured Clinical Examination (DLOSCE) developed by the Joint Commission on National Dental Examinations (JCNDE) and the Department of Testing Services (DTS) of the American Dental Association (ADA)
2. California Portfolio Examination
3. Integrated National Board Dental Examination (INBDE)

Attachment: November 3, 2021 Memorandum on OPES Recommendations for Prioritizing and Accepting Multiple National Examinations



MEMORANDUM

DATE	November 3, 2021
TO	Karen M. Fischer, MPA, Executive Officer Dental Board of California
FROM	 Heidi Lincer, Ph.D., Chief Office of Professional Examination Services
SUBJECT	OPES Recommendations for Prioritizing and Accepting Multiple National Examinations

Licensing boards and bureaus within the California Department of Consumer Affairs (DCA) must ensure that examination programs used in the California licensure process comply with psychometric and legal standards. Boards must ensure that every licensing examination is subject to a periodic psychometric evaluation. To become a dentist licensed by the Dental Board of California (Board), candidates are currently required to pass the following examinations:

- Integrated National Board Dental Examination (INBDE) developed by the Joint Commission on National Dental Examinations (JCNDE).
- Western Regional Examining Board (WREB) Dental Examination, **or** American Board of Dental Examiners, Inc. (ADEX) examination developed by the Commission on Dental Competency Assessments (CDCA), **or** California Portfolio Examination developed by the Board.
- California Dentistry Law and Ethics Examination developed by the Board.

Discussions recently took place between Board staff and DCA's Office of Professional Examination Services (OPES). In these discussions, it was determined that the INBDE has never been psychometrically evaluated as mandated by Business and Professions (B&P) Code section 139. It was also conveyed that the Board is considering potential evaluations of additional examinations for licensure as a dentist in California, and that the California Portfolio Examination is in need of its periodic evaluation. The Board staff requested that OPES assist the Board with prioritizing evaluations of examinations during the November 18–19, 2021 Board Meeting.

The WREB and ADEX examinations were recently reviewed by OPES and were found to meet psychometric standards and assess entry level competencies. The two examination organizations are merging; beginning in 2023, only the ADEX will be offered.

The following examinations are under consideration for evaluation by OPES for the Board:

- California Portfolio Examination.
- Dental Licensure Objective Structured Clinical Examination (DLOSCE) developed by JCNDE and the Department of Testing Services (DTS) of the American Dental Association (ADA).

Both the examinations currently required for licensure and the examinations under consideration use different formats including multiple-choice, clinical, portfolio, computer simulation, and OSCE or a combination of formats. Some test psychomotor skills, some test clinical judgment, and some test both.

OPES is encouraged by efforts made by the various dental examination providers to continuously improve the technology used to assess dental competencies. However, OPES is concerned about the number and varied formats of the dental examinations available for consideration by the Board. Although multiple examination formats provide greater choices and portability for candidates, the different examinations may measure different competencies or measure the same competencies in different ways, making it difficult to determine if candidates are being assessed in a standardized manner. In addition, accepting multiple examinations incurs more responsibility and cost for the Board. DCA boards should be selective in evaluating and using multiple examinations offered by national associations or credentialing organizations.

Moving forward, OPES would like the Board to consider whether both psychomotor skills and clinical judgment should be assessed by a licensure examination or whether assessment of clinical judgment is sufficient. Are psychomotor skills adequately assessed during education and training? Clarifying this issue will help the Board and OPES make decisions about accepting potential licensure examinations.

Equally important, the Board and OPES should evaluate whether required examinations *add value and assess different, required competencies, or whether assessments are unnecessary barriers for candidates.*

During the Board meeting, OPES will discuss the advantages and disadvantages of different examination formats and criteria for accepting multiple national examinations.

OPES will make the following examination-specific recommendations:

- Review the INBDE examination first. This examination is currently required for licensure and should be evaluated by OPES to comply with B&P Code section 139.
- Review the California Portfolio Examination. This examination needs to be updated and suffers from administration issues and limited use.
- Review the DLOSCE when more data become available. Only a limited number of states are currently accepting the DLOSCE so a review at this time would be premature.

cc: Tracy A. Montez, Ph.D., Chief, Division of Programs and Policy Review



MEMORANDUM

DATE	April 19, 2022
TO	Members of the Dental Board of California
FROM	Paige Ragali, SSMI Dental Board of California
SUBJECT	Agenda Item 11(a): Review of Dental Licensure and Permit Statistics

Dental License Application Statistics

The following are monthly dental license application statistics by pathway for fiscal year 2018/19, 2019/20, 2020/21, and 2021/22 as of March 31, 2022.

Dental Applications Received by Month													
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
WREB 18/19	134	64	32	30	32	33	41	30	31	71	142	278	918
WREB 19/20	110	61	24	25	55	132	30	11	18	35	103	185	789
WREB 20/21	140	156	99	66	29	20	28	27	26	78	158	217	1,044
WREB 21/22	138	85	75	22	28	27	38	31	71	-	-	-	515
Residency 18/19	55	15	7	5	5	4	4	3	7	11	10	20	146
Residency 19/20	64	8	7	4	3	10	11	6	8	11	13	33	178
Residency 20/21	42	15	8	5	2	2	5	7	4	8	20	29	147
Residency 21/22	93	23	12	5	1	6	3	8	8	-	-	-	159
Credential 18/19	22	17	18	16	14	8	18	13	23	13	13	22	197
Credential 19/20	16	9	6	21	14	15	16	18	22	21	20	28	206
Credential 20/21	15	19	22	27	16	16	18	13	16	19	20	22	223
Credential 21/22	45	51	44	20	8	17	19	19	23	-	-	-	246
Portfolio 18/19	3	0	0	0	0	0	0	0	0	0	0	4	7
Portfolio 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 20/21	0	0	0	0	0	0	0	0	0	0	3	1	4
Portfolio 21/22	0	0	0	0	0	1	0	0	0	-	-	-	1
ADEX 18/19	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 19/20	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1	1	17	19
ADEX 20/21	22	28	9	16	4	5	9	3	17	41	112	87	353
ADEX 21/22	82	34	17	11	5	9	17	20	19	-	-	-	214

Agenda Item 11(a): Review of Dental Licensure and Permit Statistics
 Dental Board of California Meeting
 May 12-13, 2022

Dental Applications Approved by Month													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
WREB 18/19	208	120	71	38	31	36	39	25	19	31	55	163	836
WREB 19/20	250	121	52	32	32	156	32	8	11	5	8	46	753
WREB 20/21	135	199	140	100	37	61	38	41	16	14	14	150	945
WREB 21/22	367	128	98	29	12	48	44	35	21	-	-	-	782
Residency 18/19	39	48	8	3	5	4	5	4	5	1	8	6	136
Residency 19/20	46	35	11	8	4	9	4	5	4	1	1	9	137
Residency 20/21	25	49	16	8	5	4	3	4	1	3	2	5	125
Residency 21/22	110	54	27	12	6	7	2	4	0	-	-	-	222
Credential 18/19	21	19	17	12	9	16	10	12	15	10	20	13	174
Credential 19/20	16	13	11	10	7	18	13	10	14	14	12	13	151
Credential 20/21	9	25	25	20	16	14	24	10	23	22	16	16	220
Credential 21/22	36	60	38	20	9	19	9	13	14	-	-	-	218
Portfolio 18/19	4	1	0	0	0	0	0	0	0	0	0	0	5
Portfolio 19/20	3	1	0	0	0	0	0	0	0	0	0	0	4
Portfolio 20/21	0	0	0	0	0	0	0	0	0	0	0	4	4
Portfolio 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
ADEX 18/19	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 19/20	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	1	0	1
ADEX 20/21	2	24	17	19	10	6	6	4	2	7	10	93	200
ADEX 21/22	189	79	43	21	4	7	13	5	3	-	-	-	364
Dental Licenses Issued by Month													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
WREB 18/19	222	146	80	43	30	41	40	33	19	28	51	155	888
WREB 19/20	246	123	52	40	31	140	39	20	12	8	13	45	769
WREB 20/21	133	190	140	90	41	59	39	38	23	21	16	115	905
WREB 21/22	198	71	48	35	14	42	35	28	22	-	-	-	493
Residency 18/19	38	55	8	4	5	4	8	5	6	2	8	5	148
Residency 19/20	42	39	9	8	3	5	9	2	5	0	2	9	133
Residency 20/21	27	49	16	9	6	3	3	2	2	5	1	7	130
Residency 21/22	51	30	15	12	6	5	4	2	1	-	-	-	126
Credential 18/19	22	16	19	9	10	12	18	13	15	11	17	14	176
Credential 19/20	15	15	11	12	7	13	16	8	11	12	17	16	153
Credential 20/21	9	22	24	22	19	11	20	11	20	20	17	16	211
Credential 21/22	8	16	22	19	10	19	11	9	9	-	-	-	123
Portfolio 18/19	3	2	0	0	0	0	0	0	0	0	0	0	5
Portfolio 19/20	3	1	0	0	0	0	0	0	0	0	0	0	4
Portfolio 20/21	0	0	0	0	0	0	0	0	0	0	0	4	4

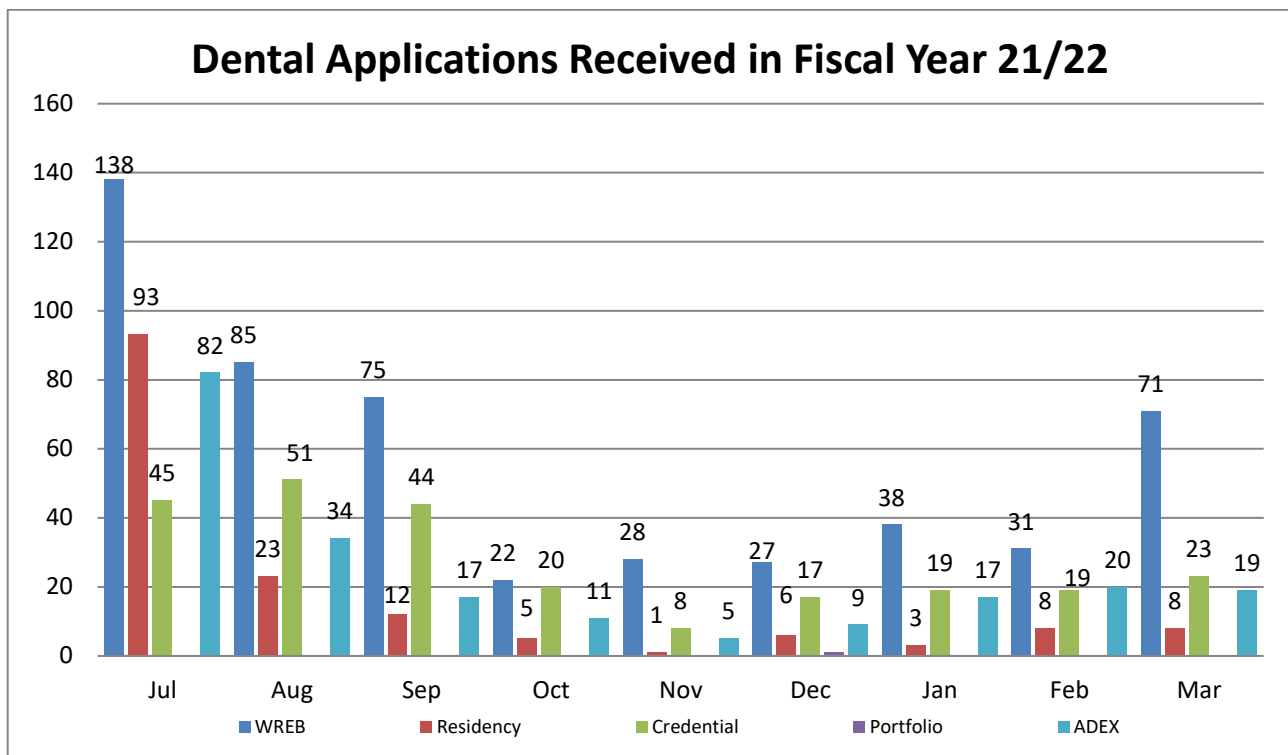
Portfolio 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
ADEX 18/19	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 19/20	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	1	0	1
ADEX 20/21	2	25	17	17	10	5	4	3	4	7	11	75	180
ADEX 21/22	107	40	22	23	6	7	9	5	5	-	-	-	224
Cancelled Dental Applications by Month													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
WREB 18/19	16	12	68	5	4	13	3	2	6	5	12	7	153
WREB 19/20	23	6	1	2	2	129	4	5	1	6	22	41	242
WREB 20/21	38	31	3	2	2	0	1	1	0	1	3	0	82
WREB 21/22	1	1	0	0	1	2	0	1	0	-	-	-	6
Residency 18/19	9	9	10	1	0	1	0	0	0	1	0	1	32
Residency 19/20	12	3	1	1	0	17	3	1	1	4	3	5	51
Residency 20/21	8	0	0	0	2	0	1	0	0	0	1	1	13
Residency 21/22	0	0	0	0	0	1	0	1	0	-	-	-	2
Credential 18/19	0	0	12	0	1	0	0	2	0	0	2	0	17
Credential 19/20	1	1	2	0	0	4	1	0	0	0	0	0	9
Credential 20/21	0	2	1	1	0	0	1	0	0	0	1	0	6
Credential 21/22	2	0	0	2	1	0	1	0	0	-	-	-	6
Portfolio 18/19	0	0	2	0	0	0	0	0	0	0	0	0	2
Portfolio 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 20/21	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
ADEX 18/19	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 19/20	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	1	2	3
ADEX 20/21	8	2	0	0	0	0	0	0	1	0	0	1	12
ADEX 21/22	0	0	0	0	0	0	0	1	0	-	-	-	1
Withdrawn Dental Applications by Month													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
WREB 18/19	22	1	7	1	0	1	2	1	3	4	0	4	46
WREB 19/20	4	1	3	0	2	35	0	2	0	0	1	2	50
WREB 20/21	8	17	30	20	8	6	6	13	8	35	28	45	224
WREB 21/22	34	11	12	78	7	13	19	7	15	-	-	-	196
Residency 18/19	8	2	2	0	1	1	0	0	1	0	1	0	16
Residency 19/20	1	0	0	0	0	9	0	0	1	0	1	0	12
Residency 20/21	1	4	2	3	2	0	2	1	1	0	5	7	28
Residency 21/22	13	5	0	24	2	3	16	0	4	-	-	-	67
Credential 18/19	0	1	0	0	0	1	1	0	0	0	1	2	6

Credential 19/20	1	1	0	0	1	1	0	0	0	0	0	0	4
Credential 20/21	1	4	2	3	0	0	0	0	3	0	0	5	18
Credential 21/22	5	2	1	1	2	0	0	0	0	-	-	-	11
Portfolio 18/19	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 20/21	0	0	0	0	0	0	0	0	0	0	0	1	1
Portfolio 21/22	0	0	0	0	0	0	0	0	1	-	-	-	1
ADEX 18/19	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 19/20	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 20/21	2	4	5	2	0	1	0	4	2	10	23	26	79
ADEX 21/22	16	2	5	17	0	2	6	0	0	-	-	-	48
Denied Dental Applications by Month													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
WREB 18/19	0	0	0	0	0	0	0	0	1	0	0	0	1
WREB 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
WREB 20/21	1	0	0	0	0	0	0	2	0	0	0	0	3
WREB 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
Residency 18/19	0	0	0	0	0	0	0	0	0	0	0	0	0
Residency 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
Residency 20/21	0	0	0	0	0	0	0	0	0	0	0	0	0
Residency 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
Credential 18/19	0	0	0	0	0	0	0	0	0	0	0	0	0
Credential 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
Credential 20/21	2	0	0	1	0	0	1	0	0	0	0	0	4
Credential 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
Portfolio 18/19	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 19/20	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 20/21	0	0	0	0	0	0	0	0	0	0	0	0	0
Portfolio 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0
ADEX 18/19	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 19/20	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ADEX 20/21	N/A	N/A	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0
ADEX 21/22	0	0	0	0	0	0	0	0	0	-	-	-	0

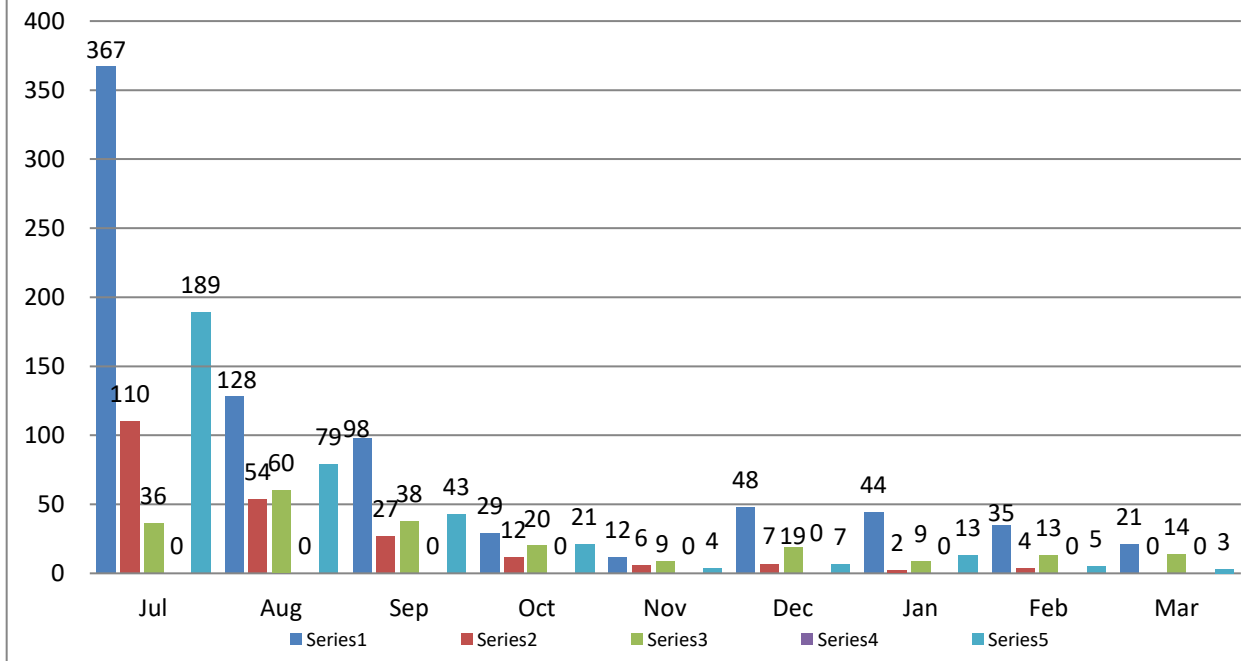
Application Definitions	
Received	Application submitted in physical form or digitally through Breeze system.
Approved	Application for eligibility of licensure processed with all required documentation.
License Issued	Application processed with required documentation and paid prorated fee for initial license.
Cancelled	Board requests staff to remove application (i.e. duplicate).
Withdrawn	Applicant requests Board to remove application
Denied	The Board denies an application on the on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline; in accordance with Business and Professions Code, Division 1.5, Chapter 2, Denial of Licenses.

Dental License Application Statistic Graphs

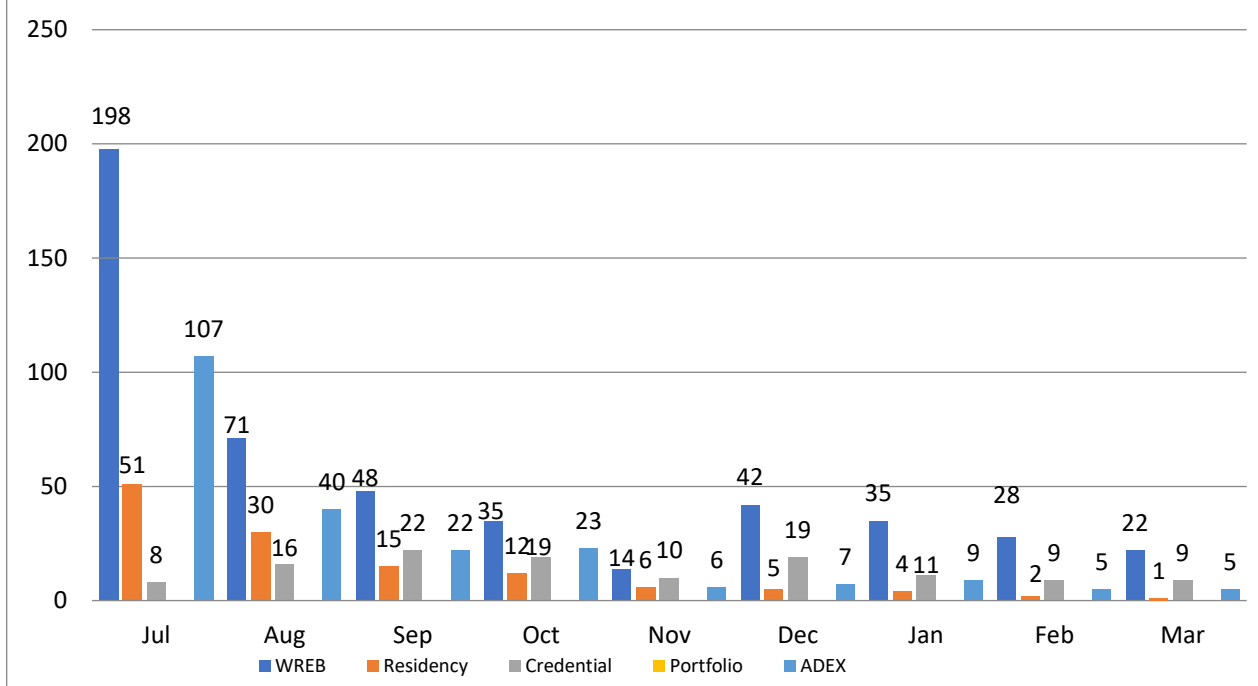
The following graphs represent monthly dental license application statistics by pathway for fiscal year 2021/22 as of March 31, 2022.



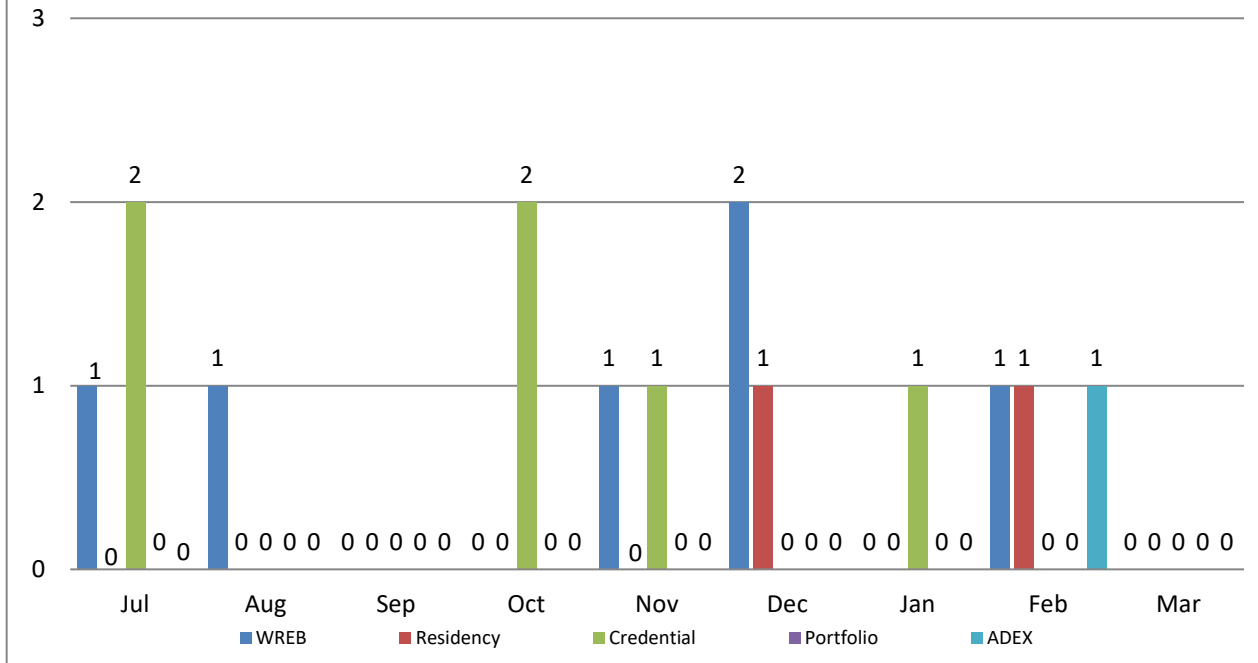
Dental Applications Approved in Fiscal Year 21/22



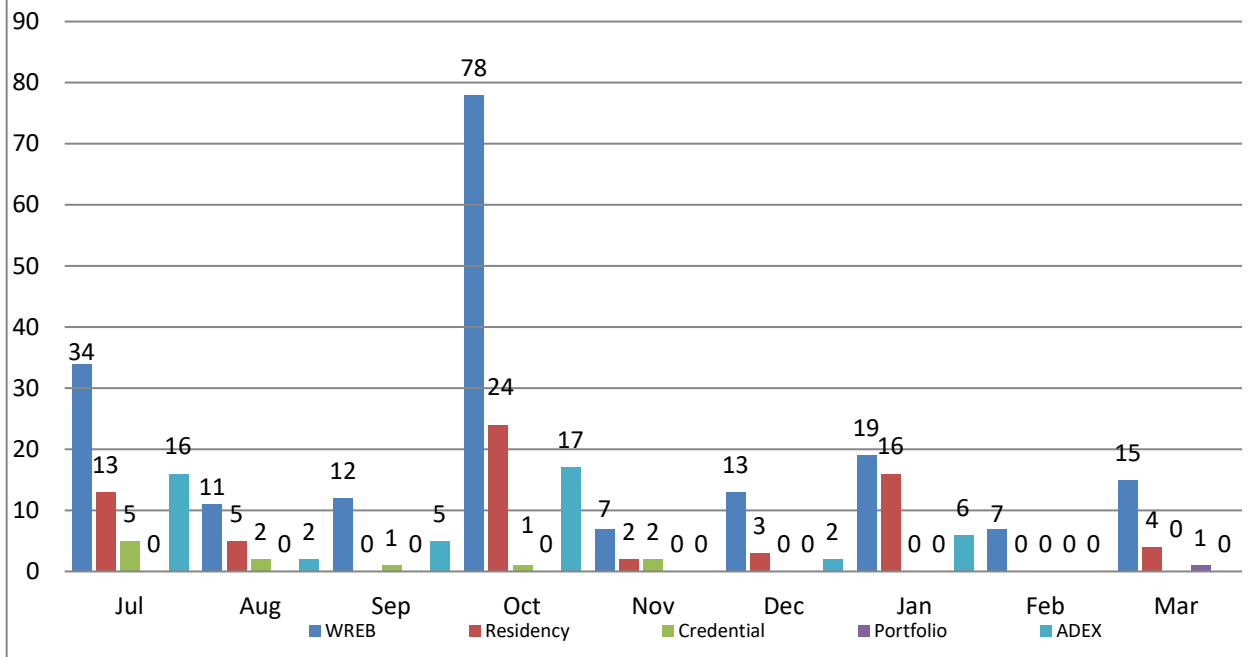
Dental Licenses Issued in Fiscal Year 21/22



Cancelled Dental Applications in Fiscal Year 21/22



Withdrawn Dental Applications in Fiscal Year 21/22



Dental Law and Ethics Written Examination Statistics

License Type		DDS			
Exam Title		Dental Law and Ethics Examination			
Licensure Pathway		WREB	LBR	PORT	ADEX
2018/19	# of 1 st Time Candidates	806	135	4	N/A
	Pass %	89.33%	94.07%	100.00%	N/A
2019/20	# of 1 st Time Candidates	698	105	N/A	5
	Pass %	94.13%	95.24%	N/A	100.00%
2020/21	# of 1 st Time Candidates	824	89	4	232
	Pass %	86.89%	91.01%	50.00%	82.33%
2021/22	# of 1 st Time Candidates	172	36	0	87
	Pass %	76.79%	76.60%	N/A	81.31%
Date of Last Occupational Analysis: 2018					
Name of Developer: Office of Professional Examination Services					
Target OA Date: 2025					

Dental License and Permits Statistics

The following table provides statistics on dental licenses issued by pathway to licensure by fiscal year 2018/19, 2019/20, 2020/21, and 2021/22 as of March 31, 2022.

Dental Licenses Issued via Pathway	Total Issued in 18/19	Total Issued in 19/20	Total Issued in 20/21	Total Issued in 21/22	Total Issued to Date	Date Pathway Implemented
WREB Exam	888	769	905	493	11,954	January 1, 2006
Licensure by Residency	148	133	130	126	2,182	January 1, 2007
Licensure by Credential	176	153	211	109	3,350	July 1, 2002
(LBC Clinic Contract)	10	9	14	14	52	July 1, 2002
(LBC Faculty Contract)	7	5	6	0	16	July 1, 2002

Agenda Item 11(a): Review of Dental Licensure and Permit Statistics
Dental Board of California Meeting
May 12-13, 2022

Portfolio	5	4	4	0	79	November 5, 2014
ADEX	N/A	1	180	224	405	November 15, 2019
Total	1,229	1,074	1,450	966	18,038	

The following table provides statistics on dental license and permit status statistics by fiscal year 2018/19, 2019/20, 2020/21, and 2021/22 as of March 31, 2022.

License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Dental License	Active	34,921	34,586	34,922	34,732
	Inactive	1,826	1,784	1,751	1,716
	Retired/Reduced Fee	1,682	1,274	1,297	1,281
	Disabled	108	106	98	94
	Delinquent	5,405	5,445	5,540	5,838
	Cancelled	16,756	17,602	18,720	19,461
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Additional Office Permit	Active	2,527	2,717	2,750	2,624
	Delinquent	870	890	992	1,114
	Cancelled	6,667	6,926	7,181	7,373
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Conscious Sedation	Active	531	535	543	566
	Delinquent	41	38	43	57
	Cancelled	515	552	586	600
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Continuing Education Registered Provider Permit	Active	945	901	854	760
	Delinquent	803	810	744	771
	Cancelled	2,059	2,185	2,344	2,447
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Elective Facial Cosmetic Surgery Permit	Active	29	29	30	30
	Delinquent	4	5	5	5
	Cancelled	1	1	2	2
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Extramural Facility Registration*	Active	182	186	203	204
	Delinquent	N/A	N/A	N/A	N/A
	Cancelled	N/A	N/A	N/A	N/A
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Fictitious Name Permit	Active	6,790	7,099	7,250	6,856
	Delinquent	1,695	1,706	1,782	2,252
	Cancelled	6,343	6,802	7,361	7,728
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
General Anesthesia Permit	Active	881	897	918	920
	Delinquent	31	22	31	35
	Cancelled	973	1,008	1,042	1,058

Agenda Item 11(a): Review of Dental Licensure and Permit Statistics
Dental Board of California Meeting
May 12-13, 2022

License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Mobile Dental Clinic Permit	Active	40	45	55	45
	Delinquent	47	43	29	42
	Cancelled	43	52	78	81
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Medical General Anesthesia	Active	86	111	136	147
	Delinquent	29	27	30	27
	Cancelled	189	203	211	222
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Oral Conscious Sedation Certification (Adult Only 1,184; Adult & Minors 1,178)	Active	2,420	2,402	2,391	2,362
	Delinquent	661	647	638	691
	Cancelled	804	930	1,096	1,173
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Oral and Maxillofacial Surgery Permit	Active	92	96	93	94
	Delinquent	5	4	10	9
	Cancelled	21	22	22	25
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Referral Service Registration*	Active	156	157	159	159
	Delinquent	N/A	N/A	N/A	N/A
	Cancelled	N/A	N/A	N/A	N/A
License Type	License Status	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Special Permit	Active	40	37	35	35
	Delinquent	11	9	9	8
	Cancelled	175	184	190	194
Status Definitions					
Active	Current and can practice without restrictions (<i>BPC §1625</i>)				
Inactive	Current but cannot practice, continuing education not required (<i>CCR §1017.2</i>)				
Retired/Reduced Fee	Current, has practiced over 20 years, eligible for Social Security and can practice with restrictions (<i>BPC §1716.1a</i>)				
Disabled	Current with disability but cannot practice (<i>BPC §1716.1b</i>)				
Delinquent	Renewal fee not paid within one month after expiration date (<i>BPC §163.5</i>)				
Cancelled	Renewal fee not paid 5 years after its expiration and may not be renewed (<i>BPC §1718.3a</i>) Total number of licenses / permits cancelled to date.				



The following table provides statistics on population (Pop.), current & active dental licenses by County, and population (Pop.) per dental license by County in 2019, 2020, and 2021 as of March 31, 2022.

County	DDS per County in 2019/20	Pop. in 2019/20	Pop. per DDS in 2019/20	DDS per County in 2020/21	Pop. in 2020/21	Pop. per DDS in 2020/21	DDS per County in 2021/22	Pop. in 2021/22	Pop. per DDS in 2021/22
Alameda	1,458	1,645,359	1,128	1,497	1,670,834	1,116	1,510	1,682,353	1,114
Alpine	1	1,151	1,151	1	1,142	1,142	1	1,204	1,204
Amador	22	38,382	1,744	23	37,676	1,638	23	40,474	1,759
Butte	141	226,404	1,605	126	210,291	1,668	127	211,632	1,666
Calaveras	16	45,168	2,823	18	45,023	2,501	18	45,292	2,516
Colusa	5	22,043	4,408	6	21,902	3,650	6	21,839	3,639
Contra Costa	1,093	1,139,513	1,042	1,123	1,153,561	1,027	1,094	1,165,927	1,065
Del Norte	11	27,124	2,465	15	27,298	1,819	14	27,743	1,981
El Dorado	161	185,062	1,149	161	193,227	1,200	157	191,185	1,217
Fresno	597	995,975	1,668	622	1,023,358	1,645	613	1,008,654	1,645
Glenn	9	28,731	3,192	10	29,400	2,940	6	28,917	4,819
Humboldt	69	136,953	1,984	68	133,302	1,960	65	136,463	2,099
Imperial	39	188,334	4,829	38	188,777	4,967	38	179,702	4,729
Inyo	12	18,619	1,551	9	18,584	2,064	8	19,016	2,377
Kern	336	895,112	2,664	350	917,553	2,621	349	909,235	2,605
Kings	64	149,537	2,336	64	153,608	2,400	69	152,486	2,209
Lake	46	64,945	1,411	45	64,040	1,423	47	68,163	1,450
Lassen	24	30,918	1,288	24	28,833	1,201	24	32,730	1,363
Los Angeles	8,342	10,241,278	1,227	8,502	10,172,951	1,196	8,455	10,014,009	1,184
Madera	53	156,492	2,952	43	158,147	3,677	42	156,255	3,720
Marin	312	263,604	844	304	260,831	857	305	262,321	860
Mariposa	7	18,148	2,592	7	18,067	2,581	7	17,131	2,447
Mendocino	56	89,134	1,591	52	87,946	1,691	54	91,601	1,696
Merced	90	274,665	3,051	91	283,521	3,115	93	281,202	3,023

County	DDS per County in 2019/20	Pop. in 2019/20	Pop. per DDS in 2019/20	DDS per County in 2020/21	Pop. in 2020/21	Pop. per DDS in 2020/21	DDS per County in 2021/22	Pop. in 2021/22	Pop. per DDS in 2021/22
Modoc	4	9,580	2,395	5	9,570	1,914	5	8,700	1,740
Mono	3	13,713	4,571	3	13,464	4,488	5	13,195	2,639
Monterey	268	442,365	1,650	259	441,143	1,703	263	439,035	1,669
Napa	112	142,408	1,271	113	139,088	1,230	112	138,019	1,232
Nevada	87	98,828	1,135	77	98,114	1,274	79	102,241	1,294
Orange	3,890	3,194,024	821	4,005	3,194,332	797	4,043	3,186,989	788
Placer	463	382,837	826	471	403,711	857	460	404,739	879
Plumas	14	19,819	1415	15	18,260	1,217	14	19,790	1,413
Riverside	1,058	2,384,783	2,254	1,111	2,442,304	2,198	1,114	2,418,185	2,170
Sacramento	1,116	1,514,770	1,431	1,159	1,555,365	1,341	1,179	1,585,055	1,344
San Benito	21	56,854	2,707	23	62,353	2,711	21	64,209	3,057
San Bernardino	1,340	2,160,256	1,612	1,381	2,180,537	1,578	1,387	2,181,654	1,572
San Diego	2,748	3,316,192	1,206	2,779	3,343,355	1,203	2,778	3,298,634	1,187
San Francisco	1,237	874,228	706	1,225	897,806	732	1,197	873,965	730
San Joaquin	373	746,868	2,002	371	773,632	2,085	371	779,233	2,100
San Luis Obispo	233	280,101	1,202	225	277,259	1,232	208	282,424	1,357
San Mateo	873	770,203	882	858	773,244	901	849	764,442	900
Santa Barbara	320	450,663	1,408	324	451,840	1,394	312	448,229	1,436
Santa Clara	2,273	1,938,180	852	2,292	1,961,969	856	2,283	1,936,259	848
Santa Cruz	180	276,603	1,536	170	271,233	1,595	164	270,861	1,651
Shasta	113	178,605	1,580	115	178,045	1,548	106	182,155	1,718
Sierra	1	3,207	3,207	1	3,201	3,201	0	3,236	0
Siskiyou	23	44,688	1,942	24	44,461	1,852	22	44,076	2,003
Solano	278	436,023	1,568	287	440,224	1,533	288	453,491	1,574
Sonoma	397	505,120	1,272	393	492,980	1,254	389	488,863	1,256
Stanislaus	279	548,057	1,964	273	557,709	2,042	274	552,878	2,017
Sutter	52	96,956	1,864	56	100,750	1,799	53	99,633	1,879

County	DDS per County in 2019/20	Pop. in 2019/20	Pop. per DDS in 2019/20	DDS per County in 2020/21	Pop. in 2020/21	Pop. per DDS in 2020/21	DDS per County in 2021/22	Pop. in 2021/22	Pop. per DDS in 2021/22
Tehama	28	63,995	2,285	29	65,129	2,245	30	65,829	2,194
Trinity	3	13,628	4,542	4	13,548	3,387	3	16,112	5,370
Tulare	213	471,842	2,215	227	479,977	2,114	222	473,117	2,131
Tuolumne	48	54,707	1,139	47	54,917	1,168	46	55,620	1,209
Ventura	663	857,386	1,293	666	842,886	1,265	667	843,843	1,265
Yolo	114	218,896	1,920	114	221,705	1,944	118	216,403	1,833
Yuba	11	74,577	6,779	7	78,887	11,269	7	81,575	11,653
Out of State/Country	2,565	N/A	N/A	2,614	N/A	N/A	2,740	N/A	N/A
Total	34,365	39,523,613	N/A	34,922	39,782,870	N/A	34,934	39,538,223	N/A

*Population data obtained from Department of Finance, Demographic Research Unit

*The counties with the highest Population per DDS are:	Yuba County (1:11,653)	*The counties with the lowest Population per DDS are:	San Francisco County (1:730)
	Trinity County (1:5,370)		Orange County (1:788)
	Glenn County (1:4,819)		Santa Clara County (1:848)
	Imperial County (1:4,729)		Marin County (1:860)
	Madera County (1:3,720)		Placer County (1:879)

Action Requested:

None.



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	David Bruggeman, Legislative and Regulatory Specialist Dental Board of California
SUBJECT	Agenda Item 12: a. Discussion and Possible Action to Consider Comments Received During the 15-Day Public Comment Period Relative to Proposed Modified Text and Amendments to CCR, Title 16, Section 1031; and, b. Discussion and Consideration of Proposed Regulation to Amend CCR, Title 16, Section 1031 Related to the California Dentistry Law and Ethics Examination

Background Information

At its February 2019 meeting, the Board approved regulatory language to amend California Code of Regulations, Title 16, Section 1031 related to the passing score of the California Dentistry Law and Ethics Examination to allow for the Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) to use a criterion-referenced passing score to make the Board’s California Dentistry Law and Ethics Examination legally defensible. At its August 2020 meeting, the Board approved revised regulatory language. The final rulemaking was submitted to the Office of Administrative Law (OAL) on December 7, 2021.

On January 21, 2022, OAL advised staff of a clarity issue with the Board’s rulemaking text. The Initial Statement of Reasons referenced the Board would be utilizing the modified Angoff standard setting method. However, the proposed language did not specify that methodology when defining the term “criterion-referenced passing score.” At the Board’s February 2022 meeting the Board approved modified regulatory language to describe the Angoff standard-setting method in connection with the law and ethics examinations.

The modified text was noticed for a 15-day comment period that ran from February 18 through March 7, 2022. The Board received one comment, which has been summarized below. Board staff have also drafted a proposed response, which is also included below.

Comment and Proposed Response

February 18, 2022 email from Dr. Lewis Turchi, DDS

Agenda Item 12: Proposed Regulation Relating to California DDS Law & Ethics Examination
 Dental Board of California Meeting
 May 12-13, 2022

Comment Summary:

Commenter appears to be seeking clarity on the proposed changes, but also expresses skepticism at the ability to teach ethics, given the high debt and pressure to make money facing most dentists entering practice today. Commenter would like to know how the proposed changes would encourage ethics but is not asking for a specific change.

Staff Recommended Proposed Response:

The Board has considered the comment and has decided to make no changes to the proposed text.

The comment does not make a request for a specific change. It does appear to raise a concern about the clarity of the overall proposed changes. The intent of these changes is to change the requirement for passing the law and ethics exam from a specified passing score to a criterion-based passing score. The modified text describes this criterion-based approach as involving licensees and testing experts in evaluating the examination questions to determine that the passing score represents entry-level competence in applying California law and principles of ethics to the practice of dentistry.

Shifting the assessment of a passing score to the individual questions rather than a specific percentage of questions answered correctly is expected to better connect the concepts in each exam question to California law and ethics in the practice of dentistry. The proposed modified text provides greater specificity regarding how the score will be calculated and therefore the Board believes the modified text is sufficiently clear to place licensees on notice regarding the new examination scoring process.

Staff Recommendation for Agenda Item No. 12a.:

Staff recommends the Board consider the comment and approve the proposed response.

Proposed Motion Language – Response to Comments

Option No. 1 (If the members agree with the staff recommended response): Direct staff to proceed as recommended to reject the comment as specified and provide the response to the comment as indicated in the staff recommended response.

Option No. 2: (If the members have any edits to the recommended response or disagree with staff and wish to accept the comment or make any other changes to the response): Direct staff to accept the following comment and make the following edits to the text: [identify comment to accept or reject and text to change here and explain why].

Staff Recommendation for Agenda Item No. 12b.:

If the Board rejects the previously discussed comment and makes no further changes to the proposed text, staff recommends the Board consider the following motion to complete the rulemaking process and adopt the proposed text:

Direct staff to take all steps necessary to complete the rulemaking process including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulation and the rulemaking documents, and adopt the proposed regulations as described in the modified text notice for 16 CCR section 1031.

From: [Dr.Lou Turchi](#)
To: [Wallace, Sarah@DCA](#)
Date: Friday, February 18, 2022 2:41:18 PM

[EXTERNAL]: ljtdds@gmail.com

CAUTION: This message originated from the public internet. Do not open attachments unless you recognize the sender.

Hi Sarah, I am Lewis Tuchi, DDS, served on the Board for 4 years as President. Read the new proposal. It really does not make sense, and in my years of serving in organized dentistry, as President of CDA, and a Trustee to the ADA for 4 years, I have realized that you cannot teach ethics. One major problem is overutilization. Students graduating today are coming out with a student debt of over \$450,000. When I graduated all of my classmates opened up their own practices, save 3 who had tuition paid by the military and they went into the military. Today a vast majority go to work in large managed care practices where PRODUCTION is the word. Many patients are receiving treatment that is not necessary. While on the Board we had many cases like that. Now how do you think your amendments are going to encourage ethics?

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 10. DENTAL BOARD OF CALIFORNIA**

MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and single ~~strike through~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strike through~~ for deleted text.

Amend Sections 1031 of Division 10 of Title 16 of the California Code of Regulations to read as follows:

§ 1031. Supplemental Examinations in California Law and Ethics.

Prior to issuance of a license, an applicant shall achieve a criterion-referenced passing score on the ~~successfully complete~~ supplemental written examinations in California law and ethics.

- (a) The examination on California law shall test the applicant's knowledge of California law as it relates to the practice of dentistry.
- (b) The examination on ethics shall test the applicant's ability to recognize and apply ethical principles as they relate to the practice of dentistry.
- (c) ~~A candidate shall be deemed to have passed the examinations if his/her score is at least 75% in each examination. As used in this section, "criterion-referenced passing score" is a specified point in a distribution of scores at or above which candidates have achieved entry level competence.~~ passing score for the examination established by the modified Angoff standard setting method. This method includes the use of licensees representing the practice of dentistry and a test development specialist and determines through evaluation and rating of each exam question that the passing score represents entry level competence to practice in the profession as specified in subsections (a) and (b).

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections ~~439,~~ 1630, 1632, and 1634.1, Business and Professions Code.



MEMORANDUM

DATE	April 4, 2022
TO	Members of the Dental Board of California
FROM	David Bruggeman, Legislative and Regulatory Specialist, Dental Board of California
SUBJECT	Agenda Item 13: Update on Pending Regulatory Packages

Background Information:

Please see the attached table summarizing the current status of each of the Dental Board of California's pending regulatory proposals.

Action Requested:

No action requested.

Rulemaking File	Board Approved Language	Initial Rulemaking Package Assembly Progress	Formal DCA Review	DCA Director Review	Agency Review	OAL Notice Filed	OAL Final Rulemaking Filed	Submitted to Secretary of State/Effective Date
Diversion Evaluation Committee Membership (16 CCR 1020.4)	X	X	X	X	X	X	X	SOS: 7/13/21 Effective: 10/1/2021
Dentistry Law & Ethics Examination Scoring (16 CCR 1031)	X	X	X	X	X	X	In Progress	
Continuing Education Requirements (16 CCR 1016, 1016.2, 1017)	X	X	X	X	X	X	In Progress	
Telehealth Notification (16 CCR 1065)	X	In Progress						
Dental Assisting Comprehensive Rulemaking (16 CCR 1067-1081.3)	X	In Progress						

Agenda Item 13: Update on Pending Regulatory Packages - Attachment
Dental Board of California Meeting
May 12-13, 2022

Rulemaking File	Board Approved Language	Initial Rulemaking Package Assembly Progress	Formal DCA Review	DCA Director Review	Agency Review	OAL Notice Filed	OAL Final Rulemaking Filed	Submitted to Secretary of State/Effective Date
Radiographic Decision Making and Interim Therapeutic Restoration Course Requirements (16 CCR 1071.1)	X	In Progress						
Elective Facial Cosmetic Surgery Permit Application and Renewal Requirements (16 CCR 1044.6-1044.8)	X	In Progress						
Mobile and Portable Dental Unit Registration Requirements (16 CCR 1049)	X	In Progress						

Rulemaking File	Board Approved Language	Initial Rulemaking Package Assembly Progress	Formal DCA Review	DCA Director Review	Agency Review	OAL Notice Filed	OAL Final Rulemaking Filed	Submitted to Secretary of State/Effective Date
Minimum Standards for Infection Control (16 CCR 1005)	X	In Progress						
SB 501 Anesthesia and Sedation Requirements (16 CCR 1021 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1043.8.1, 1044, 1044.1, 1044.2, 1044.3, 1044.4, 1044.5, 1043.9.1, 1043.9.2, 1070.8)	X	X	X	X	X	X	In Progress	
AB 526 Dentists Initiating and Administering Vaccines (16 CCR 1066)	X	Emergency Regulation- In Progress						



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 20: President's Report on Closed Session Items

Background:

Dr. Alan Felsenfeld, President of the Dental Board of California, will provide a verbal report on closed session items.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 21: Dental Assisting Council (DAC) Meeting Report

Background:

Ms. Jeri Fowler, Chair of the Dental Assisting Council (Council), will provide a verbal report on the May 12, 2022 meeting of the Council.

Action Requested:

No action requested.



MEMORANDUM

DATE	May 13, 2022
TO	Members of the Dental Board of California
FROM	Bernal Vaba, Chief of Regulatory Compliance and Discipline Dental Board of California
SUBJECT	Agenda Item 22(a): Diversion Program Report and Statistics

Background:

The Diversion Evaluation Committee (DEC) program statistics for the ending quarter of March 31, 2022, are provided below. These statistics reflect the participant activity in the Diversion (Recovery) Program and are presented for informational purposes only.

These statistics were derived from reports received from MAXIMUS.

Diversion	FY 2021/2022										FY 20/21	FY 19/20	FY 18/19
	Quarter 1			Quarter 2			Quarter 3			Current FY Totals			
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar				
New Participants	0	1	1	0	0	0	0	0	1	3	3	1	6
Total Participants (Close of Qtr/FY)	9	9	9	7	7	7	6	6	7	12	12	15	18
Self-Referral	4	4	4	4	3	3	2	2	2	5	5	3	4
Enforcement Referral	1	1	1	1	0	0	0	0	1	2	2	5	6
Probation Referral	3	3	3	4	4	4	4	4	4	5	5	7	8
Total Completed Cases	1	1	1	0	0	0	1	0	0	4	3	6	4
Successful Completions	0	0	0	0	0	0	0	0	0	0	2	3	2
Terminations	1	1	1	1	0	0	0	0	0	4	1	3	2
Terminations for Public Threat	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Tests Ordered	44	28	31	34	26	30	22	22	26	263	415	498	727
Positive Drug Tests	1	0	1	0	0	0	0	0	0	2	1	0	0
Prescription Positive Tests	3	1	0	3	0	0	0	0	0	7	4	0	0

Of the seven (7) participants, there were two (2) self-referrals, four (4) probation referrals, and (1) one enforcement referral.



MEMORANDUM

DATE	May 13, 2022
TO	Members of the Dental Board of California
FROM	Bernal Vaba, Chief of Regulatory Compliance and Discipline Dental Board of California
SUBJECT	Agenda Item 22(b): Discussion and Possible Action Regarding Appointment of Diversion Evaluation Committee (DEC) Member

Background:

Philip Bradford, DDS, resigned from the DEC on March 30, 2022. A recruitment notice for the DEC was posted on the Dental Board of California website. Jim Tracy, DDS, who previously served on the DEC from August 2006 to July 2015 was interviewed by current DEC Member, Michael Shaw, DDS, and Bernal Vaba, Chief of Regulatory Compliance and Discipline. Dr. Tracy has established that he has the experience and knowledge in the evaluation and/or management of persons who have an alcohol or drug abuse impairment and comes highly recommended by members of the DEC.

Action Requested:

Accept or reject the recommendation to appoint Dr. Tracy to the DEC.

Attachment:

1. Application for DEC Member Position – James Tracy, DDS

RECEIVED
APR 01 2022
DENTAL BOARD
OF CALIFORNIA

DIVERSION EVALUATION COMMITTEE APPLICATION

(This form is a public record, but subject to the protection of the Information Practices Act)

Please Print or Type

Name James M Tracy
Address [REDACTED]
Phones (work) [REDACTED] (home) [REDACTED] (cell) [REDACTED]
Email [REDACTED]

Category for which you are applying:
 Dentist Dental Auxiliary Physician/Psychologist Public Member
Committee you wish to be on: Northern DEC Southern DEC
California License Number: 28398 SSN/FEIN/ITIN [REDACTED]
(except for public member applicants)

In the space below, briefly summarize your professional, educational, and/or personal experience which documents your expertise:

I graduated from Georgetown University, School of Dentistry in 1979. From a personal perspective, I am a product of the California Dental Diversion Program. My sobriety date is June 11, 1988 (33yrs) and I was a participant in Dental Diversion Program from 1988 to 1992 and I believe I was the 11th graduate of the program. I have been a member of the California Dental Associations Well-Being Committee since 1989 and was chair of the Bay Area Well-Being Committee from 1993-1996. I served on the Southern California Diversion Evaluation Committee from August 2006 thru July, 2015. For 11 years I served as a member of the Lawyers Assistance Program's Evaluation Committee for the State Bar of California. I served on two California Medical Board's Diversion Evaluation Committees, until it's termination in 2008. In addition I have been a past Vice President of the Betty Ford Center and founder of their Licensed Professional's Program. From 1997-1999 I was a member of the ADA's Dentist Well-Being Advisory Committee. In 2005 I was the recipient of the Gail Kloeffer Award for outstanding service to the CDA Well-Being Program. I have professionally worked as a Family Interventionist for over 20 years specializing in impaired health professionals, young adults, and chronic pain patients. About 5 years ago I completed my master degree in psychology and am now a Licensed Marriage and Family Therapist. I work with families in addition to therapy by providing extensive monitoring and aftercare services for individuals and families as well as provide family case management. I have experience in family program development and facilitate family programs for some of the most respected treatment centers in the country. I continue to work as a Licensed Marriage and Family Therapist, facilitate family recovery programs, Individual and family intensives as well as ongoing individual, couples and family therapy.

In the space below, give your philosophical beliefs relative to the treatment of chemical dependency.

I believe that Addiction in any form is a chronic, progressive, relapsing disease and with proper evaluation, treatment and aftercare can be arrested. I support the Federation of State Physician Health Programs guidelines that identify the key elements of the evaluation and treatment needs of health care professionals. The treatment of physicians and other professionals in safety sensitive employment is more intensive and extensive than the treatment of those in the general population. Because of this higher level of treatment coupled with Physicians Health Programs (equivalent to our Dental Diversion Program) supported continuing care, the treatment outcomes of physicians and other professionals in safety sensitive employment are much better than outcomes in the general population. Several long-term studies have reported recovery rates between 70-90 percent for physicians with substance use disorders monitored by PHPs. Abstinence rates approaching 90 percent are reported for physicians in PHPs with substance use disorders, at the end of five years. Physicians and other professionals who have successfully completed monitoring with a PHP type program have been shown to experience a lower risk of malpractice claims after monitoring. I believe that for our Dental Diversion Evaluation Committee, our role is to refer for evaluation and diagnoses and to not attempt to diagnose ourselves. I believe this is an important boundary. Once we have the evaluation results we can then refer to appropriate treatment. It has been proven that impaired health professionals to best when offered cohort-specific residential treatment at facilities with specialized experience treating health care professionals. Such treatment has been shown to result in improved prognosis for physicians. In terms of aftercare recommendations I believe that 12-step programs as AA, NA, or CA offers the highest success

I HAVE READ AND UNDERSTAND THE REPOSIBILITIES, TIME COMMITMENTS, AND REIMBURSEMENT OF DIVERSION EVALUATION COMMITTEE MEMBERS.

 _____
Signature

3/29/22
Date

SUBMIT COMPLETED APPLICATION AND RESUME TO:

**Executive Assistant of the Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815**

INFORMATION COLLECTION AND ACCESS

The information requested herein is mandatory and is maintained by Executive Officer, Dental Board of California, 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, 916-263-2300, in accordance with Business & Professions Code, §1600 et seq. Except for Social Security numbers, the information requested will be used to determine eligibility. Failure to provide all or any part of the requested information will result in the rejection of the application as incomplete. Disclosure of your Social Security number is mandatory and collection is authorized by §30 of the Business & Professions Code and Pub. L 94-455 (42 U.S.C.A. §405(c)(2)(C)). Your Social Security number will be used exclusively for tax enforcement purposes, for compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination board, and where licensing is reciprocal with the requesting state. If you fail to disclose your Social Security number, you may be reported to the Franchise Tax Board and be assessed a penalty of \$100. The official responsible for information maintenance is the Executive Officer (916) 263-2300, 2005 Evergreen Street, Suite 1550, Sacramento, California 95815. To comply each individual has the right to review the personal information maintained by the agency unless the records are exempt from disclosure. Your name and address listed on this application will be disclosed to the public upon request if and when you become licensed.



MEMORANDUM

DATE	April 29, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 22(c): Controlled Substance Utilization Review and Evaluation System (CURES) Report

Background:

The Controlled Substance Utilization Review and Evaluation System (CURES 2.0) is a database of Schedule II, III, and IV controlled substance and prescriptions dispensed in California. The goal of the CURES 2.0 system is the reduction of prescription drug abuse and diversion without affecting the legitimate medical practice or patient care. Prescribers were required to apply before July 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later. Registration requirements are not based on dispensing, prescribing, or administering activities but, rather, on possession of a Drug Enforcement Administration Controlled Substance Registration Certificate and valid California licensure as a Dentist, or other prescribing medical provider.

The Dental Board of California currently has 34,732 active licensed dentists as of March 31, 2022.

The CURES registration statistics for the Dental Board of California as of March 31, 2022 are:

Month:	Year:	Number of Registered DDS/DMD Users:
January	2021	16,209
February	2021	16,253
March	2021	16,294
April	2021	16,332
May	2021	16,338
June	2021	16,422
July	2021	16,458

Month:	Year:	Number of Registered DDS/DMD Users:
August	2021	16,497
September	2021	16,552
October	2021	16,600
November	2021	16,639
December	2021	16,734
January	2022	16,824
February	2022	16,867
March	2022	16,913

The CURES usage statistics for the Dental Board of California as of March 2022 are:

Search Statistics*:

April	2021	15,542
May	2021	17,402
June	2021	18,993
July	2021	18,408
August	2021	18,231
September	2021	16,735
October	2021	16,837
November	2021	16,424
December	2021	15,443
January	2022	17,047
February	2022	19,609
March	2022	24,086

Statistics indicate the combined total number of Web Application and Information Exchange Web Services.

Times System was Accessed:

April	2021	4,000
May	2021	3,639
June	2021	3,896
July	2021	3,700
August	2021	3,862
September	2021	3,634
October	2021	3,665
November	2021	3,350
December	2021	3,634
January	2022	3,747
February	2022	3,661
March	2022	4,433

Help Desk Statistics:

April	2021	173*
May	2021	152*
June	2021	168*
July	2021	175*
August	2021	191*
September	2021	163*
October	2021	152*
November	2021	189*
December	2021	276*
January	2022	289*
February	2022	204*
March	2022	220*

*Statistics indicate the combined total number of phone and email help desk inquiries.

The number of prescriptions filled by schedule for the months of January, February, and March 2022 are:

Number of Prescriptions Filled by Schedule – January – March 2022

	January	February	March
Schedule II	1,257,844	1,156,344	1,350,523
Schedule III	226,605	204,276	236,428
Schedule IV	1,145,360	1,023,860	1,183,693
Schedule V	185,131	128,413	142,622
R*	2,866	2,964	3,262
Over-the-Counter Product	63,777	54,286	61,567
Total:	2,881,583*	2,570,143*	2,978,095*

*R=Not classified under the Controlled Substances Act; includes all other prescription drugs.

*1. Each component of a compound is submitted as a separate prescription record. The number of distinct prescriptions rolls compound prescriptions into a single count.

*2. The number of distinct prescriptions and the number of prescriptions filled by schedule will not be equal because a compound can consist of multiple drugs with varying schedules.

Action Requested:

None.

Registration Statistics

January – March 2022

		January 2022	February 2022	March 2022
Clinical Roles				
	Prescribers	183,725	184,334	185,011
	Pharmacists	49,022	49,089	49,207
	Clinical Roles	232,747	233,423	234,218
License Type				
	Doctor of Dental Surgery/Dental Medicine	16,824	16,867	16,913
	Doctor of Optometry	696	696	697
	Doctor of Podiatric Medicine	1,596	1,599	1,606
	Doctor of Veterinary Medicine	3,471	3,510	3,526
	Medical Doctor	118,690	118,915	119,196
	Naturopathic Doctor	466	474	476
	Osteopathic Doctor	8,649	8,688	8,727
	Physician Assistant	12,446	12,536	12,628
	Registered Nurse Practitioner/Nurse Midwife	20,130	20,285	20,466
	(Out of State) Prescribers	757	764	776
	Pharmacists	48,272	48,333	48,412
	(Out of State) Pharmacists	750	756	795
	Breakdown by license type	232,747	233,423	234,218
Other Roles				
	LEAs	1,602	1,616	1,621
	Delegates	2,505	2,470	2,512
	DOJ Admin	30	30	30
	DOJ Analyst	84	82	84
	Regulatory Board	216	218	222
	Other Roles	4,437	4,416	4,469
Total Registered Users		237,184	237,839	238,687

Clinical Roles = Breakdown by license type

Clinical Roles + Other Roles = Total Registered Users

Stats are from the 1st of the month to the last day of the month

Search Statistics

January 2022

	Web Application	IEWS	Totals
Clinical Roles			
Prescribers	955,290	5,543,716	6,499,006
Pharmacists	964,819	3,160,543	4,125,362
Clinical Roles	1,920,109	8,704,259	10,624,368
License Type			
Doctor of Dental Surgery/Dental Medicine	4,906	12,141	17,047
Doctor of Optometry	0	2,709	2,709
Doctor of Podiatric Medicine	3,055	27,572	30,627
Doctor of Veterinary Medicine	57	0	57
Medical Doctor	562,307	4,421,993	4,984,300
Naturopathic Doctor	736	35	771
Osteopathic Doctor	88,454	412,602	501,056
Physician Assistant	112,133	306,906	419,039
Registered Nurse Practitioner/Nurse Midwife	179,194	356,844	536,038
(Out of State) Prescribers	4,448	2,914	7,362
Pharmacists	957,655	3,149,474	4,107,129
(Out of State) Pharmacists	7,164	11,069	18,233
License Type	1,920,109	8,704,259	10,624,368
Other Roles			
LEAs	170	0	170
DOJ Administrators	222	0	222
DOJ Analysts	311	0	311
Regulatory Board	1,885	0	1,885
Other Roles	2,588	0	2,588
Total Search Counts			10,626,956
Delegate Initiated Searches	20,962	0	20,962

Note:

Search Counts is defined as searches performed in the system without generating the report.

Clinical Roles = License Type

Total Search Count = Clinical Roles + Other Roles



Search Statistics

February 2022

	Web Application	IEWS	Totals
Clinical Roles			
Prescribers	913,549	4,976,243	5,889,792
Pharmacists	938,494	2,733,983	3,672,477
Clinical Roles	1,852,043	7,710,226	9,562,269
License Type			
Doctor of Dental Surgery/Dental Medicine	5,158	14,451	19,609
Doctor of Optometry	1	2,534	2,535
Doctor of Podiatric Medicine	1,913	26,118	28,031
Doctor of Veterinary Medicine	60	0	60
Medical Doctor	536,277	3,971,990	4,508,267
Naturopathic Doctor	739	29	768
Osteopathic Doctor	85,903	354,325	440,228
Physician Assistant	107,698	278,842	386,540
Registered Nurse Practitioner/Nurse Midwife	171,509	325,383	496,892
(Out of State) Prescribers	4,291	2,571	6,862
Pharmacists	931,834	2,721,541	3,653,375
(Out of State) Pharmacists	6,660	12,442	19,102
License Type	1,852,043	7,710,226	9,562,269
Other Roles			
LEAs	171	0	171
DOJ Administrators	32	0	32
DOJ Analysts	43	0	43
Regulatory Board	822	0	822
Other Roles	1,068	0	1,068
Total Search Counts			9,563,337
Delegate Initiated Searches	20,453	0	20,453

Note:

Search Counts is defined as searches performed in the system without generating the report.

Clinical Roles = License Type

Total Search Count = Clinical Roles + Other Roles

Search Statistics

March 2022

	Web Application	IEWS	Totals
Clinical Roles			
Prescribers	1,058,341	5,748,450	6,806,791
Pharmacists	1,095,759	3,184,404	4,280,163
Clinical Roles	2,154,100	8,932,854	11,086,954
License Type			
Doctor of Dental Surgery/Dental Medicine	6,280	17,806	24,086
Doctor of Optometry	0	3,850	3,850
Doctor of Podiatric Medicine	3,255	31,961	35,216
Doctor of Veterinary Medicine	37	0	37
Medical Doctor	612,268	4,540,915	5,153,183
Naturopathic Doctor	924	34	958
Osteopathic Doctor	99,436	423,567	523,003
Physician Assistant	125,354	335,842	461,196
Registered Nurse Practitioner/Nurse Midwife	205,966	391,369	597,335
(Out of State) Prescribers	4,821	3,106	7,927
Pharmacists	1,087,491	3,171,154	4,258,645
(Out of State) Pharmacists	8,268	13,250	21,518
License Type	2,154,100	8,932,854	11,086,954
Other Roles			
LEAs	321	0	321
DOJ Administrators	34	0	34
DOJ Analysts	82	0	82
Regulatory Board	935	0	935
Other Roles	1,372	0	1,372
Total Search Counts			11,088,326
Delegate Initiated Searches	24,236	0	24,236

Note:

Search Counts is defined as searches performed in the system without generating the report.

Clinical Roles = License Type

Total Search Count = Clinical Roles + Other Roles

Clinical Roles		January 2022	February 2022	March 2022
	Prescribers	462,888	435,639	517,969
	Pharmacists	375,959	361,287	418,593
	Clinical Roles	838,847	796,926	936,562
License Type		January 2022	February 2022	March 2022
	Doctor of Dental Surgery/Dental Medicine	3,747	3,661	4,433
	Doctor of Optometry	34	35	32
	Doctor of Podiatric Medicine	1,138	966	1,206
	Doctor of Veterinary Medicine	252	285	265
	Medical Doctor	289,489	268,816	320,306
	Naturopathic Doctor	389	412	458
	Osteopathic Doctor	42,775	39,905	47,730
	Physician Assistant	47,706	46,168	53,427
	Registered Nurse Practitioner/Nurse Midwife	74,831	73,051	87,378
	(Out of State) Prescribers	2,527	2,340	2,734
	Pharmacists	372,711	358,292	415,022
	(Out of State) Pharmacists	3,248	2,995	3,571
	License Type	838,847	796,926	936,562
Other Roles		January 2022	February 2022	March 2022
	LEAs	345	319	357
	Delegates	7,323	7,075	8,467
	DOJ Administrators	233	176	271
	DOJ Analysts	758	828	914
	Regulatory Board	400	327	440
	Other Roles	9,059	8,725	10,449
Total Times System was Accessed		847,906	805,651	947,011

Clinical Roles = License Type

Total Times = Clinical Roles + Other Roles



		January		February		March	
		Phone	E-mail	Phone	E-mail	Phone	E-mail
Clinical Roles							
	Prescribers	2,688	1,490	2,354	1,304	2,745	1,454
	Pharmacists	895	2,028	818	1,430	949	1,773
	Clinical Roles	3,583	3,518	3,172	2,734	3,694	3,227
License Type							
	Doctor of Dental Surgery/Dental Medicine	182	107	112	92	131	89
	Doctor of Optometry	1	1	2	4	2	1
	Doctor of Podiatric Medicine	17	18	10	20	9	17
	Doctor of Veterinary Medicine	38	29	72	46	69	28
	Medical Doctor	1,712	920	1,473	804	1,751	930
	Naturopathic Doctor	13	5	13	0	5	4
	Osteopathic Doctor	124	75	106	45	144	98
	Physician Assistant	188	92	191	94	213	82
	Registered Nurse Practitioner/Nurse Midwife	413	243	375	199	421	205
	Pharmacists	895	2,028	818	1,430	949	1,773
	(Out of State) Pharmacists	0	0	0	0	0	0
	License Type		3,518	3,172	2,734	3,694	3,227
Other Roles							
	LEAs	4	29	4	60	9	52
	Delegates	63	8	61	24	62	26
	DOJ Administrators	0	0	0	0	0	0
	DOJ Analysts	0	0	0	0	0	0
	Regulatory Board	2	2	1	5	1	4
	Other Roles	69	39	66	89	72	82
Totals		3,652	3,557	3,238	2,823	3,766	3,309

Note:

Clinical Roles = License Type

Total Calls = Clinical Roles + Other Roles

Prescriptions Filled by Schedule

January – March 2022

	January 2022	February 2022	March 2022
Number of Distinct Prescriptions	2,880,198	2,568,858	
Schedule II	1,257,844	1,156,344	1,350,523
Schedule III	226,605	204,276	236,428
Schedule IV	1,145,360	1,023,860	1,183,693
Schedule V	185,131	128,413	142,622
R	2,866	2,964	3,262
Over-the-counter product	63,777	54,286	61,567
TOTAL	2,881,583	2,570,143	2,978,095

NOTE:

1. Each component of a compound is submitted as a separate prescription record. The number of distinct prescriptions rolls compound prescriptions into a single count
2. The number of distinct prescriptions and the number of prescriptions filled by schedule will not be equal because a compound can consist of multiple drugs with varying schedules
3. R = Not classified under the Controlled Substances Act; includes all other prescription drugs



MEMORANDUM

DATE	April 15, 2022
TO	Members of the Dental Board of California
FROM	John Tran, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 23(a): General Anesthesia and Conscious Sedation Permit Evaluations Statistics

Background:

Newly approved general anesthesia and conscious sedation permit holders are subject to an on-site inspection and evaluation. New permit holders must schedule and conduct their on-site inspection and evaluation within one-year issuances of their permit. If the permit holder passes their initial on-site inspection and evaluation, they will not have to schedule another one until five years later which is required for the continual active status and good standing of their permit.

The following statistical overview is provided for Fiscal Year 2021-2022 for on-site inspections and evaluations administered by the Board:

General Anesthesia Evaluations

	Passed Eval	Failed Eval	Failed Simulated Emergency	Cancelled Permit by Request	Cancelled Permit for Non-Compliance	Postponed (No Evaluators Available)	Postponed (By Request)
Jul 2021	12	0	0	1	0	7	5
Aug 2021	19	0	0	1	0	3	3
Sept 2021	13	0	0	0	0	2	2
Oct 2021	15	0	0	1	0	1	2
Nov 2021	5	0	0	1	0	4	5
Dec 2021	11	0	0	0	0	1	3
Jan 2022	14	0	0	0	0	2	4
Feb 2022	16	0	0	2	1	0	2
Mar 2022*	16	0	0	3	0	1	2
Total	121	0	0	9	1	21	28

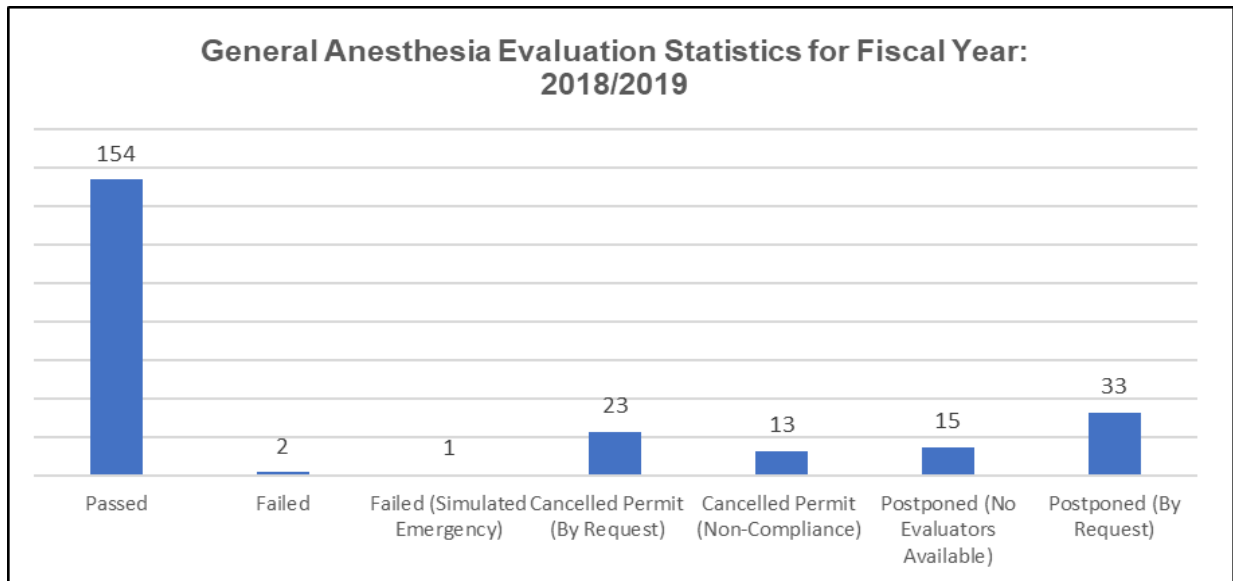
*Approximate number of evaluations scheduled for March 2022.

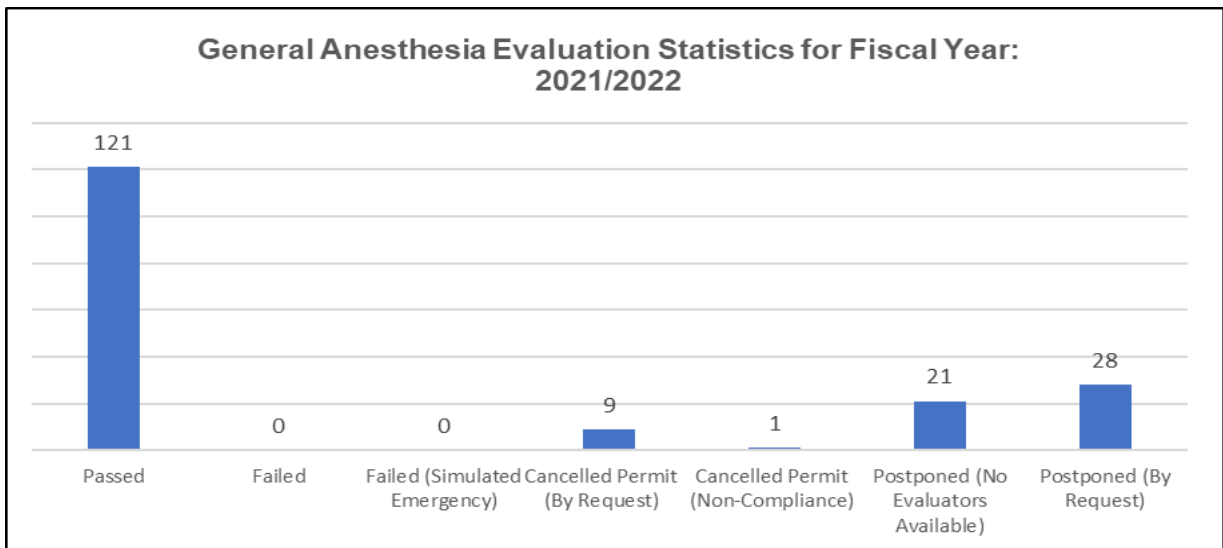
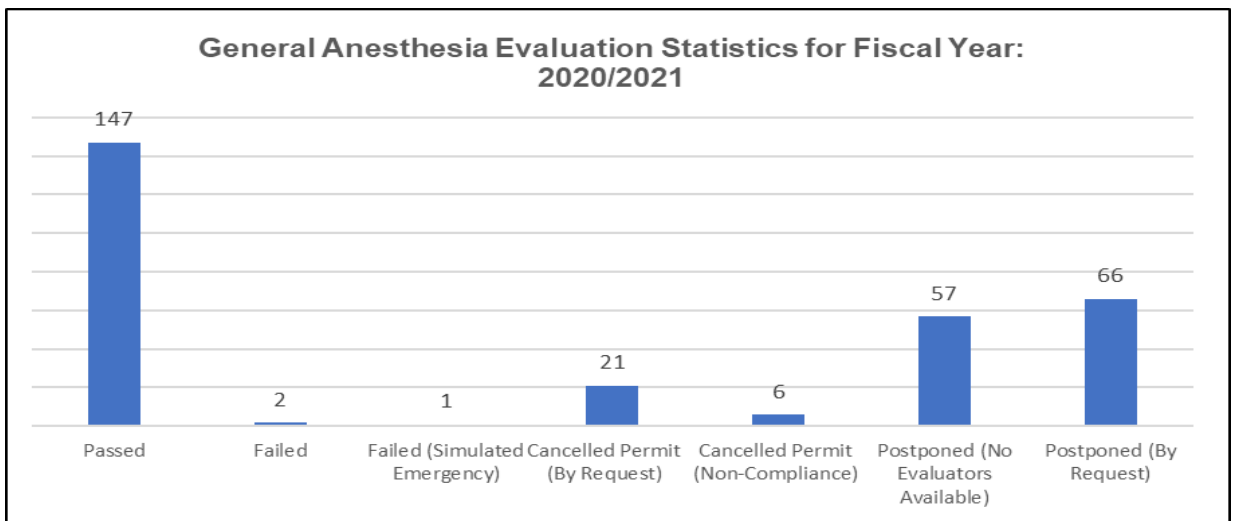
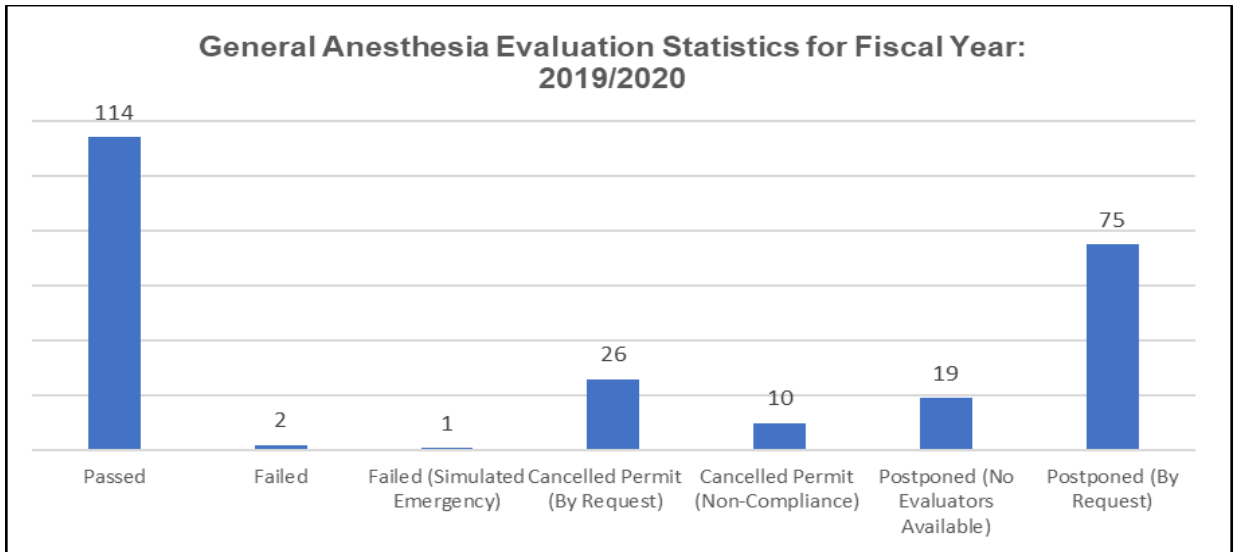
Agenda Item 23(a): General Anesthesia and Conscious Sedation Permit Evaluations Statistics
 Dental Board of California Meeting
 May 12-13, 2022

General Anesthesia Evaluation Statistics for Fiscal Years 18/19, 19/20, 20/21, and 21/22.

	18/19	19/20	20/21	21/22*
Passed Evaluation – Permit holder met all required components of the on-site evaluation	154	114	147	121
Failed Evaluation – Permit holder failed due to multiple deficient components that were required for the on-site evaluation	2	2	2	0
Failed Simulated Emergency – Permit holder failed one or more simulated emergency scenarios required for the on-site evaluation	1	1	1	0
Cancelled Permit by Request – Permit holder no longer needed permit, retired, went with different permit, and/or Covid-19 related issues	23	26	21	9
Cancelled Permit for Non-Compliance – Permit holder did not complete evaluation by requested time frame	13	10	6	1
Postponed (No Evaluators Available) – Permit holder evaluation was postponed due to no available evaluators for their requested evaluation	15	19	57	21
Postponed (By Request) – Permit holder had requested postponement due to scheduling conflict, emergencies, and/or Covid-19 related issues	33	75	66	28

* Approximate number of evaluations scheduled for fiscal year 21/22.





* Approximate number of evaluations scheduled for fiscal year 2021/2022.

Conscious Sedation Evaluations

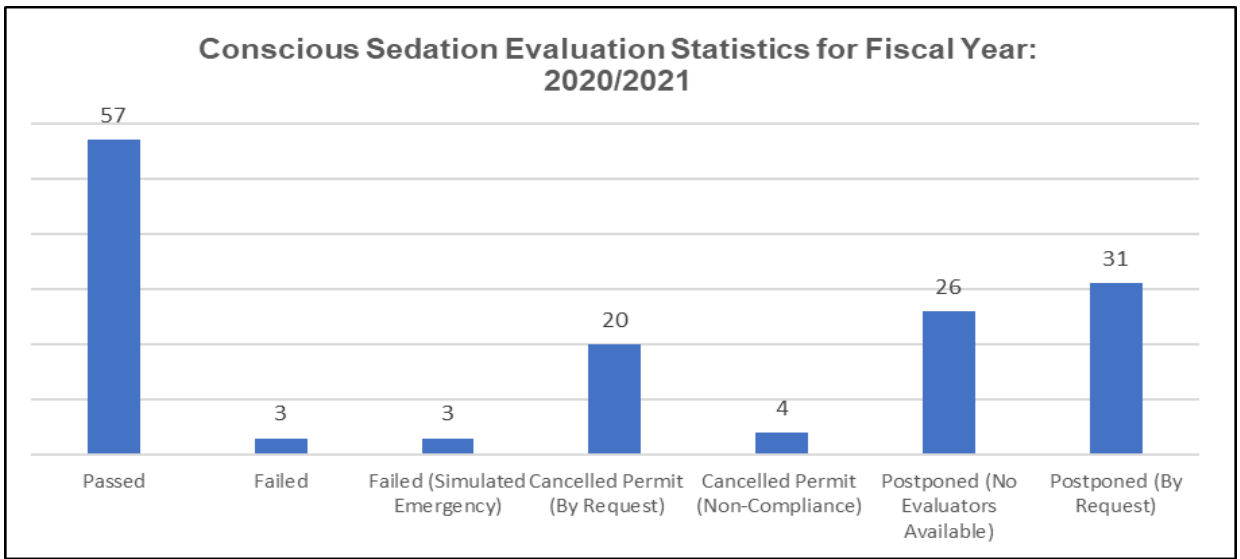
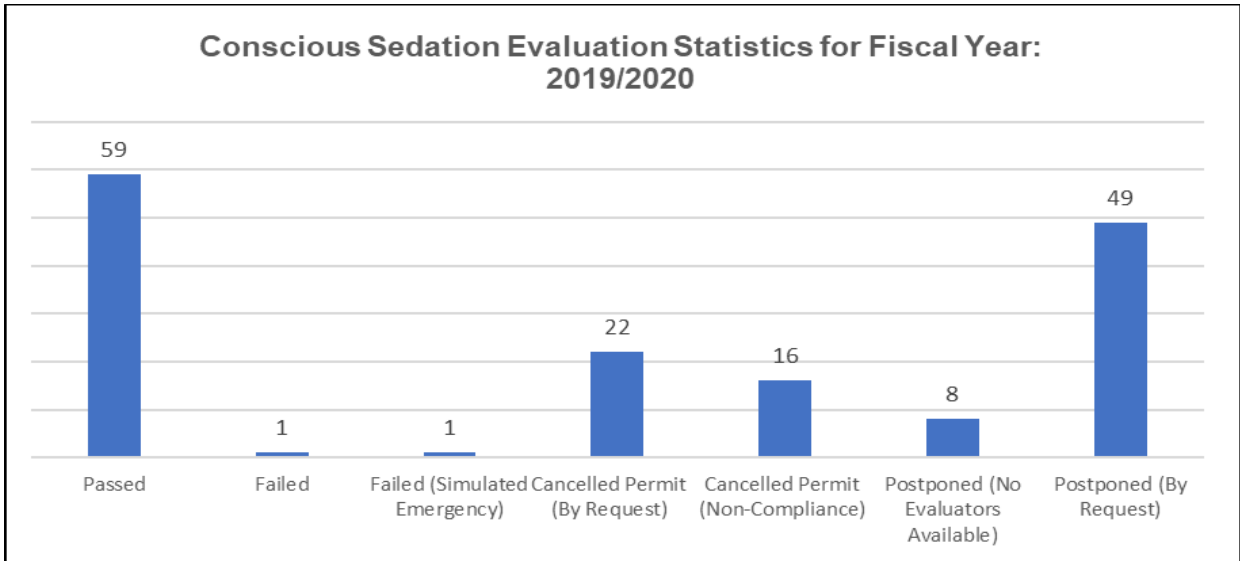
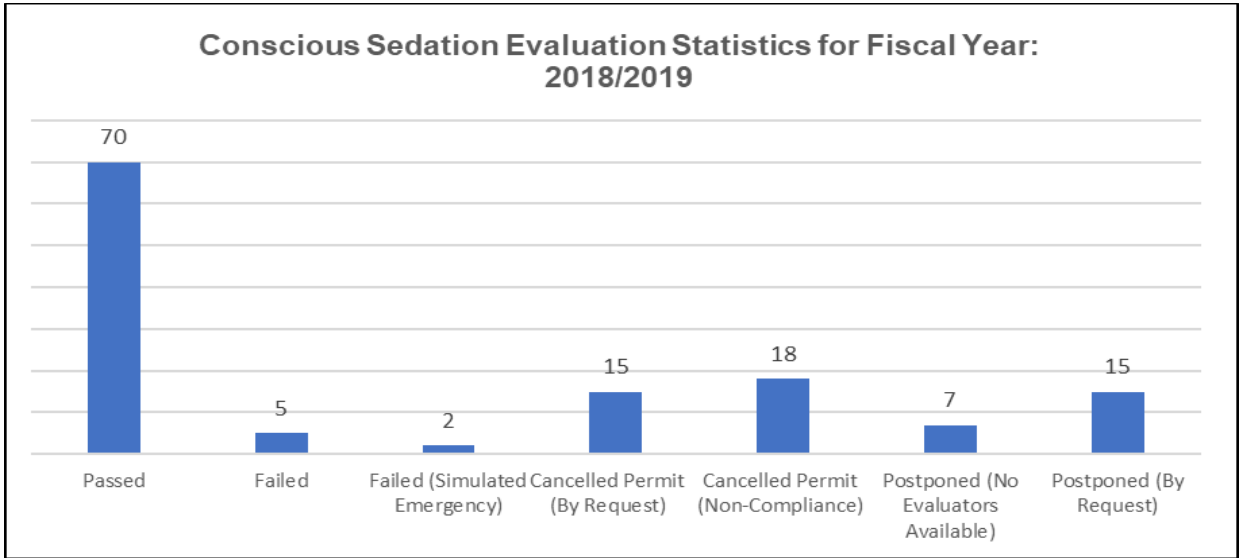
	Passed Eval	Failed Eval	Failed Simulated Emergency	Cancelled Permit by Request	Cancelled Permit for Non-Compliance	Postponed (No Evaluators Available)	Postponed (By Request)
July 2021	6	1	1	1	0	5	0
Aug 2021	4	0	0	1	0	6	1
Sept 2021	7	0	0	0	0	0	2
Oct 2021	6	0	1	1	0	2	2
Nov 2021	4	0	0	1	0	1	2
Dec 2021	4	0	1	0	3	1	2
Jan 2022	4	0	1	0	1	1	2
Feb 2022	5	1	0	2	0	0	2
Mar 2022*	6	0	0	3	2	1	3
Total	46	2	4	9	6	17	16

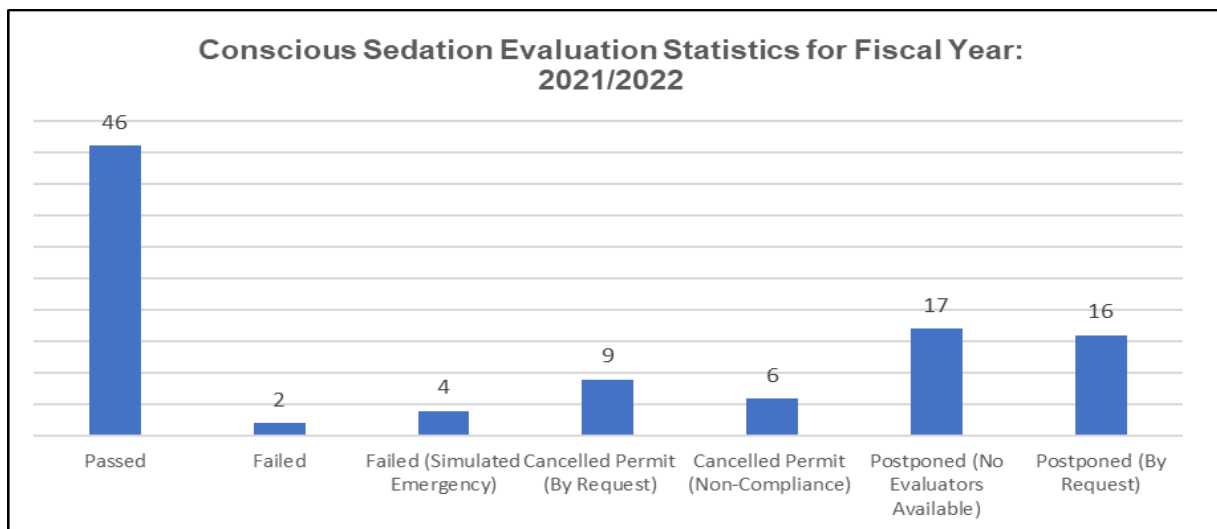
* Approximate number of evaluations scheduled for March 2022.

Conscious Sedation Evaluation Statistics for Fiscal Years 18/19, 19/20, 20/21, and 21/22.

	18/19	19/20	20/21	21/22*
Passed Evaluation – Permit holder met all required components of the on-site evaluation	70	59	57	46
Failed Evaluation – Permit holder failed due to multiple deficient components that were required for the on-site evaluation	5	1	3	2
Failed Simulated Emergency – Permit holder failed one or more simulated emergency scenarios required for the on-site evaluation	2	1	3	4
Cancelled Permit by Request – Permit holder no longer needed permit, retired, went with different permit, and/or Covid-19 related issues	15	22	20	9
Cancelled Permit for Non-Compliance – Permit holder did not complete evaluation by requested time frame	18	16	4	6
Postponed (No Evaluators Available) – Permit holder evaluation was postponed due to no available evaluators for their requested evaluation	7	8	26	17
Postponed (By Request) – Permit holder had requested postponement due to scheduling conflict, emergencies, and/or Covid-19 related issues	15	49	31	16

* Approximate number of evaluations scheduled for fiscal year 21/22.





* Approximate number of evaluations scheduled for fiscal year 2021/2022.

Medical General Anesthesia Evaluations

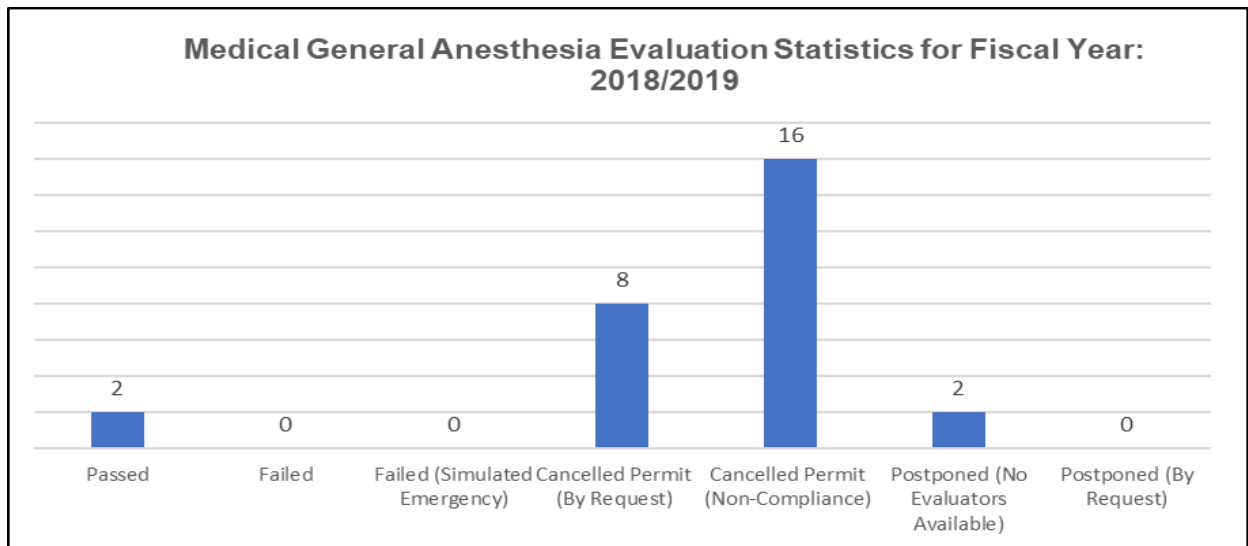
	Passed Eval	Failed Eval	Failed Simulated Emergency	Cancelled Permit by Request	Cancelled Permit for Non-Compliance	Postponed (No Evaluators Available)	Postponed (By Request)
July 2021	0	0	0	1	0	3	0
Aug 2021	0	0	0	0	0	0	2
Sept 2021	1	0	0	0	3	0	0
Oct 2021	1	0	0	0	0	3	0
Nov 2021	0	0	0	0	0	1	2
Dec 2021	0	0	0	0	3	1	0
Jan 2022	0	0	0	0	1	1	0
Feb 2022	0	0	0	0	1	1	0
Mar 2022*	0	0	0	0	2	0	0
Total	2	0	0	1	10	10	4

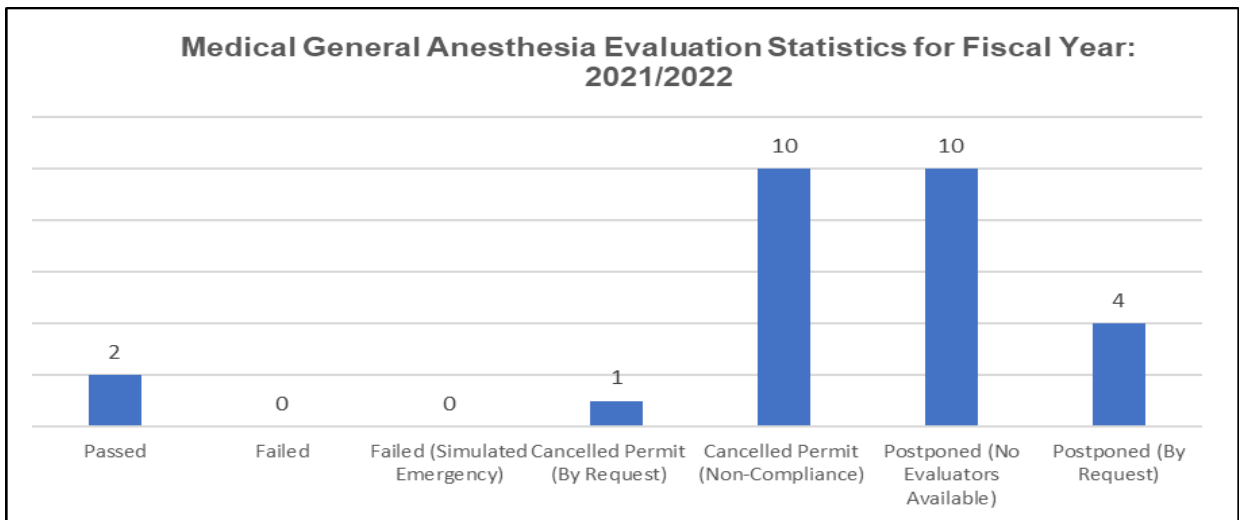
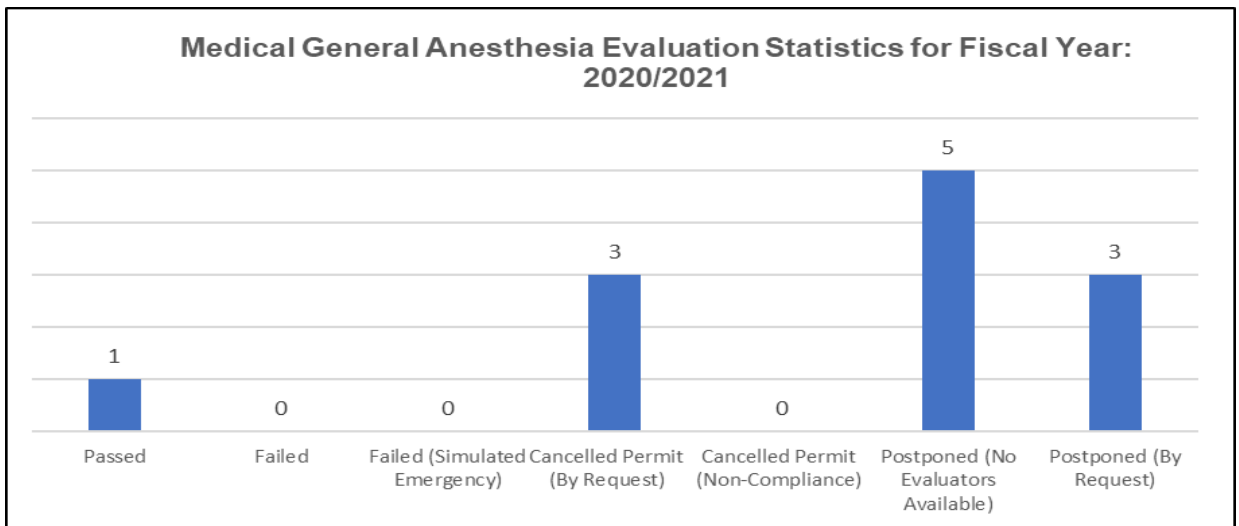
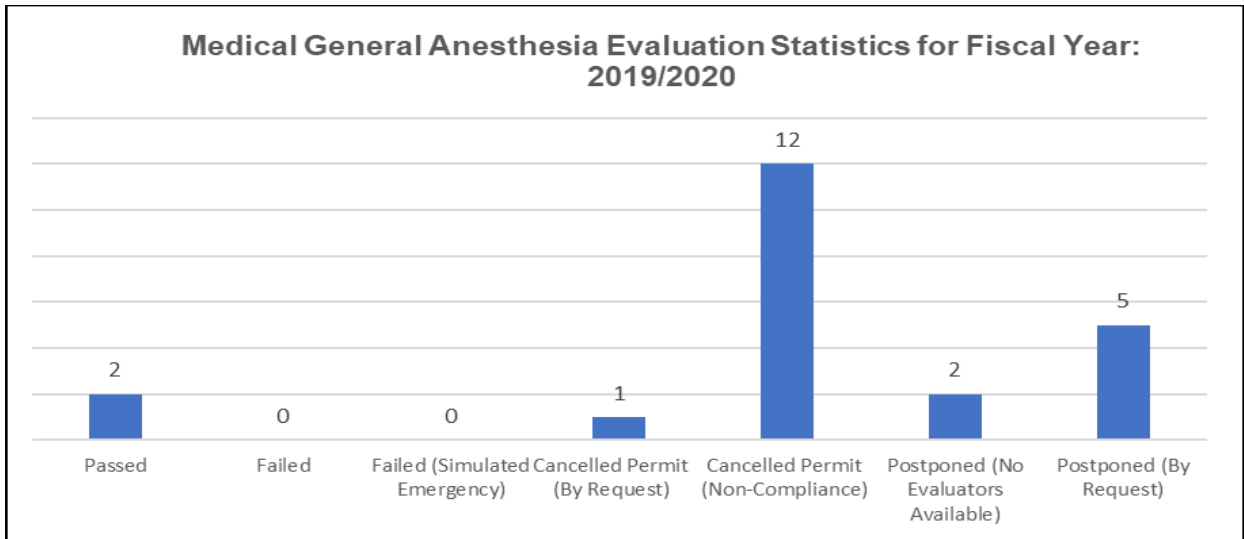
* Approximate number of evaluations scheduled for March 2022.

Medical General Anesthesia Evaluation Statistics for Fiscal Years 18/19, 19/20, 20/21, and 21/22.

	18/19	19/20	20/21	21/22*
Passed Evaluation – Permit holder met all required components of the on-site evaluation	2	2	1	2
Failed Evaluation – Permit holder failed due to multiple deficient components that were required for the on-site evaluation	0	0	0	0
Failed Simulated Emergency – Permit holder failed one or more simulated emergency scenarios required for the on-site evaluation	0	0	0	0
Cancelled Permit by Request – Permit holder no longer needed permit, retired, went with different permit, and/or Covid-19 related issues	8	1	3	1
Cancelled Permit for Non-Compliance – Permit holder did not complete evaluation by requested time frame	16	12	0	10
Postponed (No Evaluators Available) – Permit holder evaluation was postponed due to no available evaluators for their requested evaluation	2	2	5	10
Postponed (By Request) – Permit holder had requested postponement due to scheduling conflict, emergencies, and/or Covid-19 related issue	0	5	3	4

* Approximate number of evaluations scheduled for fiscal year 21/22.





* Approximate number of evaluations scheduled for fiscal year 2021/2022.

Current Evaluators per Region

Region	GA	CS	MGA
Northern California	124	62	17
Southern California	153	89	14

Action Requested:

No action requested; data provided is informational only.



MEMORANDUM

DATE	April 5, 2022
TO	Members of the Dental Board of California (Board)
FROM	Jessica Olney, Staff Services Manager I Dental Board of California
SUBJECT	Agenda Item 23(b): Discussion and Possible Action Regarding Appointment of General Anesthesia and Conscious Sedation Evaluators

Background:

The Dental Board of California (Board) conducts the onsite inspections and evaluations of existing General Anesthesia and Conscious Sedation permits as required by Business and Professions Code (BPC) sections 1646.4, 1646.9, and 1647.7. Each onsite inspection and evaluation are conducted by a team of two evaluators who are contracted by the Board as subject matter experts. The evaluators provide an independent evaluation and make a recommendation to grade on a pass/fail system per California Code of Regulations (CCR) 1043.6. To increase the pool of available evaluators for the general anesthesia and conscious sedation onsite inspection and evaluation program, Board staff post a continuous recruitment notice on the Board’s website.

According to CCR 1043.2, the composition of the onsite inspection and evaluation teams consist of two or more persons chosen and approved by the board who:

1. Meet one of the criteria in subdivision (b) of section 1043.1 for general anesthesia or the criteria in section 1647.3 of the code for conscious sedation and must have utilized general anesthesia or conscious sedation, whichever is applicable, in a dental practice setting for a minimum of three years immediately preceding their application to be an evaluator, exclusive of any general anesthesia or conscious sedation training.
2. At least one of the evaluators must have experience in evaluation of dentists administering general anesthesia or conscious sedation. At least one member of the team must have substantial experience in’ the administration of the method of delivery of anesthesia or sedation used by the dentist being evaluated.

Agenda Item 23(b): Discussion and Possible Action Regarding Appointment of General Anesthesia and Conscious Sedation Evaluators
 Dental Board of California Meeting
 May 12-13, 2022

3. The board may appoint a licensee member of the board to serve as a consultant at any evaluation.

The permit holders below have submitted applications to the Board, for your consideration to become evaluators for the general anesthesia and conscious sedation onsite inspection and evaluation program. Board staff have reviewed the applications and recommend approval of their appointment as evaluators.

1. Dr. James Bum-Suk Han, Dental License 100039, and General Anesthesia Permit 1796. Dr. Han has held active General Anesthesia permit to administer or order the administration of general anesthesia since June 30, 2016, and practices as an oral and maxillofacial surgeon in Pleasant Hill CA. If approved Dr. Han will conduct evaluations in Northern California for both General Anesthesia and Conscious Sedation permit holders.
2. Dr. Christopher Chiu, Dental License 63100, and General Anesthesia permit 1727. Dr. Chiu has held a General Anesthesia permit to administer or order the administration of general anesthesia since December 31, 2014, and practices as a dental anesthesiologist in San Ramon CA. If approved Dr. Chiu will conduct evaluations in Northern California for General Anesthesia permit holders.
3. Dr. Feras Al Rezk, Dental License 53438, and Conscious Sedation permit 1124. Dr. Al Rezk has held a Conscious Sedation permit to administer or order the administration of conscious sedation since November 16, 2017, and practices as a general dentist in Visalia CA. If approved Dr. Al Rezk will conduct evaluations in Central California for Conscious Sedation permit holders.

Action Requested:

The Board is asked to consider staff's recommendations and appoint the three applicants as evaluators for the general anesthesia onsite inspection and evaluation program.

GENERAL ANESTHESIA/CONSCIOUS SEDATION

EVALUATOR APPLICATION

DR. JAMES HAN



**GENERAL ANESTHESIA/CONSCIOUS SEDATION
EVALUATOR APPLICATION**
California Code of Regulations Section 1043.2

GA CS

James Han 100039 GA 1796
Name License Number Permit Number

[Redacted] [Redacted] [Redacted]
Mailing Address Phone Number

[Redacted] [Redacted]
Fax Number Email Address

Date of your last on-site inspection? 6/14/2017

Have you completed the Evaluator Calibration Training Course? Yes

Are you limited to conducting evaluations in your region (South/North)? South

Would you like to evaluate GA cases, CS cases, or both? (Circle one choice) both

Type of Practice

- Anesthesia Oral Pathology Pedodontics General Dentist
- Endodontics Orthodontics Periodontology OMS
- Prosthodontics Public Health Other _____

Certification

I certify under penalty of perjury under the laws of the State of California that the foregoing and any attachments are true and correct and I hereby request appointment as an Evaluator for the General Anesthesia/Conscious Sedation program.

[Signature]
Signature of Applicant

10/9/2020
Date

INFORMATION COLLECTION AND ACCESS

The Information Practices Act, Section 1798.17 Civil Code, requires the following information to be provided when collection information from individuals.

Agency Name: Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento CA 95815
Telephone: 916-263-2300

The official responsible for information maintenance is the Executive Officer.

The authority authorizing maintenance of the information is the Business and Professions Code, Division 2, Chapter 4, Section 1600 et seq.

All items of requested information are mandatory. Failure to provide all or any part of the requested information will result in the application being rejected as incomplete. The principle purpose(s) for which the information is to be used is to determine eligibility for appointment as an Evaluator for the general anesthesia and /or conscious sedation programs.

Any known or foreseeable interagency or intergovernmental transfer that may be made of the information, when necessary, is to other federal, state and local law enforcement agencies.

Each individual has the right to review the files or records maintained on them by the agency, except for information exempt from disclosure pursuant to Section 6254 of the Government Code or Section 1798.40 of the Civil Code.

**GENERAL ANESTHESIA
EVALUATOR APPLICATION
DR. CHRISTOPHER CHIU**



**GENERAL ANESTHESIA/CONSCIOUS SEDATION
EVALUATOR APPLICATION**
California Code of Regulations Section 1043.2

GA CS

Christopher Chiu 005 63100 GA 1727
Name License Number Permit Number

[Redacted]
Mailing Address Phone Number

[Redacted]
Fax Number Email Address

Date of your last on-site inspection? 1/13/2022

Have you completed the Evaluator Calibration Training Course? Yes

Are you limited to conducting evaluations in your region (South/North)? Yes, Northern California

Would you like to evaluate GA cases, CS cases, or both? (Circle one choice)

Type of Practice

- | | | | |
|--|---|---|--|
| <input checked="" type="checkbox"/> Anesthesia | <input type="checkbox"/> Oral Pathology | <input checked="" type="checkbox"/> Pedodontics | <input type="checkbox"/> General Dentist |
| <input type="checkbox"/> Endodontics | <input type="checkbox"/> Orthodontics | <input type="checkbox"/> Periodontology | <input type="checkbox"/> OMS |
| <input type="checkbox"/> Prosthodontics | <input type="checkbox"/> Public Health | <input type="checkbox"/> Other _____ | |

Certification

I certify under penalty of perjury under the laws of the State of California that the foregoing and any attachments are true and correct and I hereby request appointment as an Evaluator for the General Anesthesia/Conscious Sedation program.

[Signature]
Signature of Applicant

1/14/2022
Date

*eval 1/13/22
Issue 22/01/14*

INFORMATION COLLECTION AND ACCESS

The Information Practices Act, Section 1798.17 Civil Code, requires the following information to be provided when collection information from individuals.

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2005 Evergreen Street, Suite 1550
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Any known or foreseeable interagency or intergovernmental transfer that may be made of the information, when necessary, is to other federal, state and local law enforcement agencies.

Each individual has the right to review the files or records maintained on them by the agency, except for information exempt from disclosure pursuant to Section 6254 of the Government Code or Section 1798.40 of the Civil Code.

**CONSCIOUS SEDATION
EVALUATOR APPLICATION
DR. FERAS AL REZK**

DENTAL BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1550, Sacramento, CA 95815

P (916) 263-2300 | F (916) 263-2140 | www.dbc.ca.gov



**GENERAL ANESTHESIA/CONSCIOUS SEDATION
EVALUATOR APPLICATION**

California Code of Regulations Section 1043.2

GA CS

Name Feras Alrezk License Number 53438 Permit Number CS 1124

Home Address [Redacted] Phone Number [Redacted]

Fax Number [Redacted] Email Address [Redacted]

Date of your last on-site inspection? 11/28/18

Have you completed the Evaluator Calibration Training Course? yes

Are you limited to conducting evaluations in your region (South/North)? central

Would you like to evaluate GA cases, CS cases, or both? (Circle one choice)

Type of Practice

- Anesthesia
- Oral Pathology
- Pedodontics
- General Dentist
- Endodontics
- Orthodontics
- Periodontology
- OMS
- Prosthodontics
- Public Health
- Other _____

Certification

I certify under penalty of perjury under the laws of the State of California that the foregoing and any attachments are true and correct and I hereby request appointment as an Evaluator for the General Anesthesia/Conscious Sedation program.

[Signature] 3/9/22
Signature of Applicant Date

INFORMATION COLLECTION AND ACCESS

The Information Practices Act, Section 1798.17 Civil Code, requires the following information to be provided when collection information from individuals.

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The official responsible for information maintenance is the Executive Officer.

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All items of requested information are mandatory. Failure to provide all or any part of the requested information will result in the application being rejected as incomplete. The principle purpose(s) for which the information is to be used is to determine eligibility for appointment as an Evaluator for the general anesthesia and /or conscious sedation programs.

Any known or foreseeable interagency or intergovernmental transfer that may be made of the information, when necessary, is to other federal, state and local law enforcement agencies.

Each individual has the right to review the files or records maintained on them by the agency, except for information exempt from disclosure pursuant to Section 6254 of the Government Code or Section 1798.40 of the Civil Code.



MEMORANDUM

DATE	April 8, 2022
TO	Members of the Dental Board of California
FROM	Jessica Olney, Board Staff Services Manager I Dental Board of California
SUBJECT	Agenda Item 23(c): Update Regarding Board Implementation of SB 501 (Glazer, Chapter 929, Statutes of 2018)

Background

On September 29, 2018, Governor Brown signed SB 501. Although some provisions of the bill became effective on January 1, 2019, provisions governing the use of minimal, moderate, and deep sedation and general anesthesia became effective on January 1, 2022, and impact General Anesthesia (GA), Medical General Anesthesia (MGA), Conscious Sedation (CS), and Oral Conscious Sedation (OCS) for Minors permit holders in California.

SB 501 repealed Business and Professions Code (BPC) sections 1646-1646.10 (General Anesthesia), 1647-1647.9.5 (Conscious Sedation), and 1647.10-1647.17.5 (Oral Conscious Sedation for Pediatric Patients), and added BPC sections 1601.8, 1646-1646.13 (Deep Sedation and General Anesthesia), 1647-1647.12 (Moderate Sedation), and 1647.30-1647.36 (Pediatric Minimal Sedation). As a result, significant updates to the current anesthesia and sedation permit program need to be implemented. These changes require new pediatric endorsement and patient monitoring requirements when administering anesthesia or sedation to a minor patient, and the new Pediatric Minimal Sedation (PMS) permit will be required to administer or order the administration of pediatric minimal sedation on a patient under the age of 13.

Regulations to Implement SB 501

In 2020, the Board staff began working with subject matter experts and legal counsel to develop draft regulations needed to implement required changes. The proposed regulatory language was approved by the Board on November 19, 2021, and the Board submitted the initial rulemaking file and necessary materials to the Office of Administrative Law for publication in the California Regulatory Notice Register, which initiated a 45-day public comment period on the proposed regulations on December 31, 2021.

Agenda Item 23(c): Update Regarding Board Implementation of SB 501 (Glazer, Chapter 929, Statutes of 2018)
 Dental Board of California Meeting
 May 12-13, 2022

During the 45-day public comment period, which closed on February 15, 2022, Board staff received several written public comments, as well as four requests for a public hearing. A public hearing was held on February 16, 2022, through WebEx teleconferencing, and seven members of the public offered public comment. On March 14, 2022, the Board held a special meeting in which staff prepared a summary of the comments received and proposed responses. In addition to the discussion on comments received, staff presented additional modifications to the proposed regulations to clean-up typographical errors and correct inadvertent omissions of necessary information in the proposal that were identified during the review.

The Board discussed and took action to accept staff recommendations on the comments received, approve the modified text and documents added to the rulemaking file, and directed staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes and notice of the addition of documents added to the rulemaking file for an additional 15-day comment period. The rulemaking file was noticed and posted to the Board's website on March 18, 2022. The 15-day public comment period closed on April 4, 2022, and staff received one adverse comment which was subsequently withdrawn. The rulemaking file is being finalized and will move to the Department of Consumer Affairs (DCA) for review.

BreEZe Implementation of SB 501 Permits

To implement the new SB 501 permits, BreEZe must be configured to incorporate the statutory and regulatory requirements to issue or renew those permits. In December 2021, the DCA, Office of Information Services (OIS) sent out a solicitation for bids to secure an external vendor to configure the existing and new BreEZe transactions required to implement the new permits. Initial BreEZe design meetings were held in March 2022, and staff began working with the vendor to develop the initial design documents needed to configure a simplified version of BreEZe that is being developed concurrently with the SB 501 regulations approval process. The configuration of this "bare-bones" system is ongoing. Initial system testing will begin in late April 2022, and Board staff anticipate a bare-bones system will be completed the first week of June 2022.

Legislative Proposal to Extend Old CS and OCS for Minors Permits

At the November 19, 2021, meeting, the Board discussed SB 501 implementation date concerns and the gap in anesthesia and/or sedation administration to dental patients between the effective date of the new Moderate Sedation (MS) and PMS permits and pediatric endorsement requirements on January 1, 2022, and the unknown effective date of the implementing regulations or BreEZe application and renewal updates for the new permits. To address these issues, the Board approved a legislative proposal for submission as emergency legislation to the California State Legislature. In addition, the legislative proposal would establish the maximum fee limitation for pediatric endorsement applications and renewals, renumber the section subdivisions to account for the new pediatric endorsement fee provisions, correct the existing CS permit renewal fee provision and instead provide for MS permit renewal fees, and establish the expiration date for pediatric endorsements using the same expiration provisions as licenses. Senator Patricia C. Bates has agreed to amend SB 652 to include this

Agenda Item 23(c): Update Regarding Board Implementation of SB 501 (Glazer, Chapter 929, Statutes of 2018)
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May 12-13, 2022

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legislative proposal. As of today's date, SB 652 has not been amended to include the Board's legislative proposal.

Education Courses Acceptable In Lieu of Pediatric Advanced Life Support (PALS)

SB 501 added Business and Professions Code (BPC) section 1601.8, which gives the Board the authority for purposes of training standards for general anesthesia, deep sedation, and moderate sedation, to approve a training standard in lieu of Pediatric Advanced Life Support (PALS) certification if the training standard is an equivalent or higher level of training for pediatric dental anesthesia-related emergencies than PALS certification that includes, but is not limited to, pediatric life support and airway management.

In 2020, Board staff began working with subject matter experts and legal counsel to develop draft regulations, needed to implement required changes. After careful consideration of the Board's staffing resources and business processes, it was determined that the Board would not introduce training standards in lieu of PALS training as part of the proposed regulatory language. Board staff recognize that PALS training standards are evaluated and updated on a continual basis, and the rulemaking process required to update the Board's regulation would be challenging for the Board to complete in a timely manner.

Accordingly, the proposed regulatory language regarding PALS certification does not provide for alternative training approved by the Board. Instead, the Board chose to accept PALS certification as provided by the American Red Cross (ARC), the American Heart Association (AHA), or the American Safety and Health Institute (ASHI), as these organizations are nationally recognized providers whose PALS courses are taught by skilled professionals. Further, courses offered by approved ARC, AHA, and ASHI providers are continuously developed to maintain standards and are accepted by healing arts boards, hospitals, and universities throughout the United States.

These provisions are reflected in the proposal; proposed California Code of Regulations (CCR), title 16, sections 1043.8.1, subsection (a)(4), and 1043.8.1, subsection (b)(4), would require an applicant for a pediatric endorsement to administer moderate sedation, deep sedation, or general anesthesia to patients under 13 to provide a certificate or other documentary evidence of current certification in PALS as provided by ARC, AHA, or ASHI.

Action Requested

No action requested; data provided is informational only.



MEMORANDUM

DATE	April 26, 2022
TO	Members of the Dental Board of California (Board)
FROM	Jessica Olney, Staff Services Manager I Dental Board of California
SUBJECT	Agenda Item 23(d): Discussion and Possible Action on Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards as Required by SB 501 (Glazer, Chapter 929, Statutes of 2018) and Business and Professions Code Section 1601.4, subdivision (a)(2)

Background

In 2018, SB 501 (Glazer, Chapter 929, Statutes of 2018) amended Business and Professions Code (BPC) section 1601.4, subdivision (a), which required the Board to review available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry and relevant professional guidelines, recommendations, or best practices for the provision of dental anesthesia and sedation care. SB 501, among other things, also required the Board, by January 1, 2022, to report to the California State Legislature any findings relevant to inform dental anesthesia and sedation standards.

To satisfy the report requirement in SB 501, Board staff worked with the Board's Anesthesia Committee (Committee) Chair and current Board President, Alan Felsenfeld, MA, DDS, to develop the *Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards* (Report). The draft Report was presented to the Committee for review and comment during the Anesthesia Committee Meeting held on September 30, 2021. Based on the Committee's discussion and direction, staff revised the Report and brought it before the Board at the November 18-19, 2021 meeting for adoption.

On November 17, 2021, the Board received a letter from the American Association of Oral and Maxillofacial Surgeons (AAOMS) expressing concerns that the draft Report had omitted provider specificity data, intended patient sedation level data, and AAOMS

Agenda Item 23(d): Update on Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards as Required by Senate Bill (SB) 501 (Glazer, Chapter 929, Statutes of 2018) and Business and Professions Code Section 1601.4, subdivision (a)(2)
 Dental Board of California Meeting
 May 12-13, 2022

anesthesia guidelines. During the Board meeting, which was held November 18-19, 2021, it was determined that due to the last-minute nature of the concerns raised by AAOMS, Board staff would review the concerns and potentially submit a supplemental report to the Legislature.

At the February 11-12, 2022, Board meeting, the Board discussed whether to include the AAOMS Parameters of Care and the AAOMS Office Anesthesia Evaluation guidelines in a Supplemental Report. As the inclusion of the guidelines in the Report would not alter the information or produce a significant difference to the information already submitted, the Board voted not to include the AAOMS Parameters of Care and the AAOMS Office Anesthesia Evaluation guidelines in a Supplemental Report. During that discussion, Board staff notified the Board that a comprehensive review of the death and hospitalization incident reports submitted to the Board had been delayed due to significant staffing issues resulting from the emergence of the COVID-19 Omicron variant. Board staff anticipated completing the comprehensive review and potentially submitting a Supplemental Report for the Board's review and discussion at its May 2022 meeting.

To address AAOMS's request for provider specificity data and intended level of sedation, Board staff began a comprehensive review of the death and hospitalization incident reports submitted to the Board to compile data on provider type for potential inclusion in a Supplemental Report. While reviewing the death and hospitalization incident reports, Board staff found the submitted reports contained incomplete information on provider categories, which are specified in BPC section 1680, subdivision (z)(3). It appears the individuals who completed and submitted the incomplete reports may not have understood the provider categories. To clarify the provider types for individuals submitting the death and hospitalization incident reports, Board staff updated the Courtesy Form for Reporting Dental Patient Death or Hospitalization and posted it to the Board website on January 19, 2022.

Supplemental Report

Staff have completed their comprehensive review of the incident reports to identify provider specificity data and intended patient sedation level data as requested by AAOMS. For the Board's consideration, attached hereto is a draft Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards that updates the reporting period from January 1, 2017, through December 31, 2021, to include all incident reports submitted to the Board during that time frame. During the six-month period from July 1, 2021, to December 31, 2021, the Board received 16 hospitalization reports that were possibly anesthesia and/or sedation related, and one death report that was possibly anesthesia and/or sedation related.

The original Report included data of 210 hospitalization and death incident reports received between January 1, 2017, and June 30, 2021. Of those, 210 incident reports, 88 hospitalization reports and 23 death reports were related to anesthesia and/or sedation.

Agenda Item 23(d): Update on Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards as Required by Senate Bill (SB) 501 (Glazer, Chapter 929, Statutes of 2018) and Business and Professions Code Section 1601.4, subdivision (a)(2)
Dental Board of California Meeting
May 12-13, 2022

During the comprehensive review of the incident reports submitted to the Board, Board staff became aware that due to data entry errors and changes in internal report processing, not all reported incidents were captured in the original Report submitted to the Legislature on December 22, 2021. Board staff have since updated business processes and the BreEZe system to include new codes to identify hospitalization and deaths reported to the Board. This will allow staff to extract and verify data on a regular basis.

Following the comprehensive incident reports review, Board staff found 372 incident reports were received instead of the previously reported 210. Of the 372 incident reports submitted to the Board, 324 were for hospitalizations of a patient either during or after a dental procedure, and 48 reports were for the death of a patient either during or after a dental procedure. However, 186 incident reports did not include the administration of anesthesia or sedation to the dental patient and have been excluded from this Supplemental Report. Of the remaining 186 incident reports that did include administration of anesthesia and/or sedation, 162 reports involved patient hospitalization, and 24 reports involved patient death during or shortly after the dental procedure. The Supplemental Report corrects the data previously reported and includes provider specificity and planned depth of patient sedation data as requested by AAOMS.

Action Requested

The Board is asked to take the following actions:

1. Review, discuss, and provide comments on the draft Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards; and,
2. Direct staff to finalize the Supplemental Report and submit it to the California State Legislature.

Attachment: Draft Supplemental Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards



DENTAL BOARD OF CALIFORNIA

SUPPLEMENTAL REPORT TO CALIFORNIA STATE LEGISLATURE
REGARDING
FINDINGS RELEVANT TO INFORM DENTAL ANESTHESIA
AND SEDATION STANDARDS

May 2022

Members of the Dental Board of California

Alan Felsenfeld, MA, DDS, President

James Yu, DDS, MS, Vice President

Sonia Molina, DMD, MPH, Secretary

Steven Chan, DDS

Lilia Larin, DDS

Meredith McKenzie, Esq., Public Member

Angelita Medina, Public Member

Mark Mendoza, Public Member

Steven Morrow, DDS, MS

Rosalinda Olague, RDA, BA

Joanne Pacheco, RDH, MAOB

DRAFT

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EXECUTIVE SUMMARY

The Dental Board of California (Board) submitted the Report to California State Legislature Regarding Findings Relevant to Inform Dental Anesthesia and Sedation Standards (Report) as required by Senate Bill (SB) 501 (Glazer, Chapter 929, Statutes of 2018) and Business and Professions Code (BPC) section 1601.4, subdivision (a)(2) on December 22, 2021.

The first half of the Report summarized the Board's statistical findings regarding adverse events reported to the Board after the administration of anesthesia and/or sedation before or during dental procedures. The adverse events reported to the Board were submitted by dental licensees, physicians and surgeons, anesthesiologists, and other various reporting sources from the period of January 1, 2017, to June 30, 2021.

The second half of the Report discussed relevant professional guidelines, recommendations, or best practices for the provision of dental anesthesia and sedation care and how they compare to California laws and regulations effective January 1, 2022.

The Report concluded that with the implementation of new minimal, moderate, and deep sedation and general anesthesia provisions enacted by SB 501 that became effective on January 1, 2022, California will have some of the highest patient monitoring standards for the administration of minimal, moderate, and deep sedation and general anesthesia to dental patients of all age groups and especially for children. California statutes continue to meet and generally exceed the guidelines of all the organizations that are involved in the administration of anesthesia to children in dental offices.

This Supplemental Report provides additional information and corrects information previously reported in the Report. The Board continues to collect information on adverse effects of anesthesia and sedation levels in dentistry, and the next Board report regarding pediatric deaths related to general anesthesia and deep sedation in dentistry will be submitted to the California State Legislature at the time of the Board's Sunset Review pursuant to the requirements of BPC section 1601.4, subdivision (b).

INTRODUCTION

In 2018, SB 501 (Glazer, Chapter 929, Statutes of 2018) amended BPC section 1601.4, subdivision (a), to require the Board to review available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry and relevant professional guidelines, recommendations, or best practices for the provision of dental anesthesia and sedation care. SB 501, among other things, also required the Board, by January 1, 2022, to report to the California State Legislature any findings relevant to inform dental anesthesia and sedation standards.

The Board receives reports on adverse events related to general anesthesia and sedation in accordance with BPC section 1680, subdivision (z), which requires licensees to report the death of a patient during the performance of any dental or dental hygiene procedure, the discovery of a death of a patient whose death is related to dental or dental hygiene procedure performed by the licensee, or, except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental or dental hygiene treatment. In addition, BPC section 1680, subdivision (z), requires the licensee to report a death or hospitalization when sedation and/or anesthesia is used for a dental procedure on a form approved by the Board and include all of the following information:

- the date of the procedure;
- the patient's age in years and months, weight, and sex;
- the patient's American Society of Anesthesiologists (ASA) physical status;
- the patient's primary diagnosis;
- the patient's coexisting diagnoses;
- the procedures performed;
- the sedation setting;
- the medications used;
- the monitoring equipment used;
- the category of the provider responsible for sedation oversight;
- the category of the provider delivering sedation;
- the category of the provider monitoring the patient during sedation;
- whether the person supervising the sedation performed one or more of the procedures;
- the planned airway management;
- the planned depth of sedation;
- the complications that occurred;
- a description of what was unexpected about the airway management;
- whether there was transportation of the patient during sedation;
- the category of the provider conducting resuscitation measures; and
- the resuscitation equipment utilized.

As required by Assembly Bill (AB) 2235 (Thurmond, Chapter 519, Statutes of 2016), the Board created a "Courtesy Form for Reporting of Anesthesia Death or Hospitalization" (Courtesy Form) and posted the Courtesy Form on the Board's website.

To fulfill the report requirement mandated by SB 501, the Board reviewed the death or hospitalization incident reports and prepared a draft Report for submission to the California State Legislature. The draft Report was provided to the public for discussion at the Board's November 18-19, 2021 meeting. On November 17, 2021, the Board received a letter from the American Association of Oral and Maxillofacial Surgeons (AAOMS) expressing concerns that the draft Report had omitted provider specificity data, intended patient sedation level data, and AAOMS anesthesia guidelines. During the November 18-29, 2021 Board meeting, it was determined that due to the last-minute nature of the concerns raised by AAOMS, Board staff would review the concerns and potentially submit a Supplemental Report to the Legislature.

At the February 11-12, 2022 Board meeting, the Board discussed whether to include the AAOMS Parameters of Care and the AAOMS Office Anesthesia Evaluation guidelines in a Supplemental Report. After careful discussion, the Board voted not to include the AAOMS Parameters of Care and the AAOMS Office Anesthesia Evaluation guidelines in the Supplemental Report as the inclusion of the guidelines in the Report would not alter the information or produce a significant difference to the information already submitted.

To address AAOMS's request for provider specificity data and intended level of sedation, Board staff performed a comprehensive review of the death and hospitalization incident reports submitted to the Board to compile data on provider type for potential inclusion in a Supplemental Report. At the February 10-11, 2022 Board meeting, Board staff advised the Board that due to significant staffing issues due to the emergence of the COVID-19 Omicron variant, the comprehensive review had been delayed. Board staff anticipated completing the comprehensive review and potentially submitting a Supplemental Report for the Board's review and discussion at its May 12-13, 2022 meeting.

While reviewing the incident reports submitted to the Board, Board staff found the incident reports contained incomplete information on provider categories, which are specified in Business and Professions Code section 1680, subdivision (z)(3). It appeared the individuals who completed and submitted the incident reports may not have understood the provider categories. To clarify the provider types for individuals submitting the death and hospitalization incident reports, Board staff updated the Courtesy Form and posted it to the Board website on January 19, 2022.

The original Report submitted to the Legislature on December 22, 2021, included data of 210 hospitalization and death incident reports received by the Board between January 1, 2017, and June 30, 2021. Of those 210 incident reports, 88 hospitalization reports and 23 death reports were related to anesthesia and/or sedation.

For this Supplemental Report, the reporting period was updated to include all incident reports submitted to the Board from January 1, 2017, through December 31, 2021. During the six-month

period from July 1, 2021, to December 31, 2021, the Board received 16 hospitalization reports that were possibly anesthesia and/or sedation related, and one death report that was possibly anesthesia and/or sedation related.

In addition, during the comprehensive review of the incident reports submitted to the Board, Board staff became aware that not all reported incidents were captured in the original Report due to data entry errors and changes in internal report processing. Board staff have since updated business processes and the BreZE system to include new codes to identify hospitalization and deaths reported to the Board. This will allow staff to extract and verify data on a regular basis.

Following the comprehensive incident reports review, Board staff found 372 incident reports were received instead of the previously reported 210. Of the 372 incident reports submitted to the Board, 324 were for hospitalizations of a patient either during or after a dental procedure, and 48 reports were for the death of a patient either during or after a dental procedure. However, 186 incident reports did not include the administration of anesthesia or sedation to the dental patient and have been excluded from this Supplemental Report. Of the remaining 186 incident reports that did include administration of anesthesia and/or sedation, 162 reports involved patient hospitalization, and 24 reports involved patient death during or shortly after the dental procedure.

STATISTICAL FINDINGS

The charts below have been updated to show the statistical findings related to adverse events after the administration of anesthesia and/or sedation before or during dental procedures. The data is based on incident reports submitted by dental licensees, physicians and surgeons, anesthesiologists, and other various sources from the period of January 1, 2017, to December 31, 2021.

The Board presents its findings and provides a breakdown of the incident reports, which include the number of patient deaths and hospitalizations that may have been a result of complications during the administration of anesthesia and/or sedation for a dental procedure. During the reporting period, 372 incident reports were received. Of the 372 incident reports submitted to the Board, 324 were for hospitalizations of a patient either during or after a dental procedure, and 48 reports were for the death of a patient either during or after a dental procedure. However, only 186 of those incident reports involved the administration of anesthesia or sedation to the dental patient. Of the 186 incident reports that included administration of anesthesia and/or sedation to dental patients, 162 reports involved patient hospitalization, and 24 reports involved patient death during or shortly after the dental procedure.

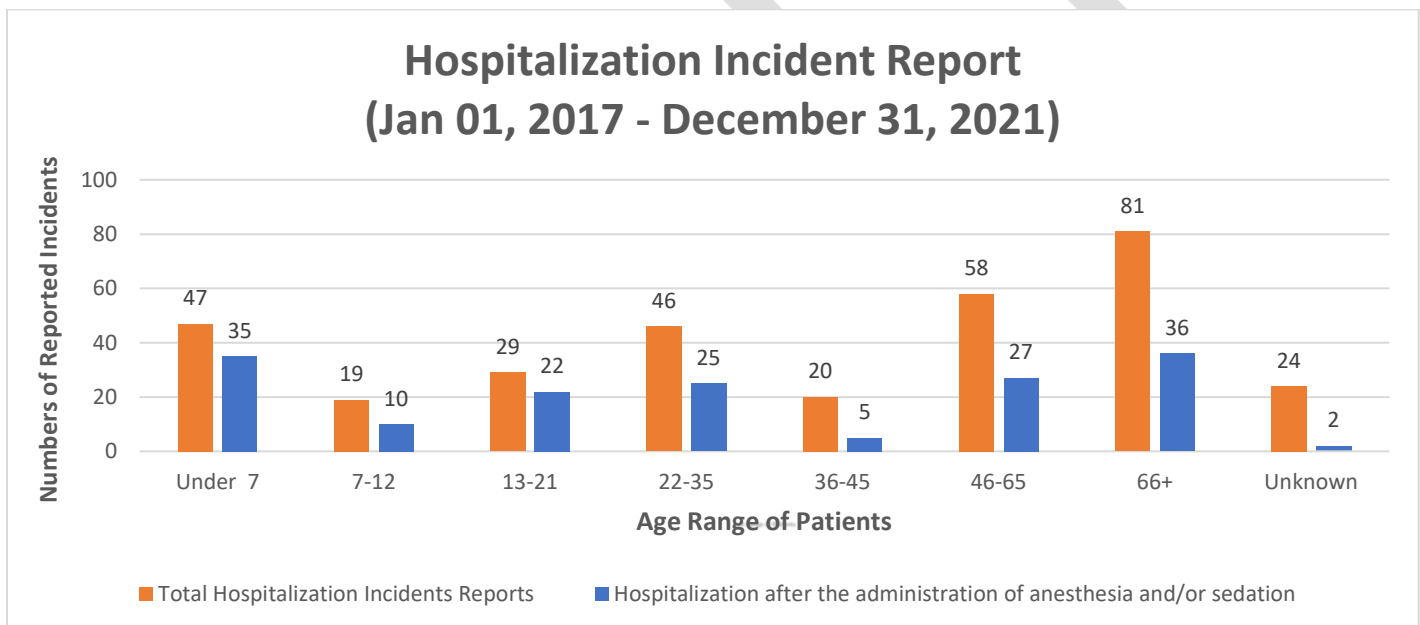
The data provided in this Supplemental Report has been categorized by age group with the assistance of the Board's subject matter experts. The different age groups are broken down as follows:

- Pediatric (Under 7 years)
- Older Pediatric (Ages 7-12)

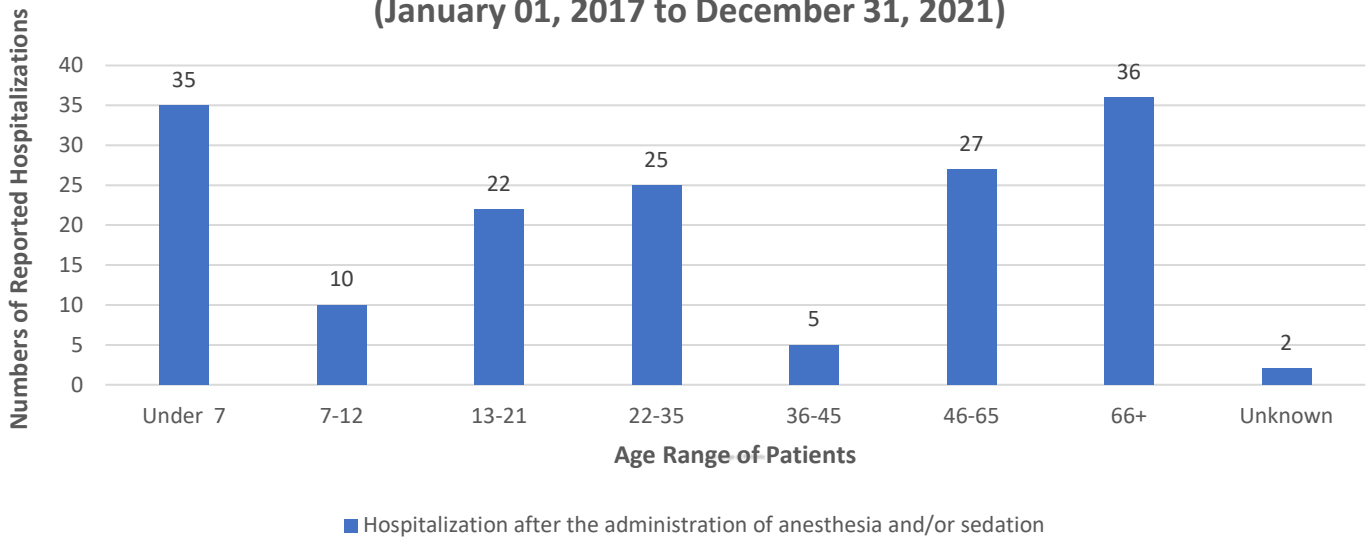
- Adolescents (Ages 13-21)
- Young Adults (Ages 22-35)
- Adults (Ages 36-45)
- Middle-Aged (Ages 46-65)
- Senior (Ages 66+)

The data is sorted by fiscal year and includes the patient's age, sex, ASA physical status, if the patient had any coexisting diagnoses, the setting where the sedation and dental procedure took place, the category of the provider responsible for sedation oversight, the category of the provider that delivered the sedation, the category of provider(s) monitoring the patient, the planned depth of sedation, and the investigative outcomes for the hospitalizations or deaths where anesthesia and/or sedation was administered.

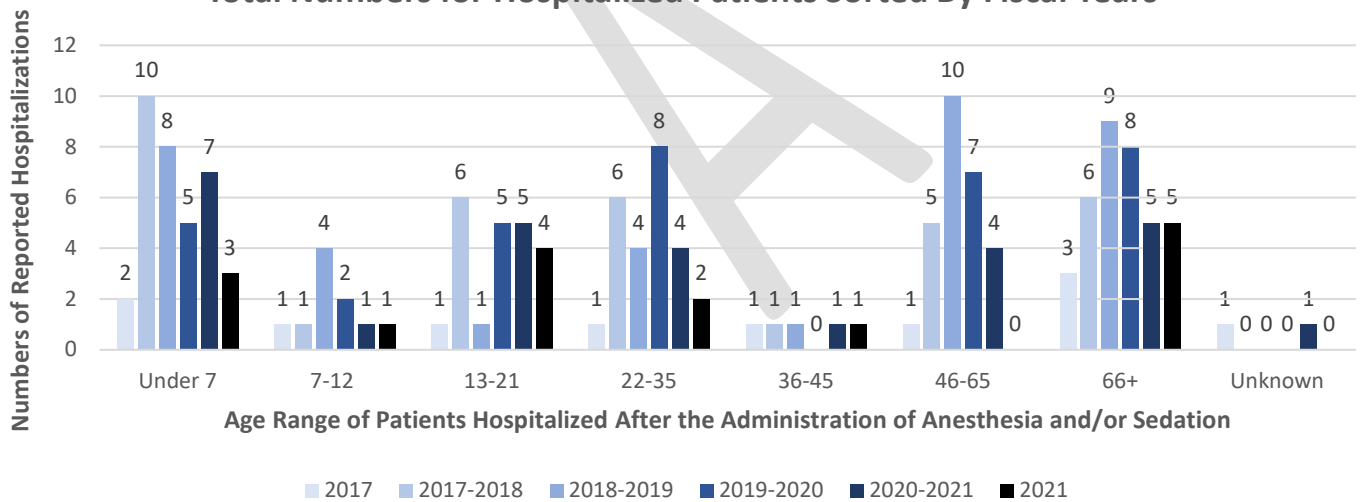
Hospitalization Incident Reports by Age Group



Total Number For Hospitalized Patients (January 01, 2017 to December 31, 2021)



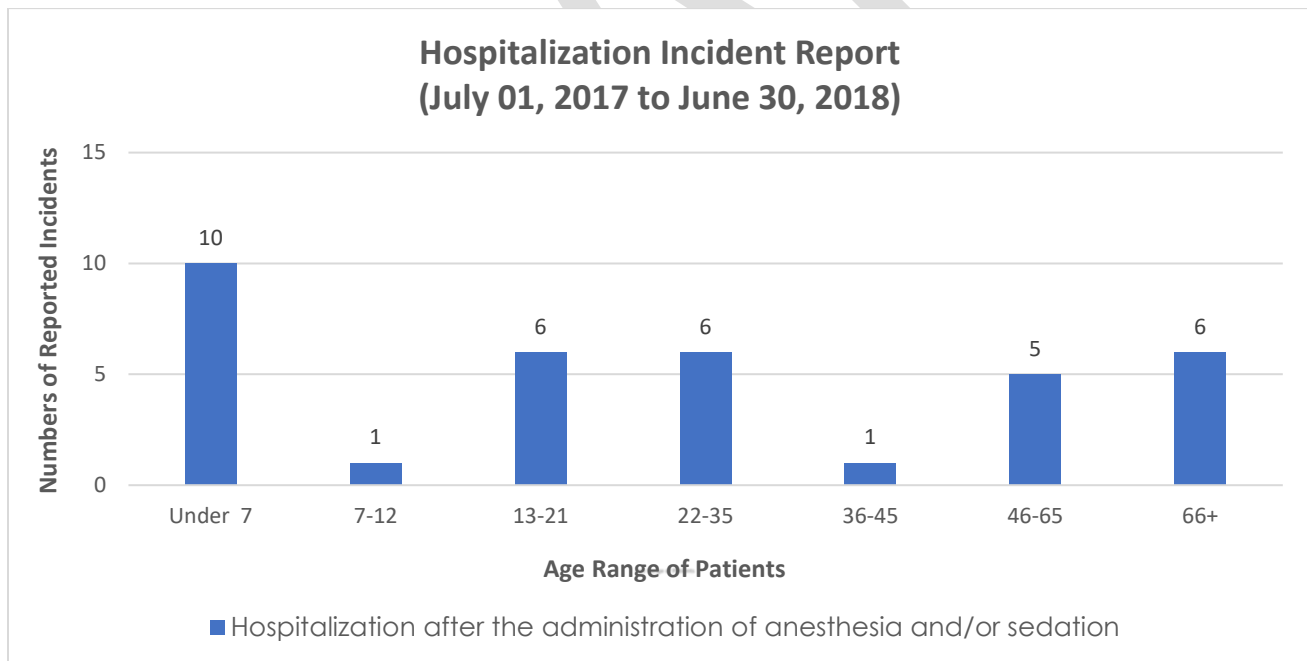
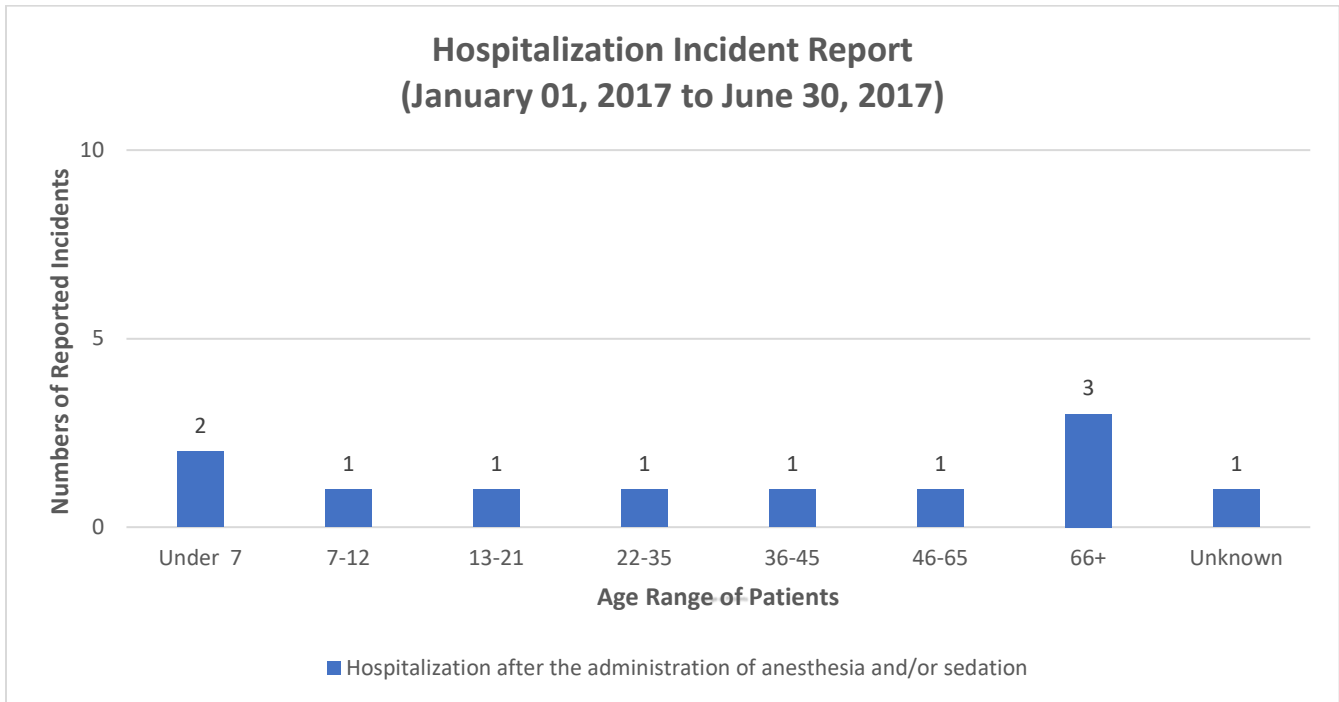
Total Numbers for Hospitalized Patients Sorted By Fiscal Years



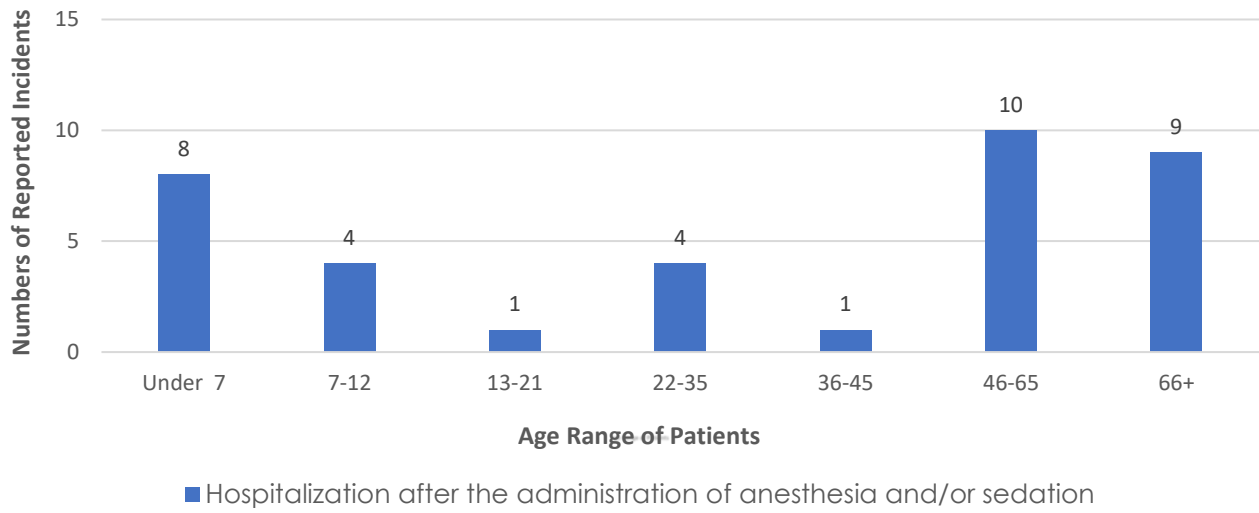
- The first chart reflects the total numbers of hospitalization incident reports, and of those reports, how many were hospitalizations after the administration of anesthesia and/or sedation during the reporting period. The second chart is a reiteration of the first chart but represents the total numbers of reported hospitalizations for that same time frame possibly related to the administration of anesthesia and/or sedation during dental treatments. The third chart represents the numbers of patients hospitalized throughout the various fiscal years by age groups possibly related to the administration of anesthesia and/or sedation during

- dental treatments. This chart is presented to provide a comparison of any possible trends during this period.
- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age, there were a total of 47 incident reports, and of those, 35 were hospitalized possibly due to anesthesia and/or sedation related treatment.
 - For older pediatric patients ages 7-12, there were a total of 19 incident reports, and of those, 10 were hospitalized possibly due to anesthesia and/or sedation related treatment.
 - For adolescent patients ages 13-21, there were a total of 29 incident reports, and of those, 22 were hospitalized possibly due to anesthesia and/or sedation related treatment.
 - For young adult patients ages 22-35, there were a total of 46 incident reports and of those, 25 were hospitalized possibly due to anesthesia and/or sedation related treatment.
 - For adult patients ages 36-45, there were a total of 20 incident reports, and of those, five were hospitalized possibly due to anesthesia and/or sedation related treatment.
 - For middle-aged patients ages 46-65, there were a total of 58 incident reports, and of those, 27 were hospitalized possibly to due anesthesia and/or sedation related treatment.
 - For senior patients ages 66 and up, there were a total of 81 incident reports, and of those, 36 were hospitalized possibly to due anesthesia and/or sedation related treatment.
 - For patients of unknown ages, there were a total of 24 incident reports, and of those, 2 were hospitalized possibly to due anesthesia and/or sedation related treatment.
 - From the date of the initial mandate (January 01, 2017) through December 31, 2021, data provided is collected by the Board and recorded as hospitalizations due to possible complications from the administration of anesthesia and/or sedation before and during the patient's dental procedure. The specific reports indicate that anesthesia and/or sedation were given before or during the procedure prior to hospitalization. However, the reason for hospitalization may have been due to outside factors and not due to administration of anesthesia and/or sedation. Accordingly, the term "possibly" is used to accommodate for hospitalization that may or may not have been the result of anesthesia and/or sedation administered to the patient.

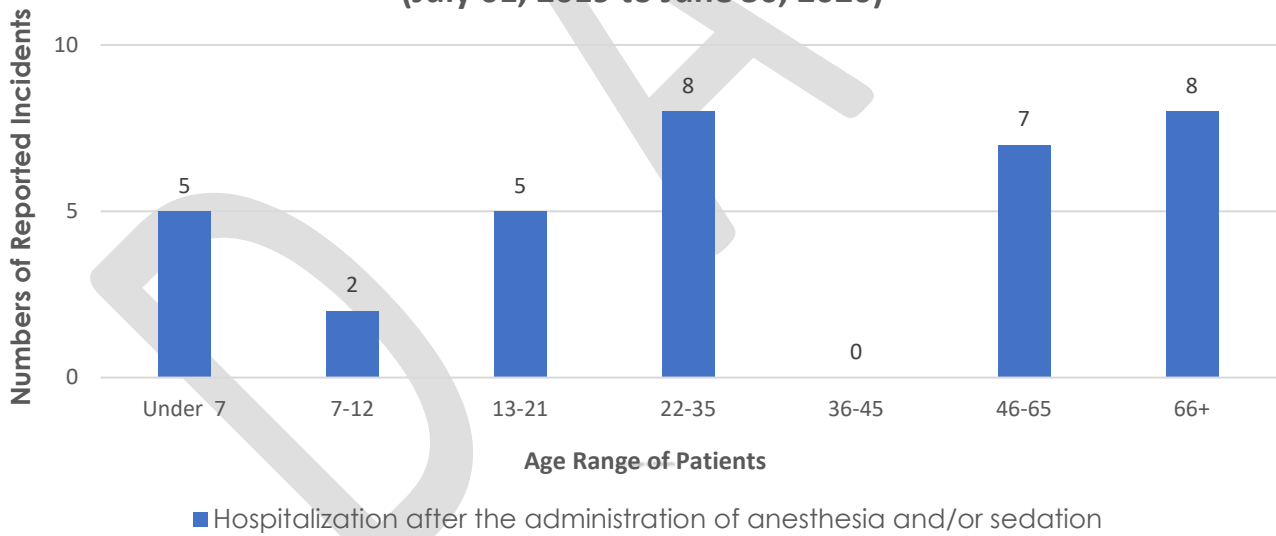
- The charts below show the numbers of hospitalizations during each fiscal period:



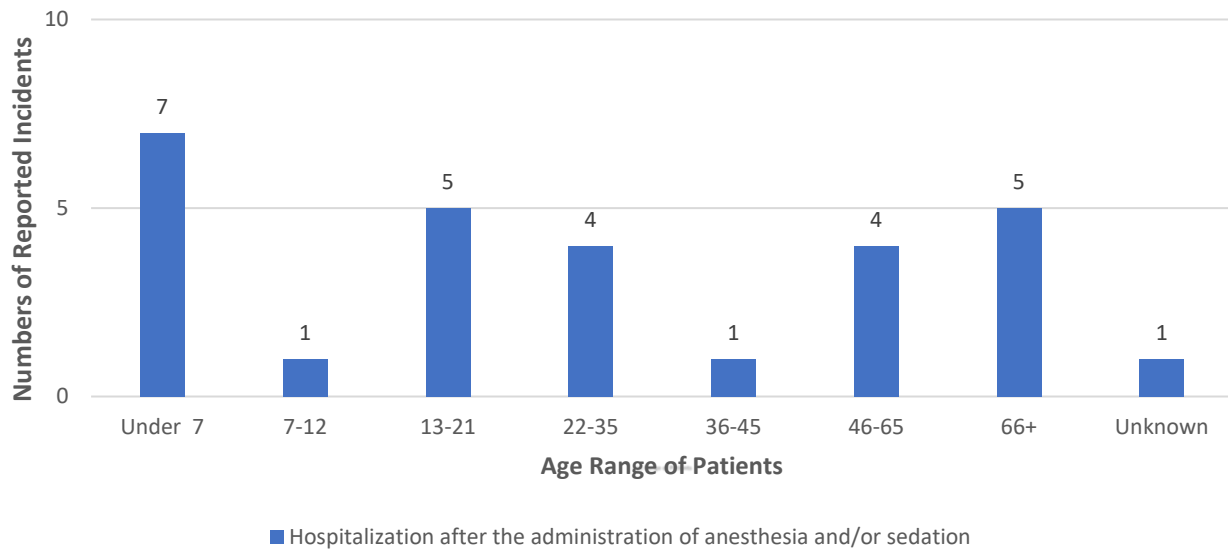
Hospitalization Incident Report (July 01, 2018 to June 30, 2019)



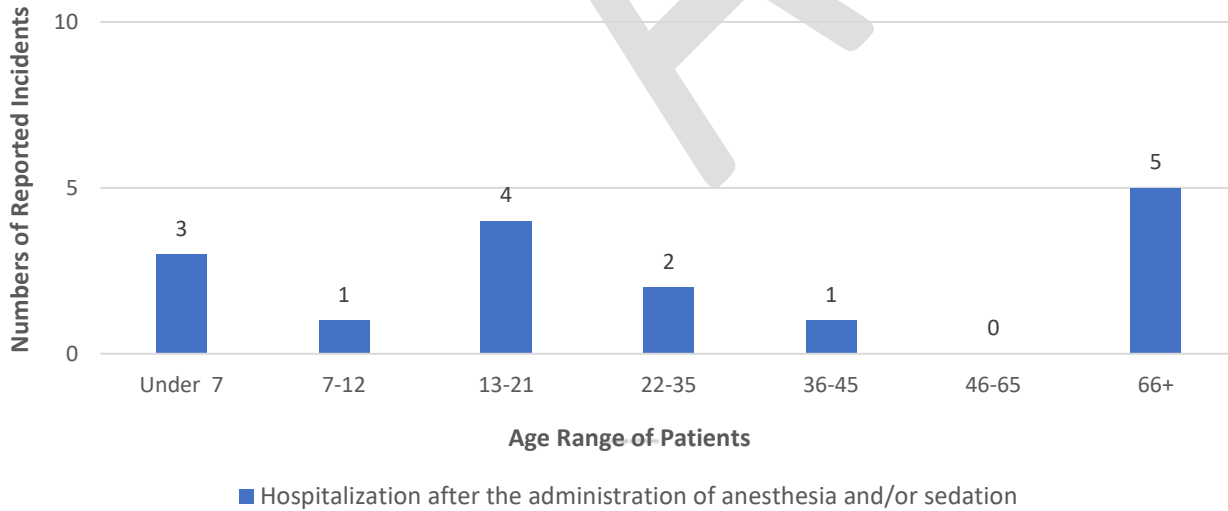
Hospitalization Incident Report (July 01, 2019 to June 30, 2020)



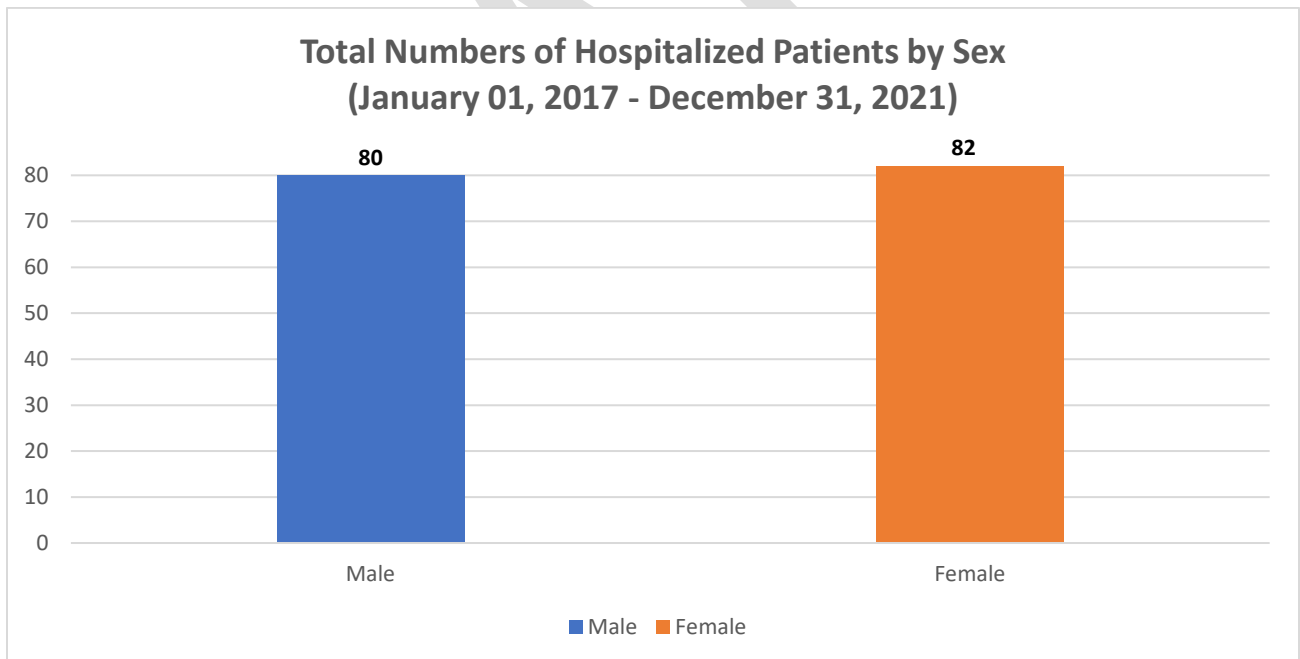
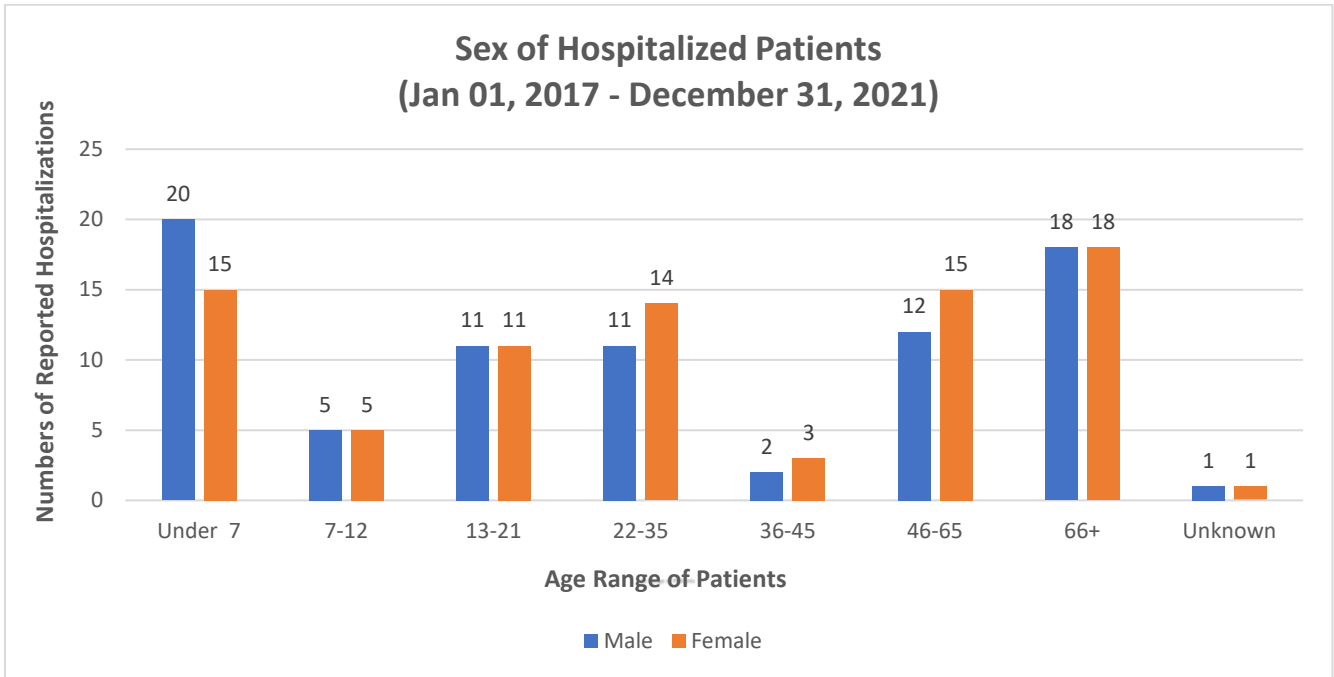
Hospitalization Incident Report (July 01, 2020 to June 30, 2021)



Hospitalization Incident Report (July 01, 2021 to December 31, 2021)



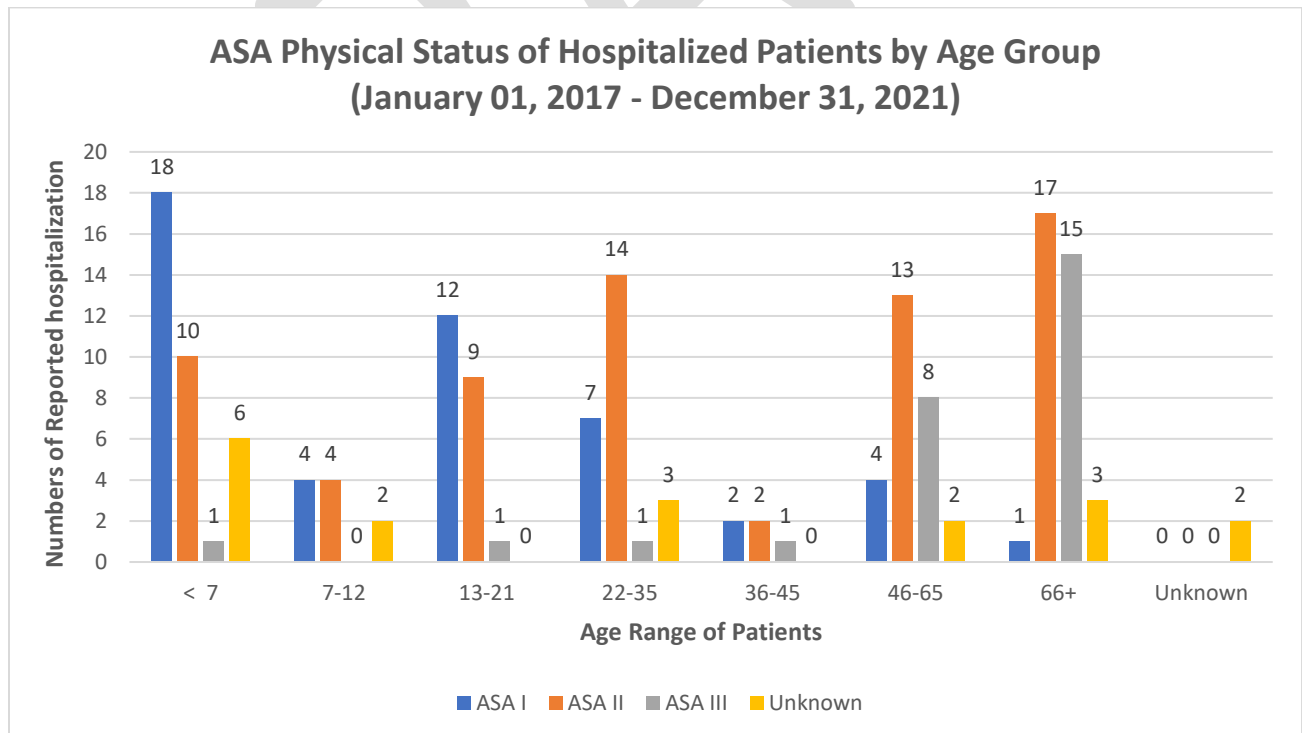
Sex of Hospitalized Patients by Age Group

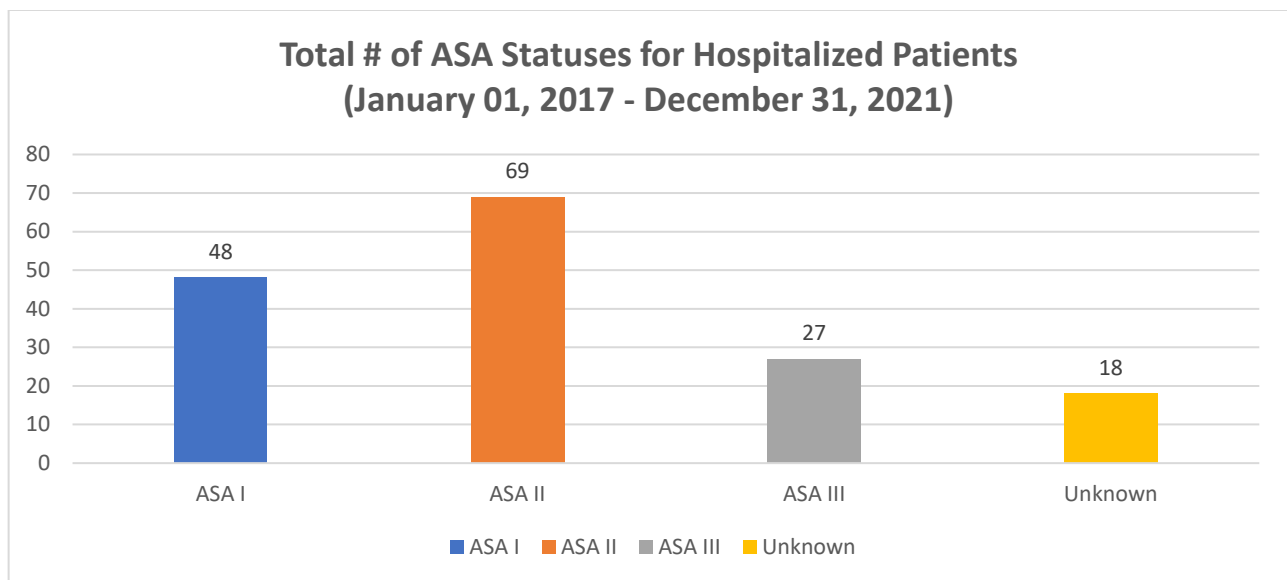


- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age, there were a total of 35 hospitalization reports (20 were males, and 15 were females).
 - For older pediatric patients ages 7-12, there were a total of 10 hospitalization reports (5 were males, and 5 were females).

- For adolescent patients ages 13-21, there were a total of 22 hospitalization reports (11 were males, and 11 were females).
 - For young adult patients ages 22-35, there were a total of 25 hospitalization reports (11 were males, and 14 were females).
 - For adult patients ages 36-45, there were a total of five hospitalization reports (2 were males, and 3 were females).
 - For middle-aged patients ages 46-65, there were a total of 27 hospitalization reports (12 were males, and 15 were females).
 - For senior patients ages 66 and up, there were a total of 36 hospitalization reports (18 were males, and 18 were females).
 - For patients of unknown age, there were a total of 2 hospitalization reports (1 was male, and 1 was female).
- According to the data collected, the ratio of males to females was overall similar in number. Overall, there did not appear to be any significant discrepancy among the numbers to indicate that one sex is more prone than another when it comes to the number of those hospitalized due to possible anesthesia and or sedation related incidents.

ASA Physical Status of Hospitalized Patients by Age Group

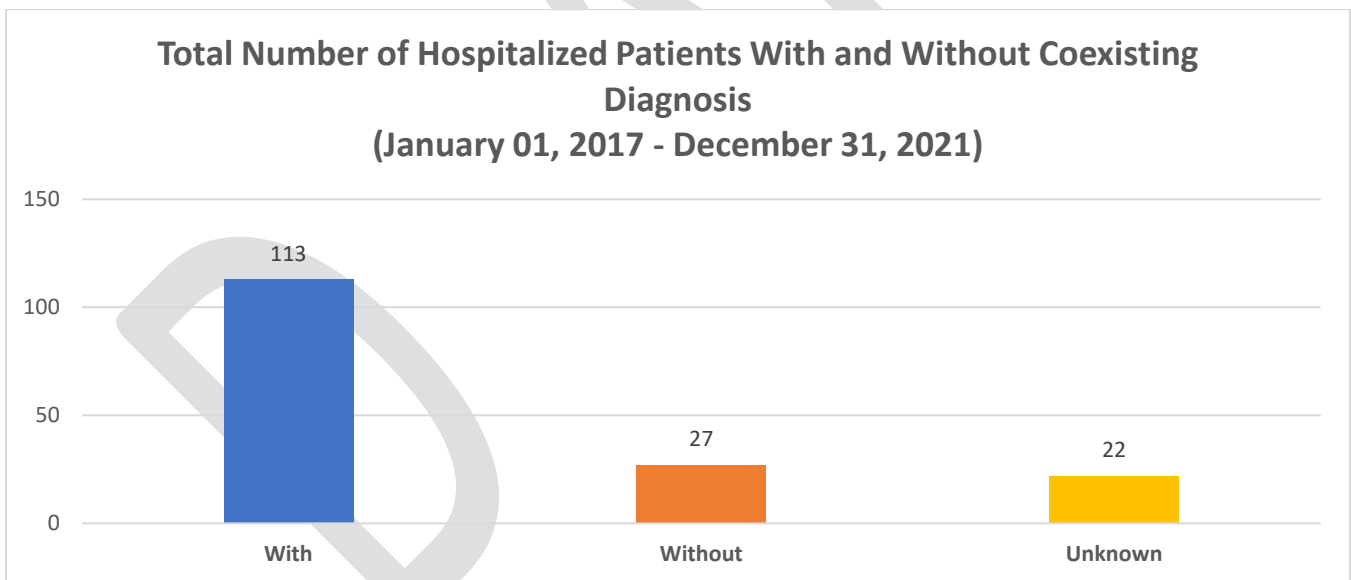
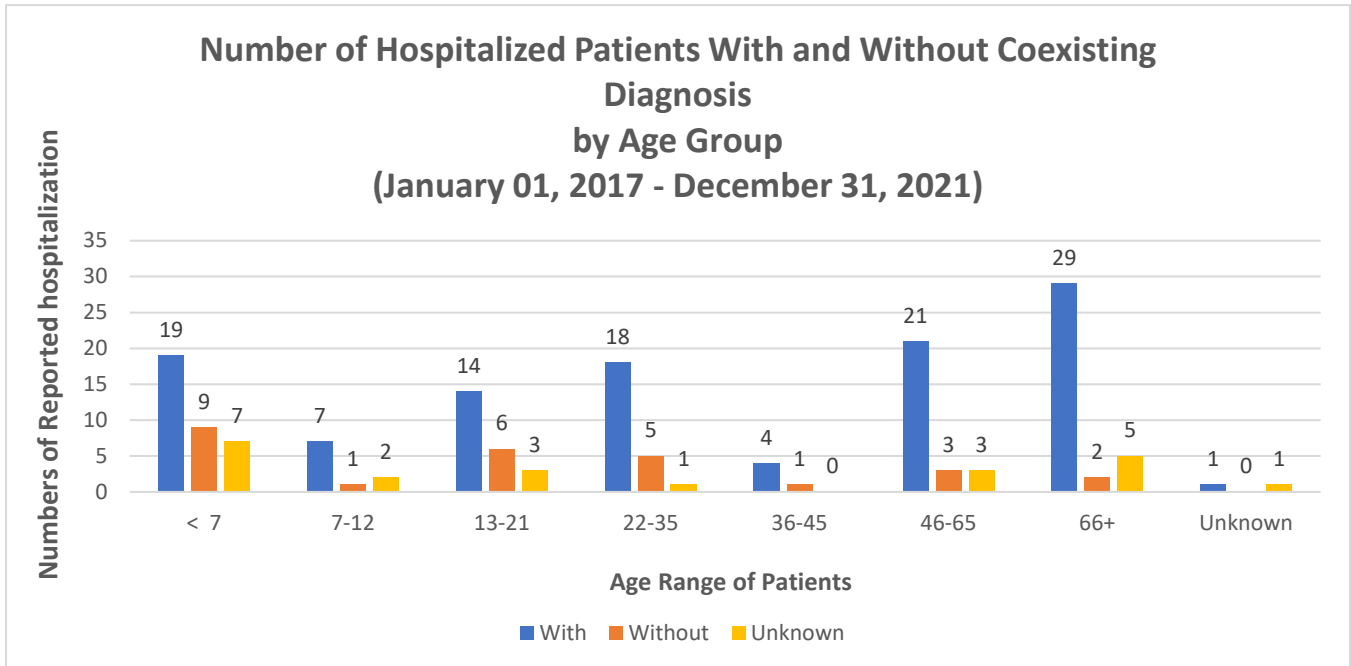




- According to the ASA, the ASA Physical Status Classification System has been in use for over 60 years. The purpose of the system is to assess and communicate a patient's pre-anesthesia medical co-morbidities. The classification does not predict the perioperative risks, but used with other factors (e.g., type of surgery, facility, level of deconditioning), it can be helpful in predicting perioperative risks.
- The general guidelines of the ASA Physical Status Classification System are outlined below:
 - ASA I: A normal healthy patient
 - ASA II: A patient with mild systemic disease
 - ASA III: A patient with severe systemic disease
 - ASA IV: A patient with severe systemic disease that is a constant threat to life (none reported)
 - ASA V: A moribund patient who is not expected to survive without the operation (none reported)
 - ASA VI: A declared brain-dead patient whose organs are being removed for donor purposes (none reported)
- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age: 18 patients were considered healthy, 10 as having mild systemic disease, one with severe systemic disease, and six patients whose ASA statuses were unknown.

- For older pediatric patients ages 7-12: four patients were considered healthy, four as having mild systemic disease, none with severe systemic disease, and two were unknown.
 - For adolescent patients ages 13-21: 12 patients were considered healthy, nine as having mild systemic disease, and one with severe systemic disease, and none were unknown.
 - For young adult patients ages 22-35: seven patients were considered healthy, 14 as having mild systemic disease, and one with severe systemic disease, and three patients whose ASA statuses were unknown.
 - For adult patients ages 36-45: two patients were considered healthy, two as having mild systemic disease, and one with severe systemic disease, and none were unknown.
 - For middle-aged patients ages 46-65: four patients were considered healthy, 13 as having mild systemic disease, and eight with severe systemic disease, and two whose ASA statuses were unknown.
 - For senior patients ages 66 and up: one patient was considered healthy, 17 as having mild systemic disease, and 15 with severe systemic disease, and three whose ASA statuses were unknown.
 - For patients of unknown age, none were considered healthy, none as having mild systemic disease, none with severe systemic disease, and two whose ASA statuses were unknown.
- According to the data collected, the total number of patients in every age group combined that were considered “normal healthy patient” were 48, 69 were considered as those with mild systemic disease, 27 were considered as those with severe systemic disease, and 18 that were not disclosed by the licensees. Most younger patients hospitalized were normal healthy patients, but beginning with the middle-aged group, there are higher numbers of ASA statuses of II and III. It is known that health declines as one gets older. Although the ASA guidelines go up to level VI, there were no reports of any hospitalized patients who were considered greater than level III.

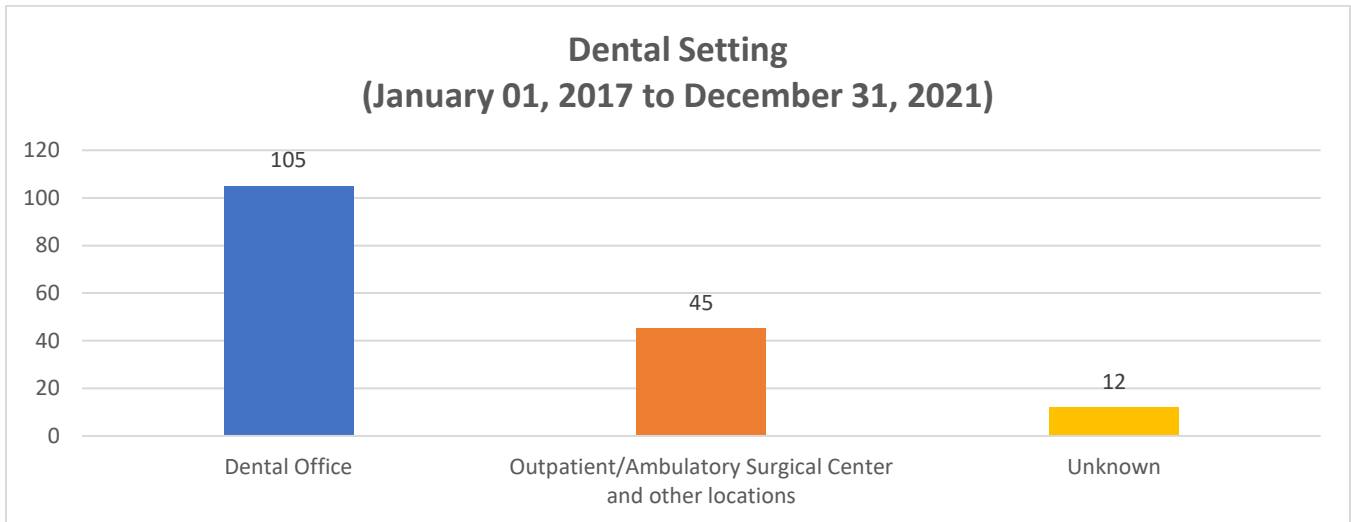
Number of Hospitalized Patients With and Without Coexisting Diagnosis by Age Group



- These charts represent the coexisting diagnosis information reported to the Board for hospitalized patients as: had a coexisting diagnosis; did not have a coexisting diagnosis or the coexisting diagnostic section was left blank and, for purposes of this data, is unknown. A total of 113 hospitalized patients were found to have a coexisting diagnosis, 27 did not have a coexisting diagnosis, and 22 that were not disclosed by the licensees. Predictably, there were higher numbers of serious coexisting diagnoses, such as hypertension, diabetes, liver disease, and other serious conditions, from age 46 and older. These numbers are for hospitalizations

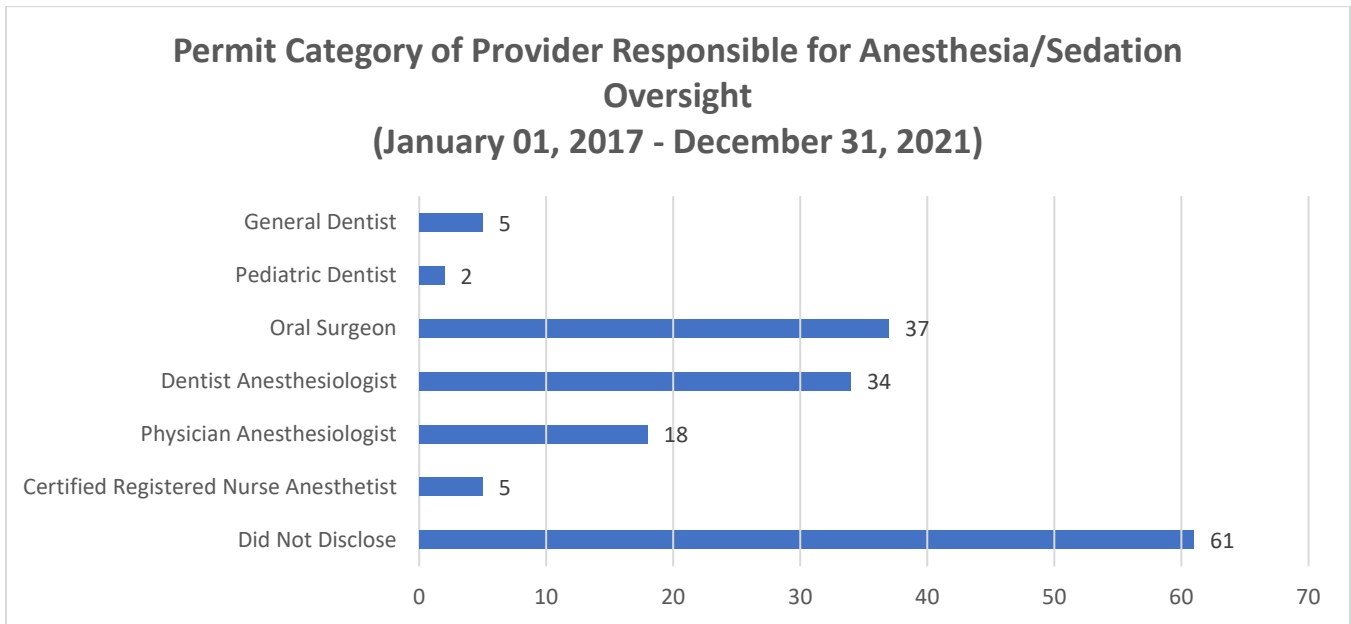
possibly due to the anesthesia and/or sedation administered, but the patients' coexisting diagnoses also could have played a role in their hospitalization, and this could hold truer for the older age groups.

Dental Setting of Those Who Were Hospitalized



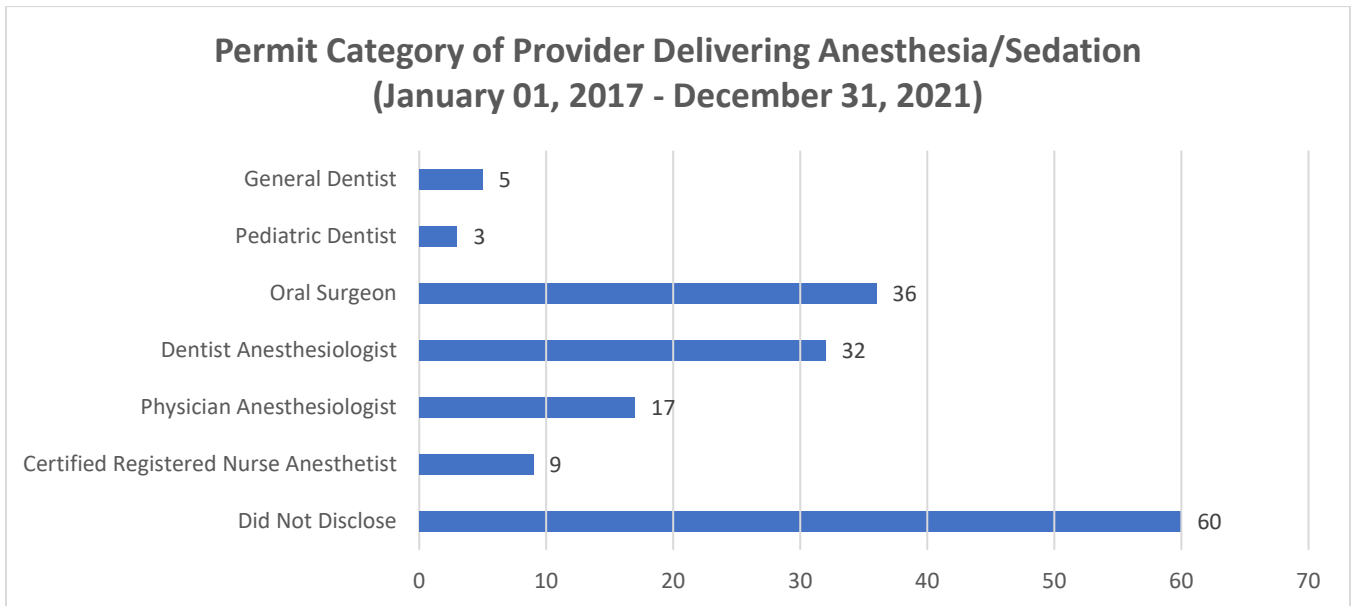
- This chart represents the setting of the dental procedures that resulted in hospitalization possibly due to the administration of anesthesia and/or sedation treatment. Out of the total 162 reports of dental treatment that resulted in hospitalization, 105 were conducted in a dental office; 45 were conducted in outpatient/ambulatory surgical centers and other locations that were not a dental office; and 12 with locations that were not disclosed by the licensees.

Category of Provider Responsible for Anesthesia or Sedation Oversight for Patients Who Were Hospitalized



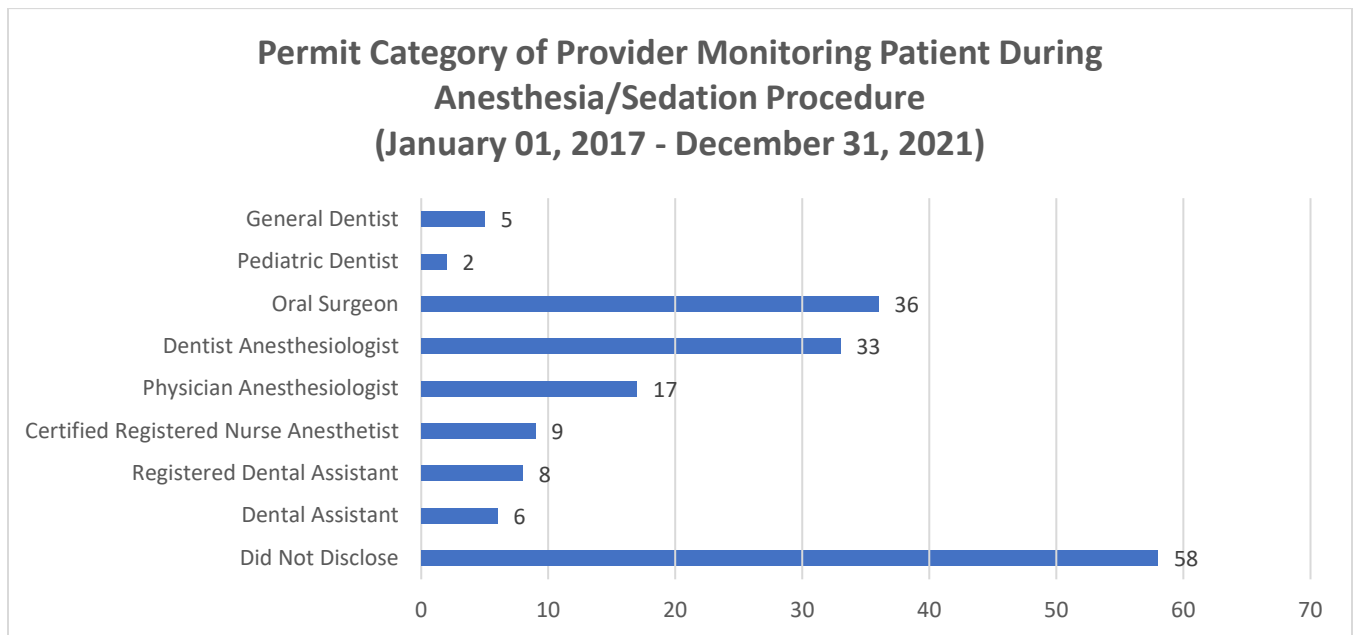
- This chart represents the category of the providers responsible for anesthesia or sedation oversight in cases where the patients were hospitalized possibly due to the administration of anesthesia and/or sedation under the dental provider's care or after they had left the premises.
 - Of the 162 cases of reported hospitalizations, five of the care providers were identified as general dentists.
 - Two of the care providers were pediatric dentists.
 - Thirty-seven of the care providers were identified as oral surgeons.
 - Thirty-four of the care providers were identified as dentist anesthesiologists.
 - Eighteen of the care providers were identified as physician anesthesiologists.
 - Five of the care providers were identified as certified registered nurse anesthetists.
 - Sixty-one of the care providers had either left this section blank or incorrectly identified the category of the provider on the "Courtesy Form for Reporting of Anesthesia Death or Hospitalization."

Category of Provider Delivering Anesthesia or Sedation for Patients Who Were Hospitalized



- This chart represents the category of the providers who delivered the anesthesia or sedation to patients who were hospitalized possibly due to the administration of anesthesia and/or sedation under the dental provider's care or after they had left the premises.
 - Of the 162 cases of reported hospitalizations, five of the care providers were identified as general dentists.
 - Three of the care providers were identified as pediatric dentists.
 - Thirty-six of the care providers were identified as oral surgeons.
 - Thirty-two of the care providers were identified as dentist anesthesiologists.
 - Seventeen of the care providers were identified as physician anesthesiologists.
 - Nine of the care providers were identified as certified registered nurse anesthetists.
 - Sixty of the care providers had either left this section blank or incorrectly identified the category of the provider on the "Courtesy Form for Reporting of Anesthesia Death or Hospitalization."

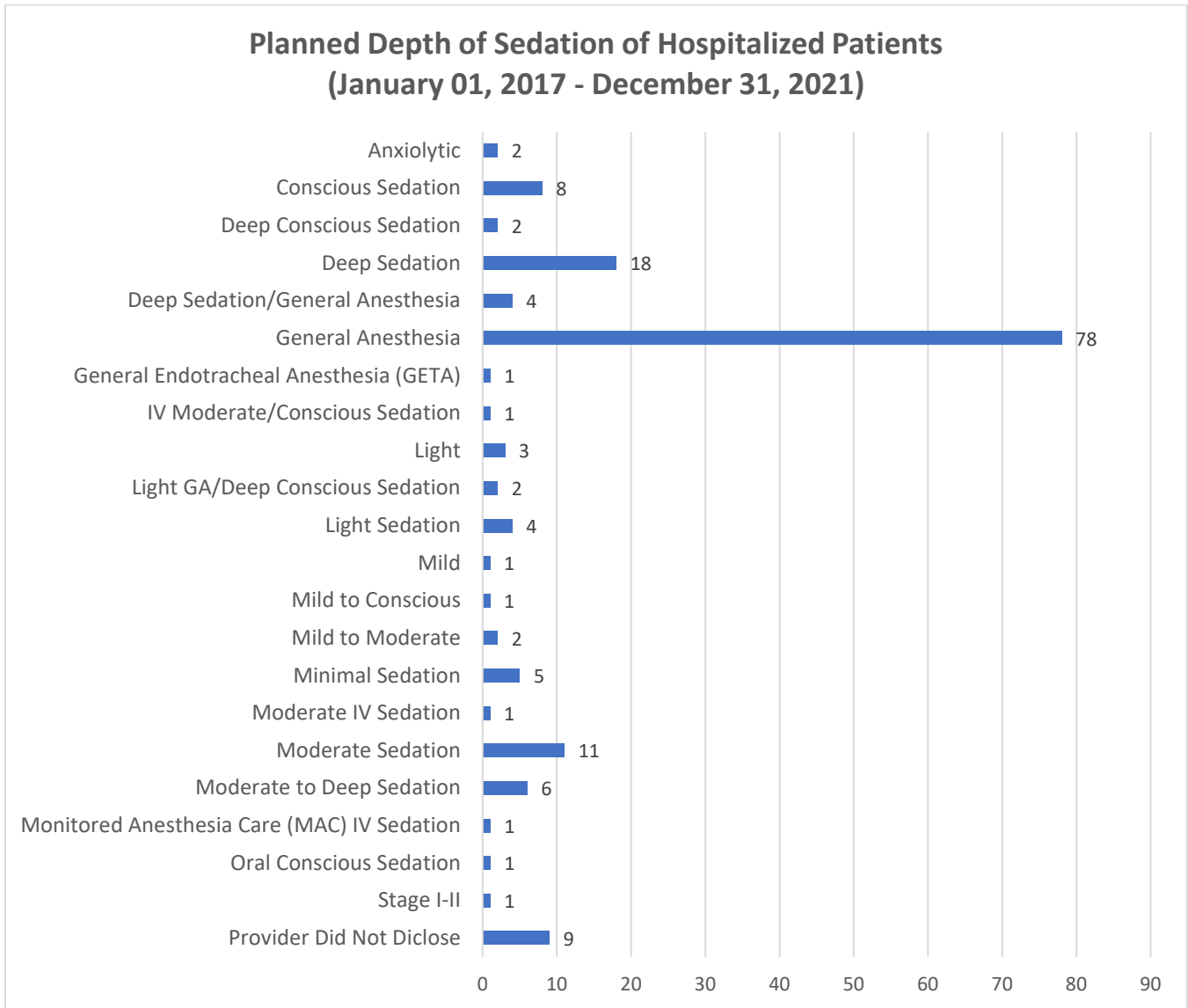
Category of Provider Monitoring During Anesthesia or Sedation for Patients Who Were Hospitalized



- This chart represents the category of the providers responsible for monitoring the patients during sedation who were hospitalized possibly due to the administration of anesthesia and/or sedation under the dental provider's care or after they had left the premises. Please note that in some reported cases, there were multiple providers monitoring the patient during the procedure; therefore, 173 total care providers are reported in this category.
 - Of the 162 cases of reported hospitalizations, five of the care providers were identified as general dentists.
 - Two care providers were identified as pediatric dentists.
 - Thirty-six of the care providers were identified as oral surgeons.
 - Thirty-three of the care providers were identified as dentist anesthesiologists.
 - Seventeen of the care providers were identified as physician anesthesiologists.
 - Nine of the care providers were identified as certified registered nurse anesthetists.
 - Eight of the care providers were identified as registered dental assistants.
 - Six of the care providers were identified as dental assistants.

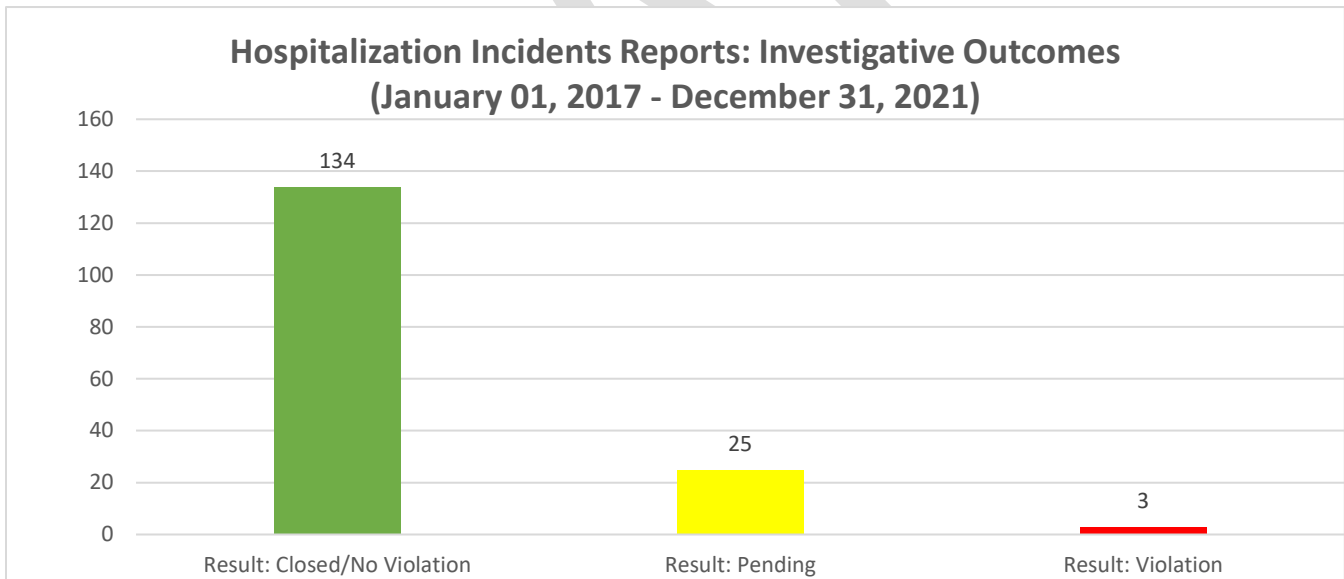
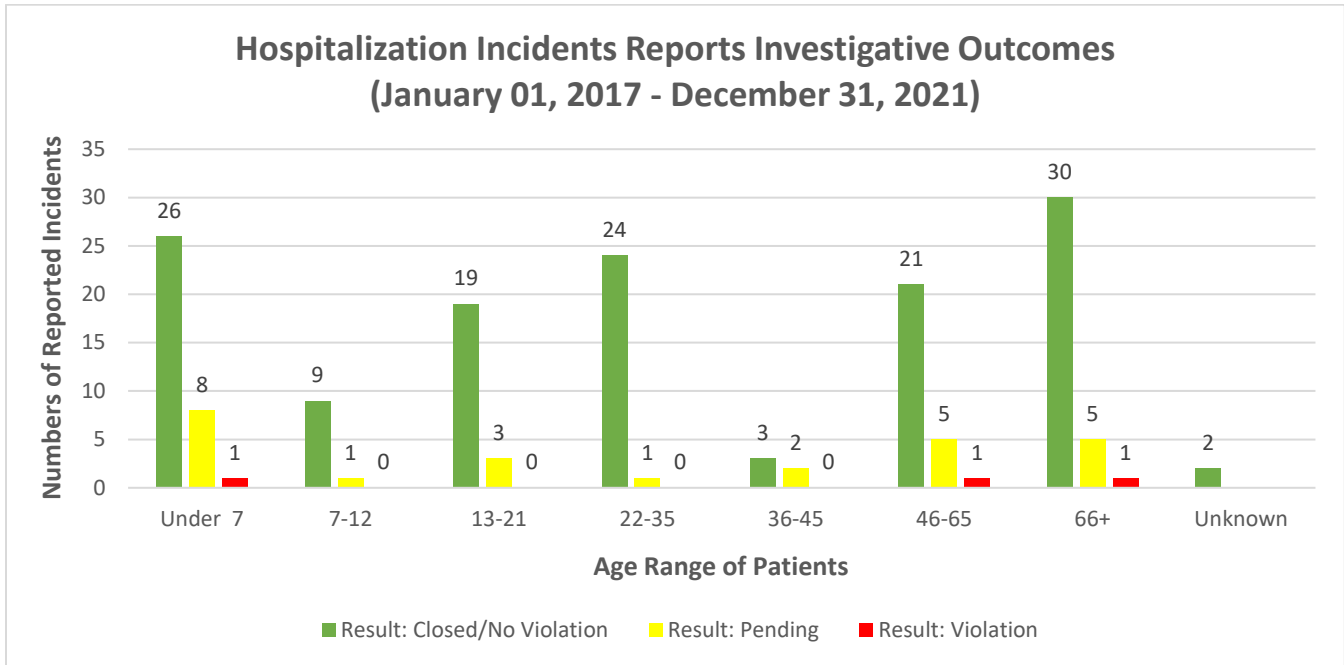
- Fifty-eight of the care providers had either left this section blank or incorrectly identified the category of the provider on the “Courtesy Form for Reporting of Anesthesia Death or Hospitalization.”

Planned Depth of Sedations of Hospitalized Patients



- This chart represents the planned depth of sedation for patients who were hospitalized possibly due to the administration of anesthesia and/or sedation under the dental provider’s care or after they had left the premises. Please note that the planned depth of sedation is not a set category and the information provided in the chart represents the provider’s response on the “Courtesy Form for Reporting of Anesthesia Death or Hospitalization.”

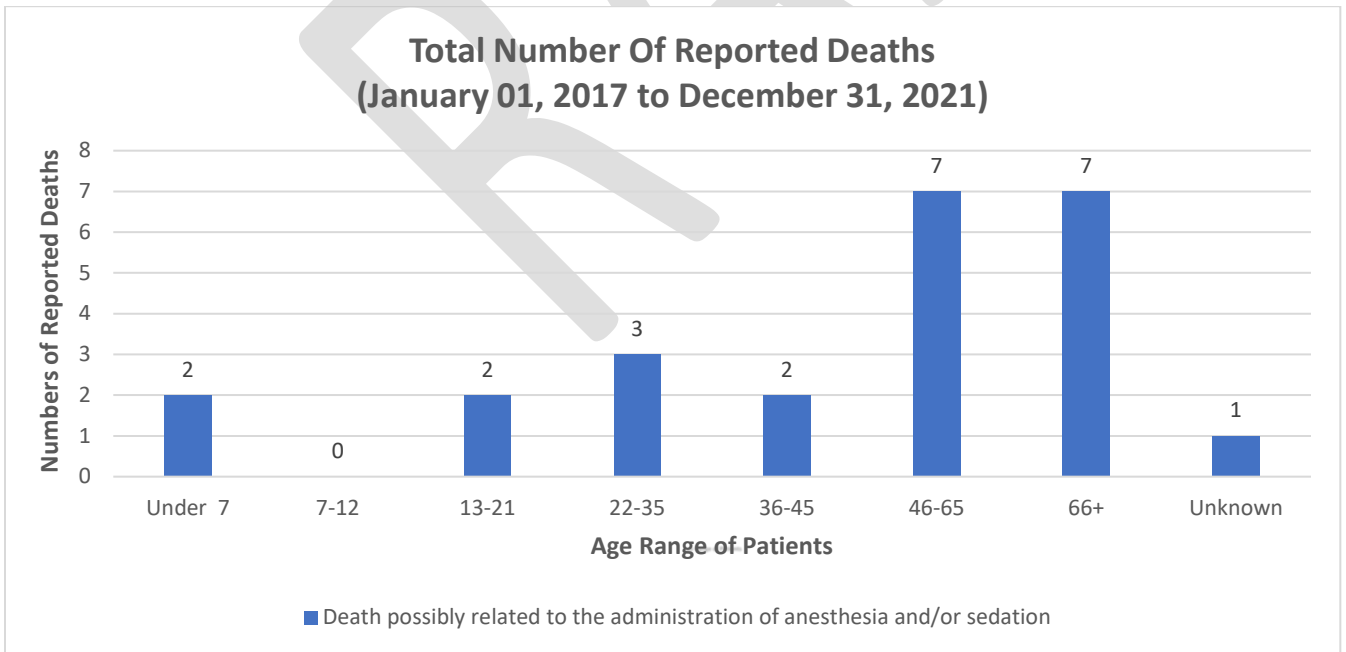
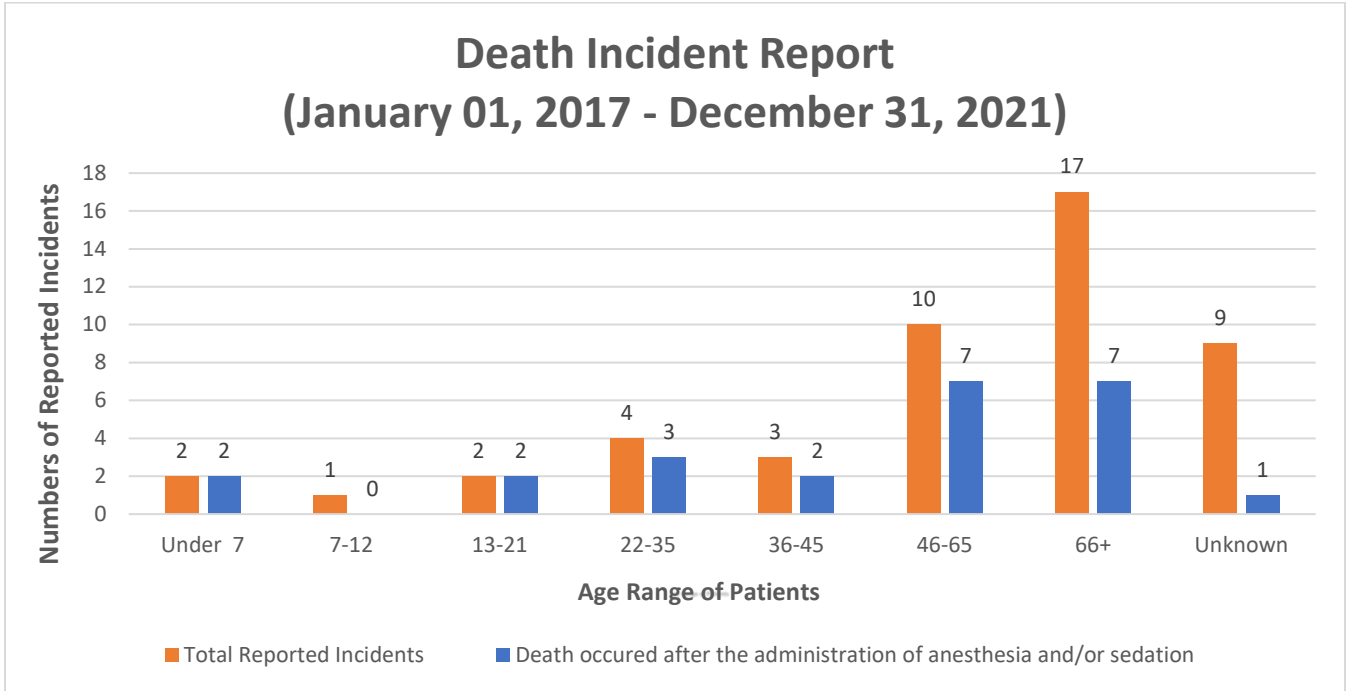
Hospitalization Incident Reports: Investigative Outcomes

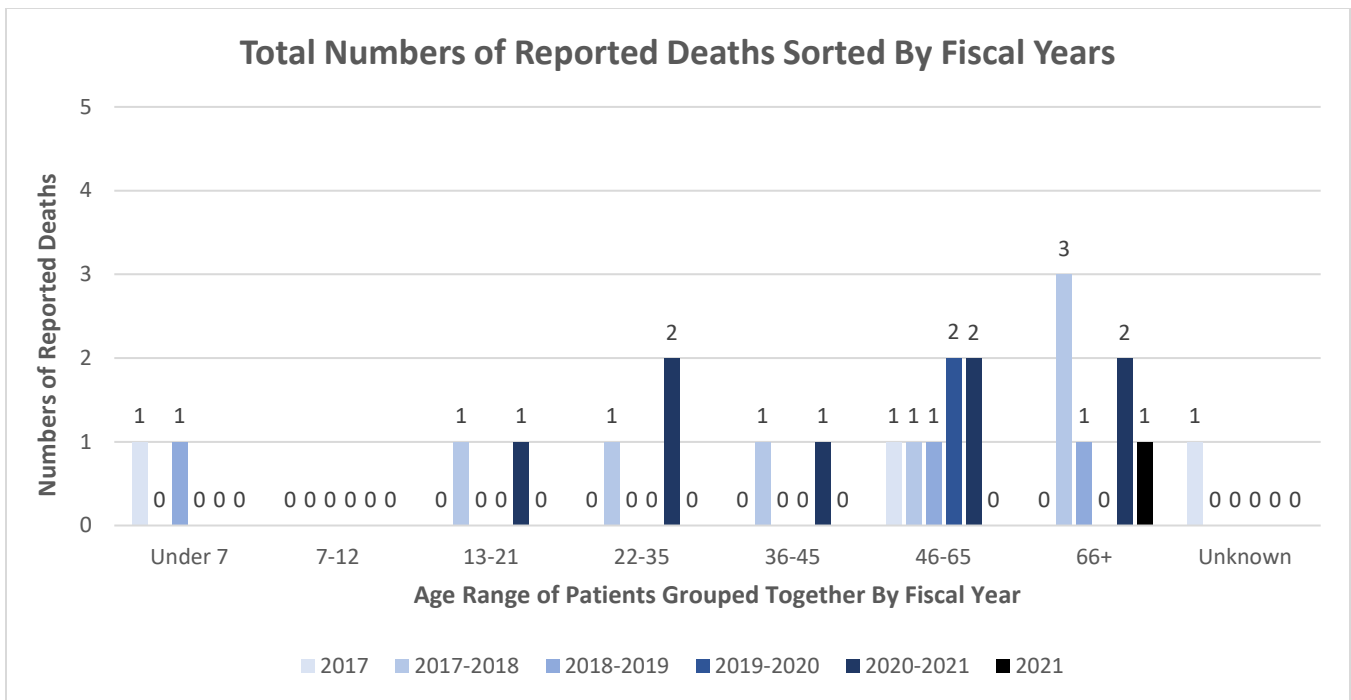


- These two charts represent the Board’s investigative outcomes from January 1, 2017, to December 31, 2021, for all reported hospitalizations where anesthesia and/or sedation was administered.
- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age, a total of 35 incident reports of hospitalization were received. Of those, 26 cases resulted in no violations, one case resulted in a violation, and eight cases are currently pending.

- For older pediatric patients ages 7-12, there were a total of 10 incident reports of hospitalization. Of those, nine cases resulted in no violations, and one case is currently pending
- For adolescent patients ages 13-21, there were a total of 22 incident reports of hospitalization; Of those, 19 cases resulted in no violations, and three cases are currently pending.
- For young adult patients ages 22-35, there were a total of 25 incident reports of hospitalization. Of those, 24 cases resulted in no violations, and one case is currently pending.
- For adult patients ages 36-45, there were a total of five incident reports of hospitalization. Of those, three cases resulted in no violations, and two cases are currently pending.
- For middle-aged patients ages 46-65, there were a total of 27 incident reports of hospitalization. Of those, 21 cases resulted in no violations, one case resulted in a violation, and five cases are currently pending.
- For senior patients ages 66 and up, there were a total of 36 incident reports of hospitalization. Of those, 30 cases resulted in no violations, one case resulted in a violation, and five cases are currently pending.
- For patients of unknown age, there were a total of two incident reports of hospitalization; both cases resulted in no violations occurring.
- Percentages of the case results are broken down as follows:
 - 82.72% of cases were “Closed – No Violation”
 - 15.43% of cases are in “Pending” status
 - 1.85% of cases were “Violation”

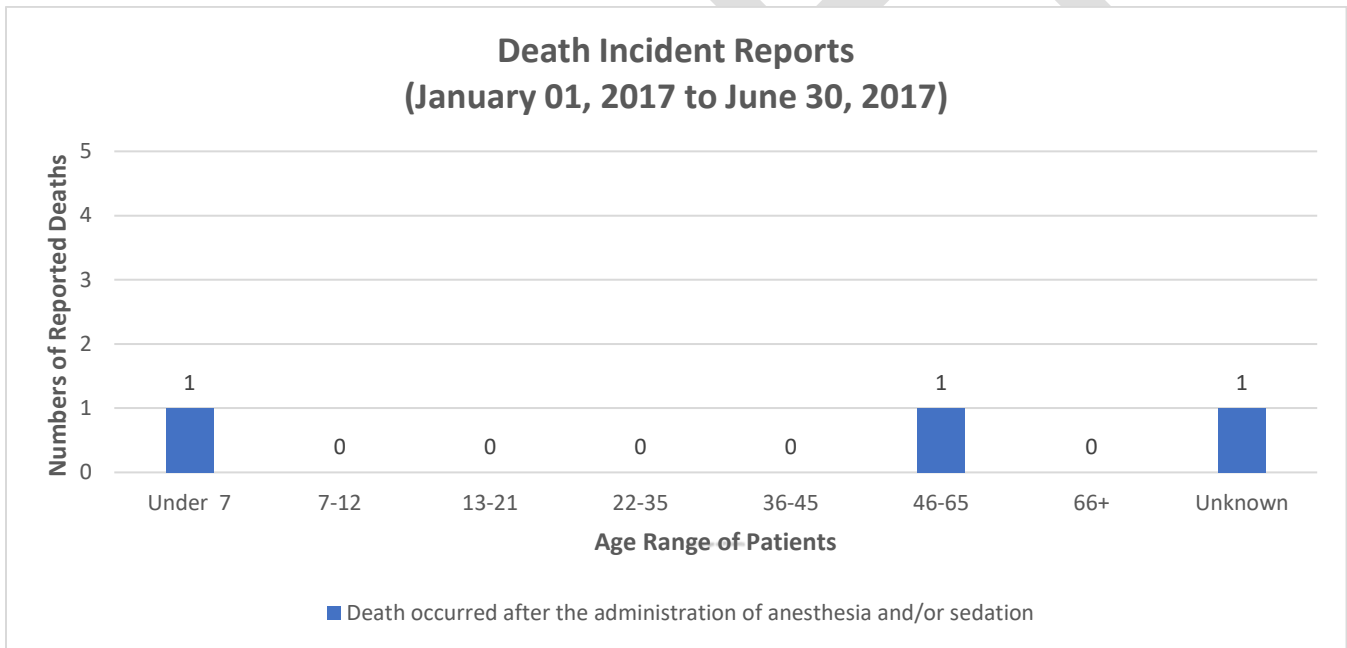
Death Incident Reports by Age Group



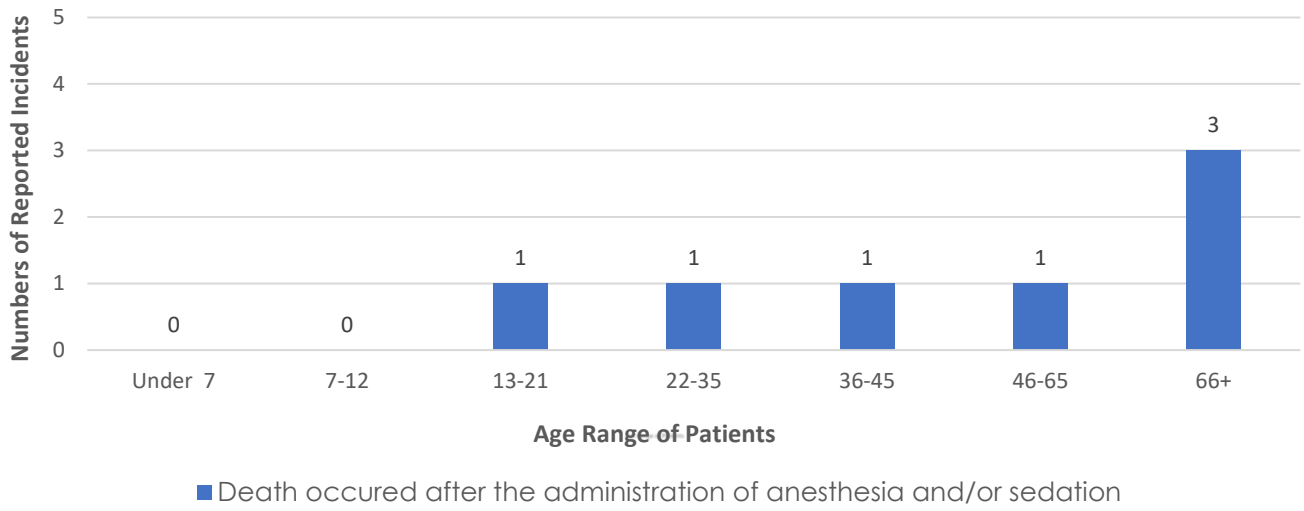


- The first chart reflects the total number of incidents reported and how many resulted in deaths possibly related to the administration of anesthesia and/or sedation during dental treatments during the reporting period. The second chart is a reiteration of the first chart but represents only the total numbers of reported deaths for that same time frame possibly related to the administration of anesthesia and/or sedation during dental treatments. The third chart represents the numbers of reported deaths throughout the various fiscal years via their age groups possibly related to the administration of anesthesia and/or sedation during dental treatments. This chart is presented to provide a comparison of any possible trends throughout this period of review.
- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age, there were a total of four incident reports, and of those, two resulted in death possibly due to anesthesia and/or sedation related treatment.
 - For older pediatric patients ages 7-12, there was a total of one incident report, which was not due to anesthesia and/or sedation related treatment.
 - For adolescent patients ages 13-21, there were a total of four incident reports, and of those, two resulted in death possibly due to anesthesia and/or sedation related treatment.
 - For young adult patients ages 22-35, there were a total of seven incident reports, and of those, three resulted in death that was possibly due to anesthesia and/or sedation related treatment.

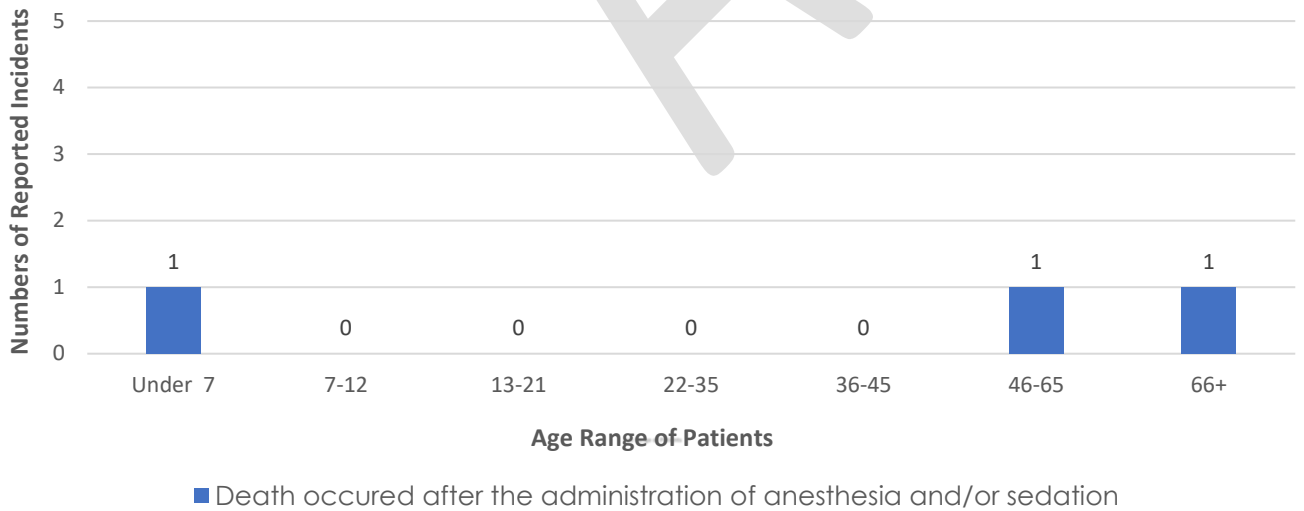
- For adult patients ages 36-45, there were a total of three incident reports, and of those, two resulted in death possibly due to anesthesia and/or sedation related treatment.
 - For middle-aged patients ages 46-65, there were a total of 17 incident reports, and of those, seven resulted in death possibly to due anesthesia and/or sedation related treatment.
 - For senior patients ages 66 and up, there were a total of 24 incident reports, and of those, seven resulted in death possibly due anesthesia and/or sedation related treatment.
 - For patients of unknown age, there were a total of 10 incident reports, and of those, one resulted in death possibly due to anesthesia and/or sedation related treatment.
- Below is a breakdown of the numbers of deaths for each fiscal period:



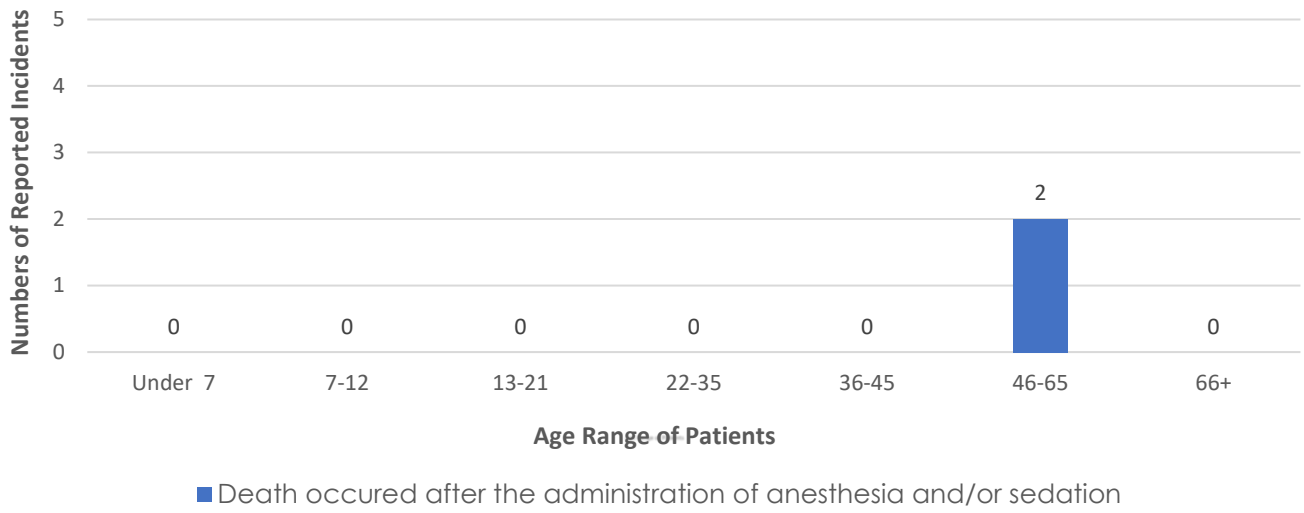
Death Incident Report (July 01, 2017 to June 30, 2018)



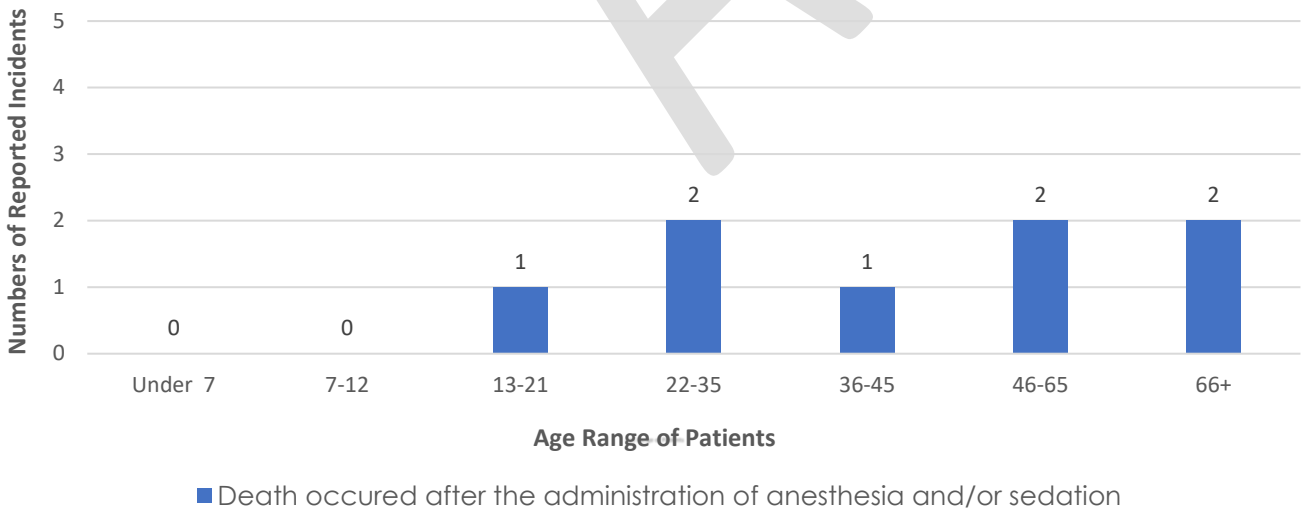
Death Incident Report (July 01, 2018 to June 30, 2019)



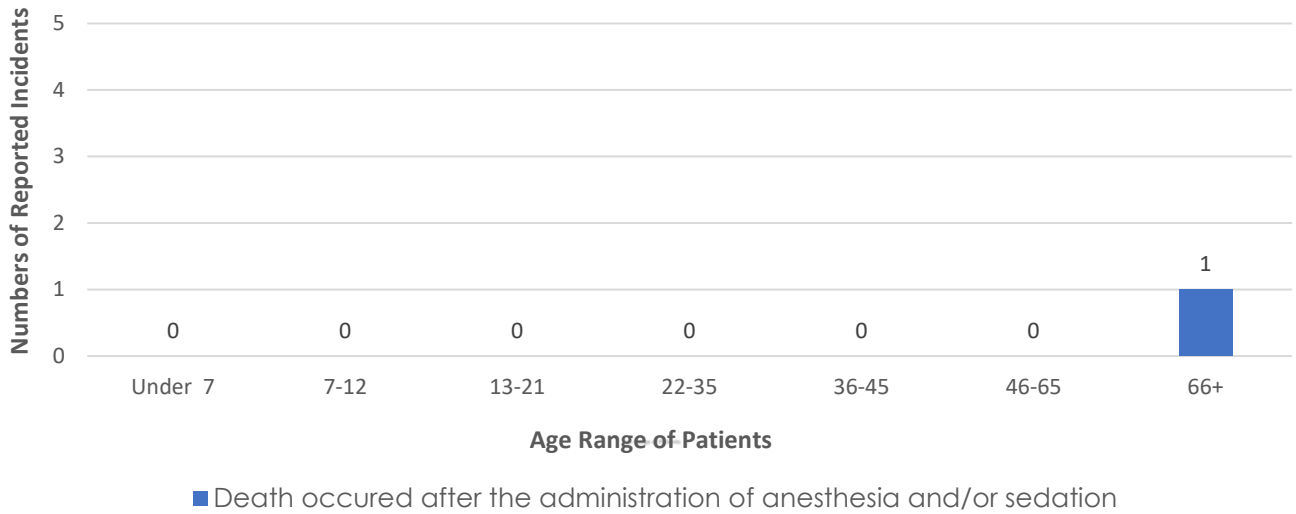
Death Incident Report (July 01, 2019 to June 30, 2020)



Death Incident Report (July 01, 2020 to June 30, 2021)

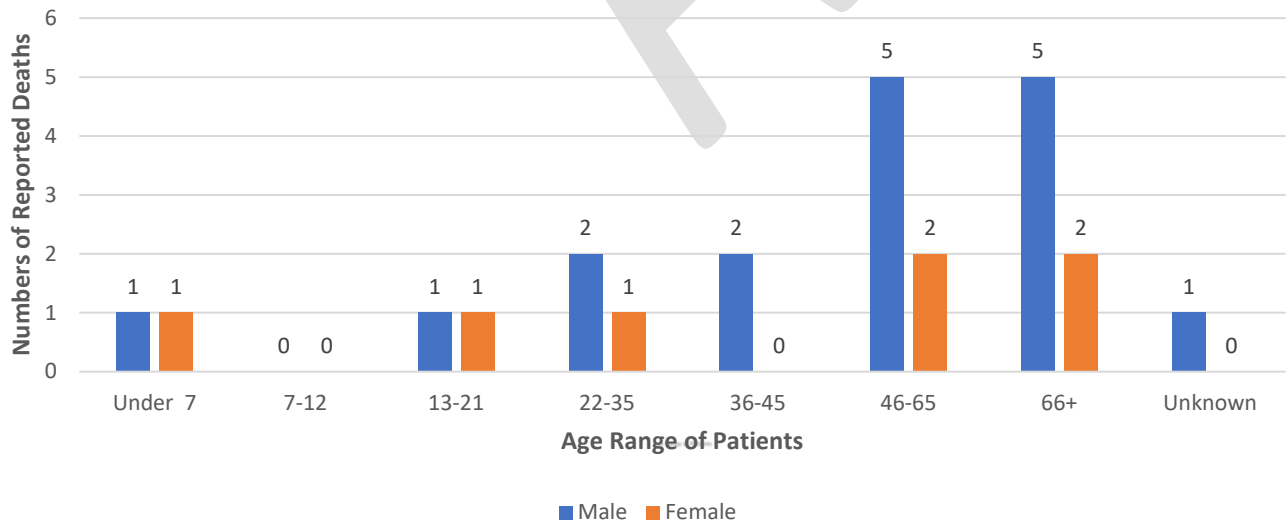


Death Incident Report (July 01, 2021 to December 31, 2021)



Sex of Deceased Patients by Age Group

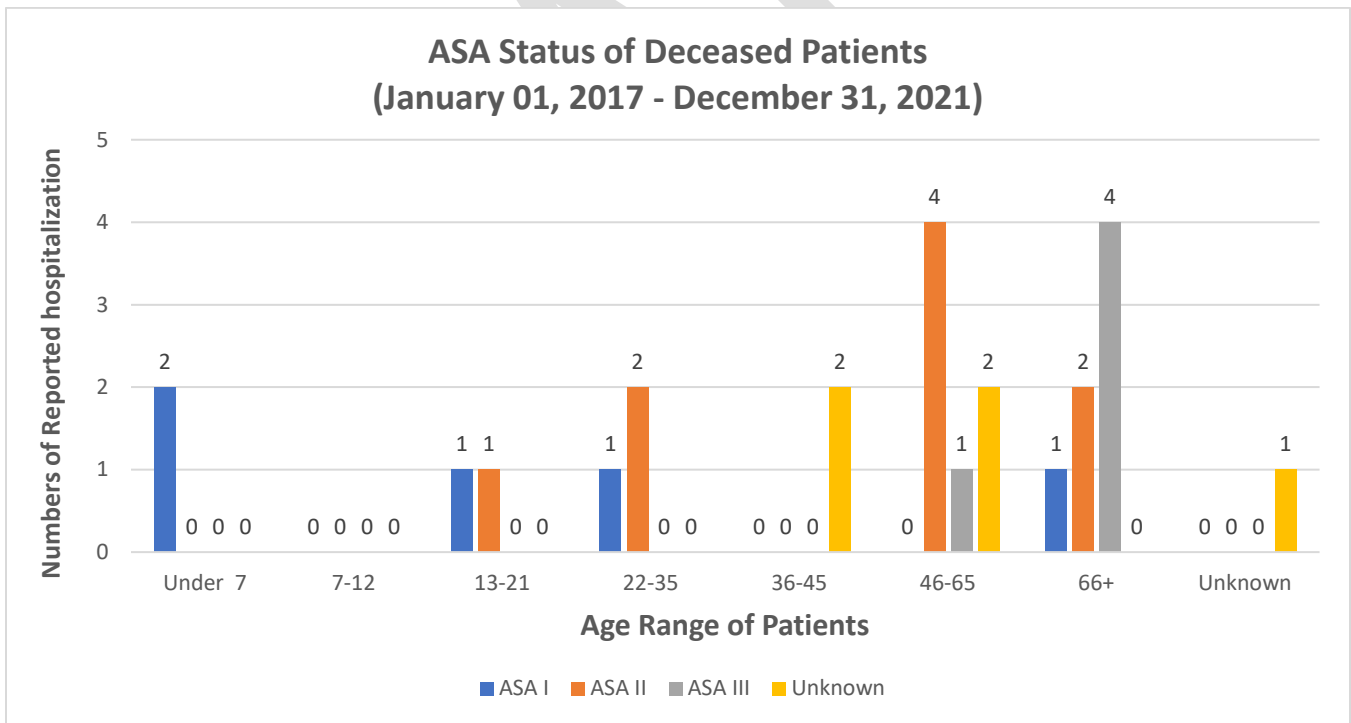
Sex of Deceased Patients (Jan 01, 2017 - December 31, 2021)

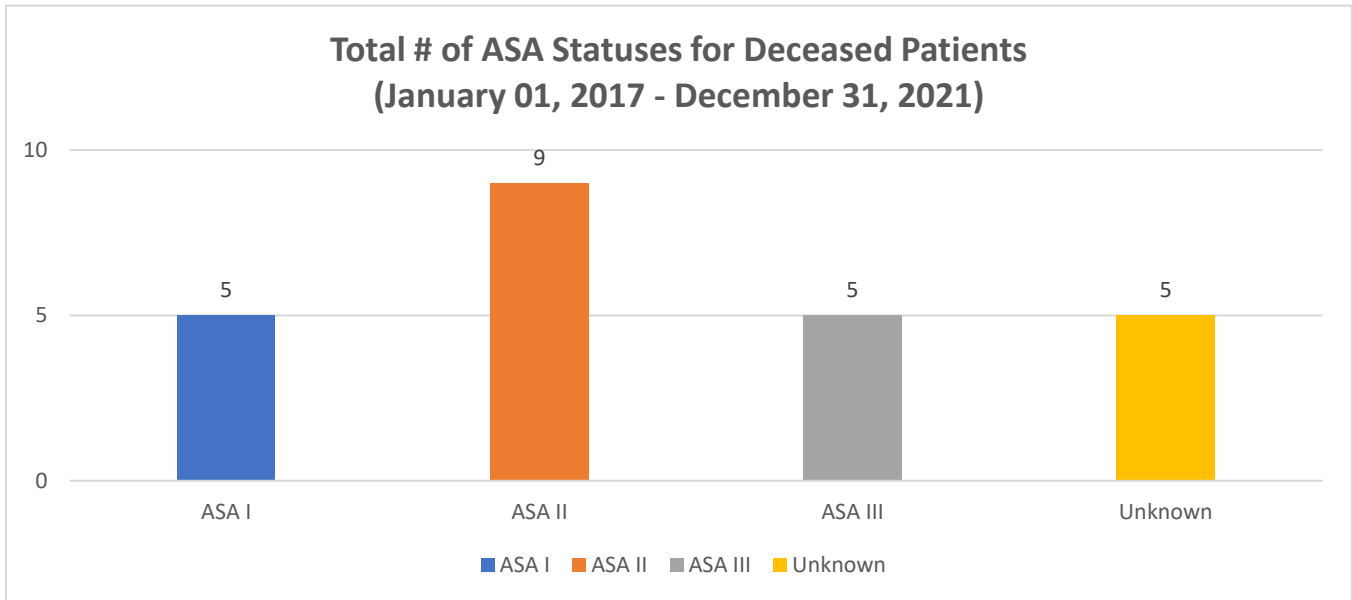


- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age, there were a total of two death reports (1 male and 1 female).
 - For older pediatric patients ages 7-12, there were no reported deaths.

- For adolescent patients ages 13-21, there were a total of two death reports (1 male and 1 female).
- For young adult patients ages 22-35, there were a total of three death reports (2 males and 1 female).
- For adult patients ages 36-45, there were a total of two death reports (2 males).
- For middle-aged patients ages 46-65, there were a total of seven death reports (5 males and 2 females).
- For senior patients ages 66 and up, there were a total of seven death reports (5 males and 2 females).
- For patients of unknown age, there was a total of one death report (one male).

ASA Physical Status of Deceased Patients by Age Group

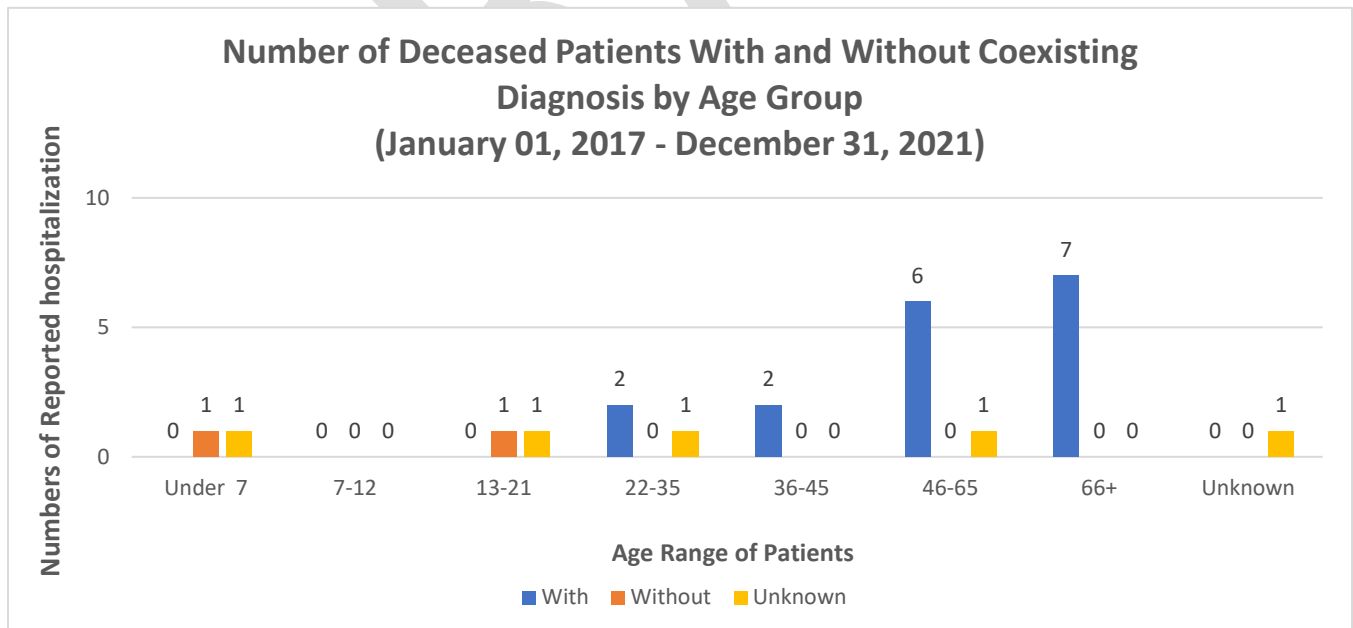




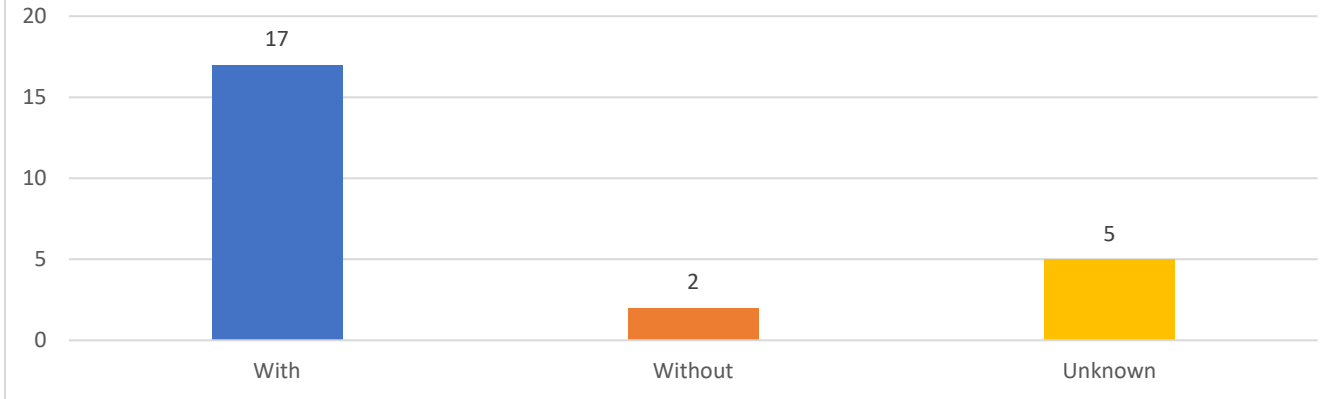
- The general guidelines of the ASA Physical Status Classification System are outlined below:
 - ASA I: A normal healthy patient
 - ASA II: A patient with mild systemic disease
 - ASA III: A patient with severe systemic disease
 - ASA IV: A patient with severe systemic disease that is a constant threat to life (none reported)
 - ASA V: A moribund patient who is not expected to survive without the operation (none reported)
 - ASA VI: A declared brain-dead patient whose organs are being removed for donor purposes (none reported)
- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age: both patients were considered healthy.
 - For older pediatric patients ages 7-12: there were no reported deaths.
 - For adolescent patients ages 13-21: one patient was considered healthy, and one was considered as having mild systemic disease.
 - For young adult patients ages 22-35: one patient was considered healthy, and two patients were considered as having mild systemic disease.

- For adult patients ages 36-45: both patients whose ASA status were unknown.
 - For middle-aged patients ages 46-65: four patients were considered as having mild systemic disease, one was considered as having severe systemic disease, and two patients whose ASA status were unknown.
 - For senior patients ages 66 and up: one patient was considered healthy, two were considered as having mild systemic disease, and four patients were considered as having severe systemic disease.
 - For patients whose age are unknown, one patient whose ASA status was unknown.
- In every age group combined, there were five patients considered “normal healthy patient,” nine were considered as those with mild systemic disease, five were considered as those with severe systemic disease, and four patients whose status were unknown. Both of the patients from the younger age group were considered healthy, but in the adult patients age group, there were higher numbers of ASA status of II and III similar to the hospitalization statistics. Although the ASA guidelines go up to level VI, there were no reports of any hospitalized patients who were considered a level IV, V, or VI.

Number of Deceased Patients With and Without Coexisting Diagnosis by Age Group



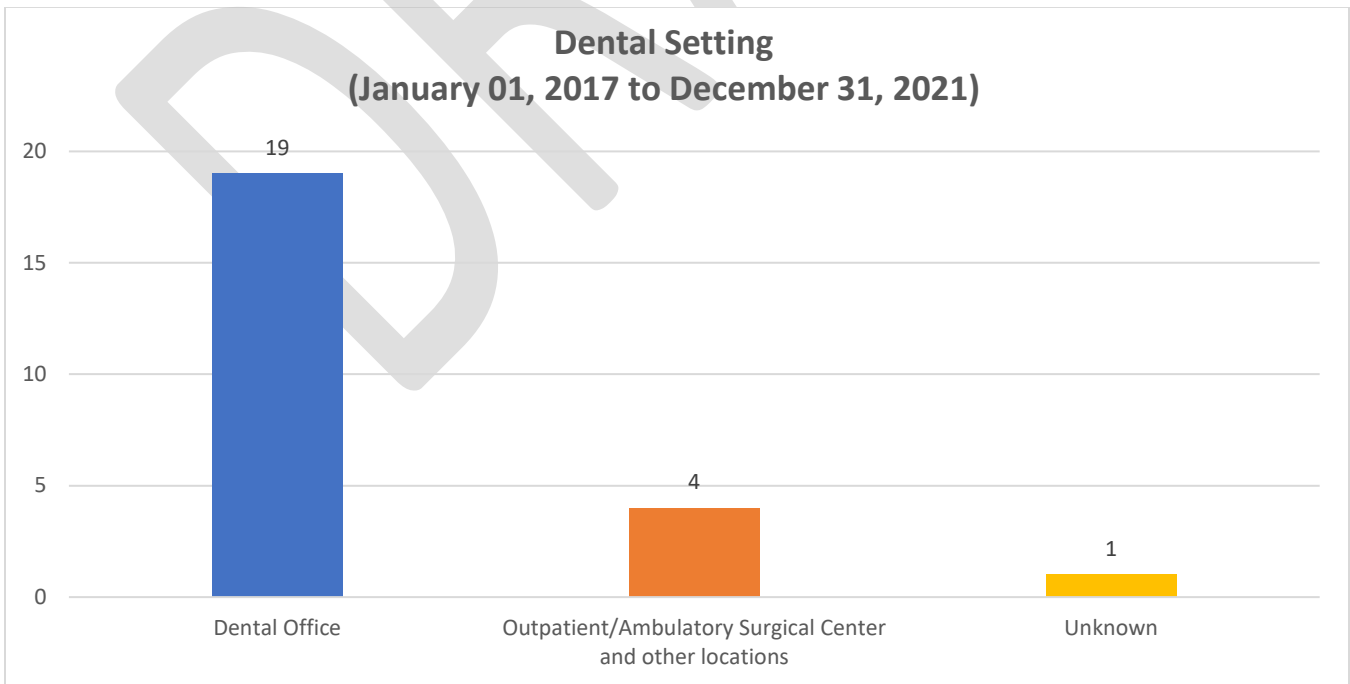
**Total Number of Deceased Patients With and Without Coexisting Diagnosis by Age Group
(January 01, 2017 - December 31, 2021)**



- These charts represent deceased patients who, before their dental procedure, either did or did not have a coexisting diagnosis. A total of 17 deceased patients were found to have a coexisting diagnosis, two patients did not have a coexisting diagnosis, and five patients were unknown. Predictably, there were higher numbers of serious coexisting diagnoses, such as hypertension, diabetes, liver disease, and other serious conditions, beginning at age 46 and older.

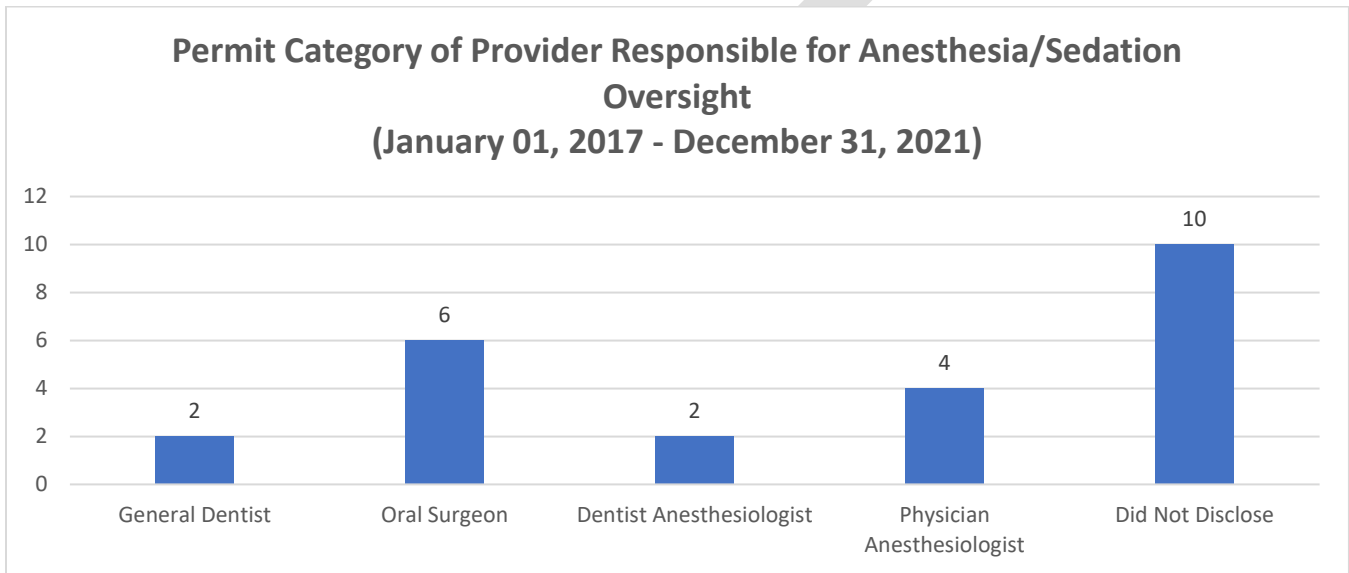
Dental Setting Where Anesthesia and/or Sedation May Have Resulted in Patient's Death

**Dental Setting
(January 01, 2017 to December 31, 2021)**



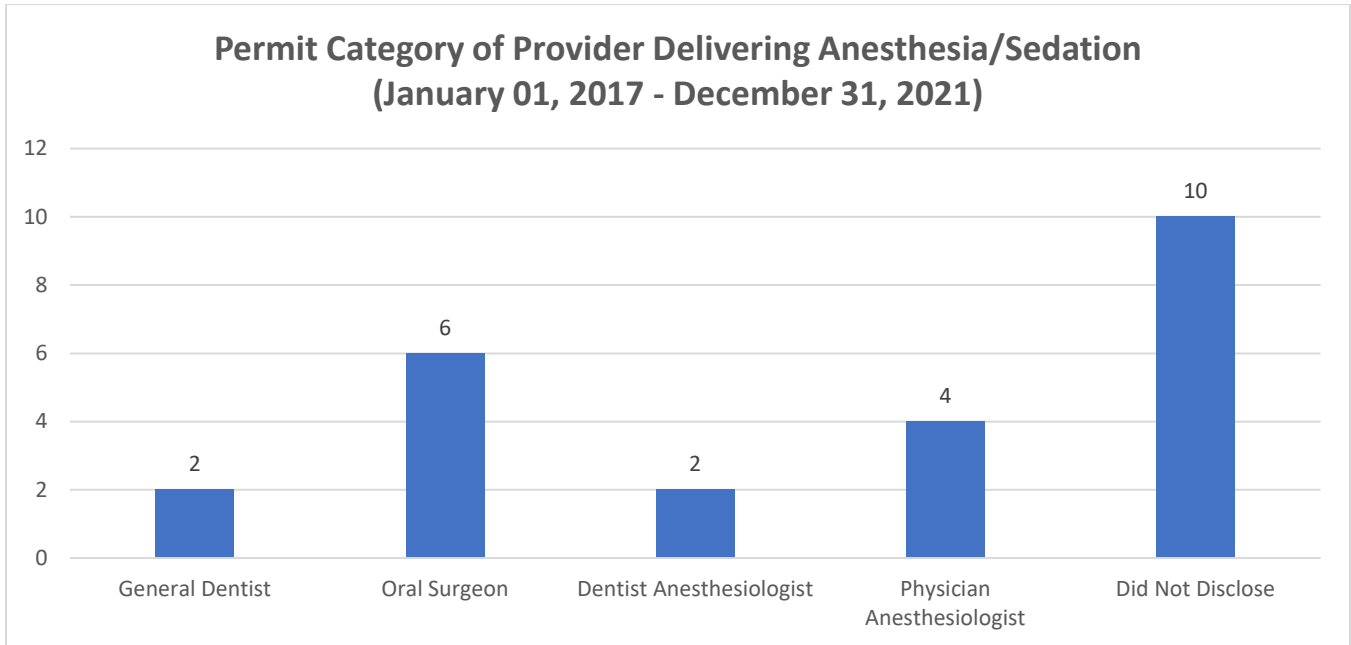
- This chart represents the setting of the dental procedures that resulted in the death of patients possibly due to the administration of anesthesia and/or sedation. Out of the total 24 dental treatments that resulted in death, 19 were conducted in a dental office, seven were conducted in outpatient/ambulatory surgical centers and other locations that were not a dental office, and one location that was not disclosed by the licensee.

Permit Category of Provider Responsible for Anesthesia or Sedation Oversight for Procedure of Deceased Patient



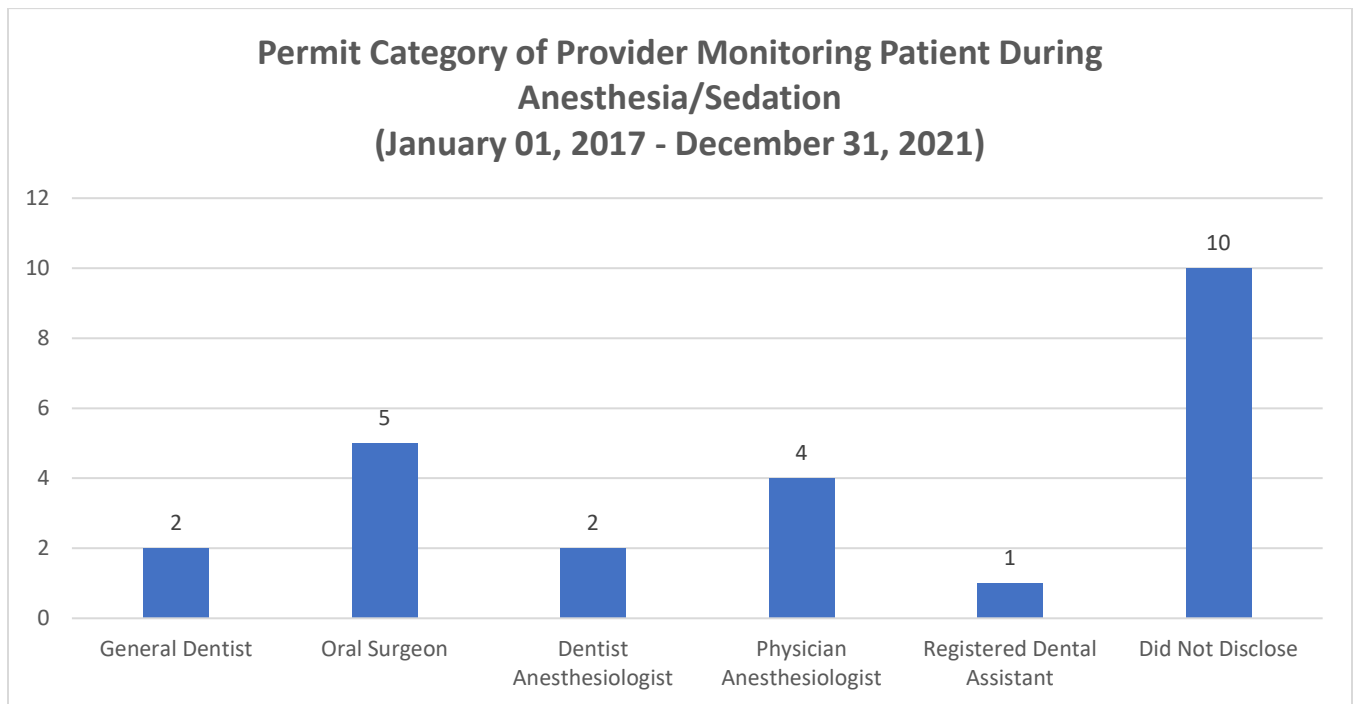
- This chart represents the category of the provider responsible for anesthesia or sedation oversight in cases where the patient had passed away possibly due to the administration of anesthesia and/or sedation under the dental provider’s care or after they had left the premises.
 - Of the 24 cases of reported deaths, two of the care providers were identified as general dentists.
 - Six of the care providers were identified as oral surgeons.
 - Two of the care providers were identified as dentist anesthesiologists.
 - Four of the care providers were identified as physician anesthesiologists.
 - Ten of the care providers had either left this section blank or incorrectly identified the category of the provider on the “Courtesy Form for Reporting of Anesthesia Death or Hospitalization.”

Permit Category of Provider Delivering Anesthesia or Sedation for Procedure of Deceased Patient



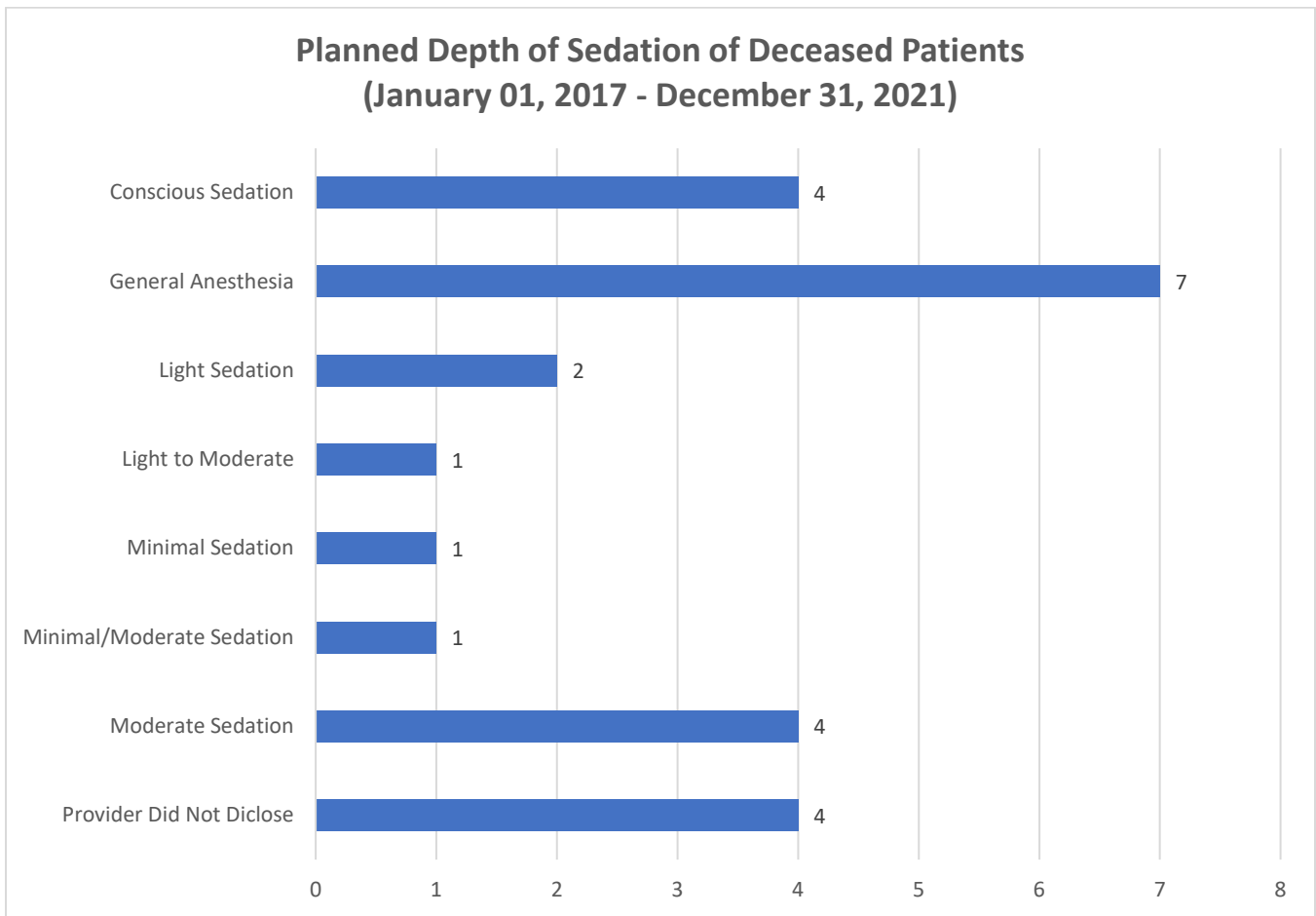
- This chart represents the category of the provider responsible for delivering anesthesia or sedation to patients who passed away possibly due to the administration of anesthesia and/or sedation under the dental provider's care or after they had left the premises.
 - Of the 24 cases of reported deaths, two of the care providers were identified as general dentists.
 - Six of the care providers were identified as oral surgeons.
 - Two of the care providers were identified as dentist anesthesiologists.
 - Four of the care providers were identified as physician anesthesiologists.
 - Ten of the care providers had either left this section blank or incorrectly identified the category of the provider on the "Courtesy Form for Reporting of Anesthesia Death or Hospitalization."

Permit Category of Provider Monitoring During Anesthesia or Sedation Procedure of Deceased Patient



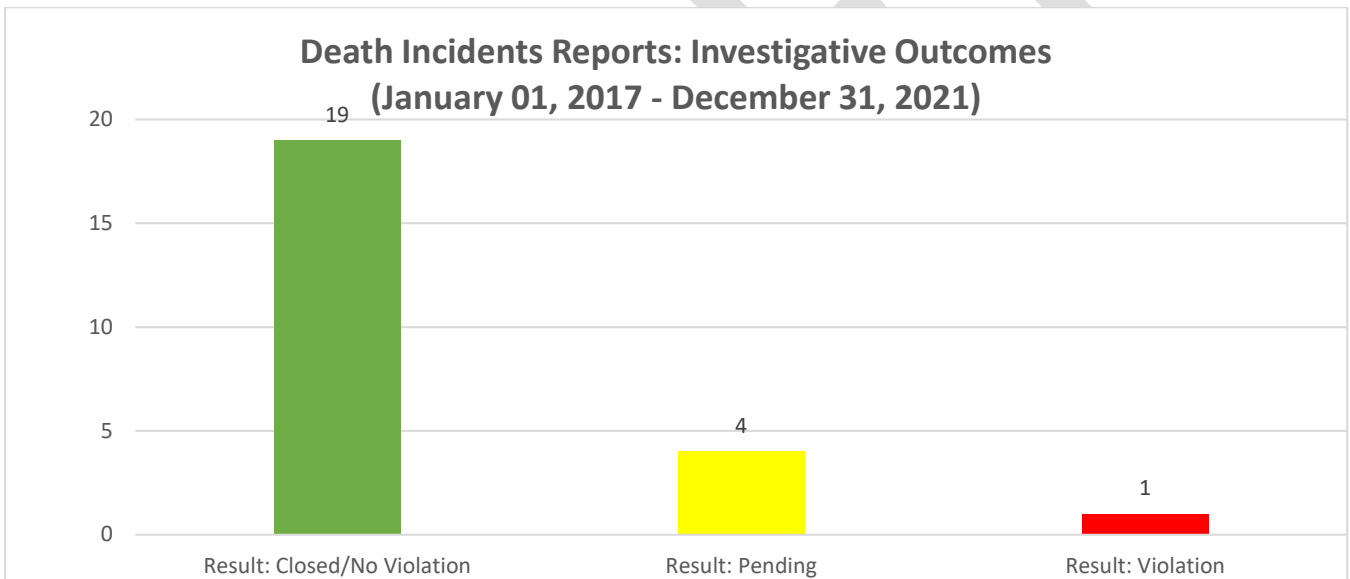
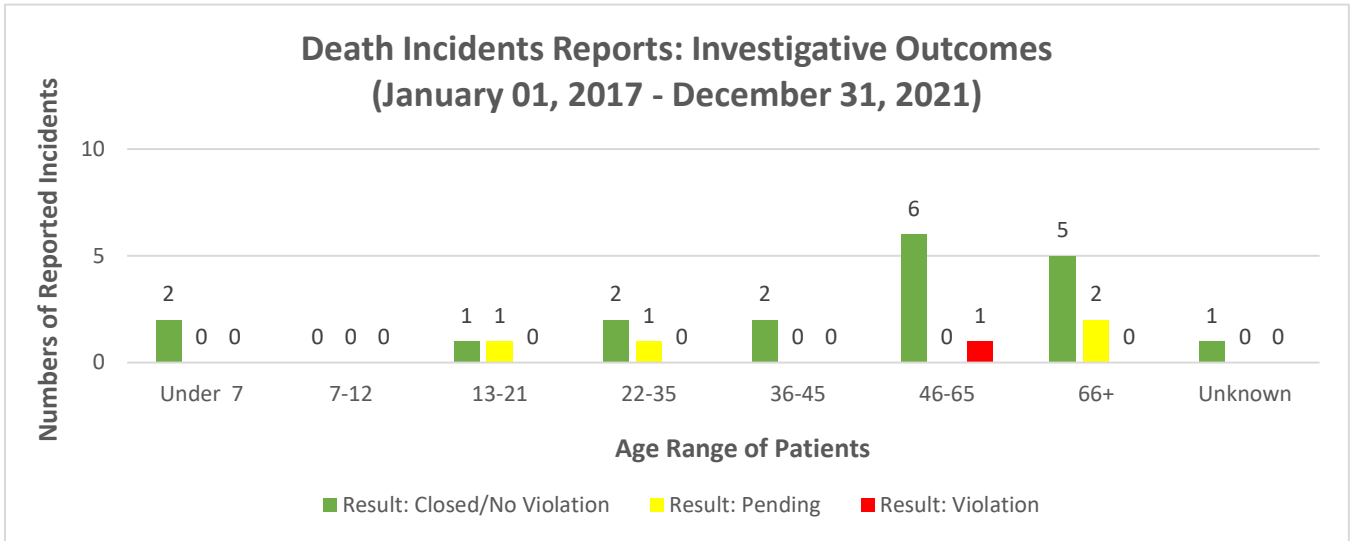
- This chart represents the category of the provider responsible for monitoring the patient who passed away possibly due to the administration of anesthesia and/or sedation under the dental provider's care or after they had left the premises.
 - Of the 24 cases of reported deaths, two of the care providers were identified as general dentists.
 - Five of the care providers were identified as oral surgeons
 - Two of the care providers were identified as dentist anesthesiologists.
 - Four of the care providers were identified as physician anesthesiologists.
 - One care provider was identified as a registered dental assistant.
 - Ten of the care providers had either left this section blank incorrectly identified the category of the provider on the "Courtesy Form for Reporting of Anesthesia Death or Hospitalization."

Planned Depth of Sedation of Deceased Patients



- This chart represents the planned depth of sedation for patients who had passed away possibly due to the administration of anesthesia and/or sedation under the dental provider's care or after they had left the premises. Please note that the planned depth of sedation is not a set category, and the information provided in the chart represents the provider's response on the "Courtesy Form for Reporting of Anesthesia Death or Hospitalization."

Death Incident Reports: Investigative Outcomes



- These two charts represent the Board’s investigative outcomes from January 1, 2017, to December 31, 2021, for all reported deaths where anesthesia and/or sedation was administered.
- The Board has compiled and presents the following data:
 - For pediatric patients under 7 years of age, there were two incident reports of death, and both of those cases resulted in no violations.
 - For older pediatric patients ages 7-12, there were no reported cases of death.

- For adolescent patients ages 13-21, there were two incident reports of death. One case resulted in no violations, and the other is pending further investigation.
 - For young adult patients ages 22-35, there were three incident reports of death. Two cases resulted in no violations, and one case is pending further investigation.
 - For adult patients ages 36-45, there were a total of two incident reports of death, and both of those cases resulted in no violations.
 - For middle-aged patients ages 46-65, there were seven incident reports of death. Of those seven, six cases resulted in no violations, and one case resulted in a violation.
 - For senior patients ages 66 and up, there were a total of seven incident reports of death. Of those, five cases resulted in no violations, and two cases are pending further investigation.
 - For patients of unknown age, there was one incident report of death, which resulted in no violation.
- Percentages of the case results are broken down as follows:
 - 79.17% of cases were “Closed – No Violation”
 - 16.67% of cases are in “Pending” status
 - 4.16% of cases were “Violation”



MEMORANDUM

DATE	April 4, 2022
TO	Members of the Dental Board of California
FROM	David Bruggeman, Legislative and Regulatory Specialist Dental Board of California
SUBJECT	Agenda Item 24(a): 2022 Tentative Legislative Calendar – Information Only

Background:

The 2022 Tentative Legislative Calendar for the Senate and the Assembly is enclosed.

Action Requested:

No action requested.

2022 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE & THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 10-21-2021

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY						
S	M	T	W	TH	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

MARCH						
S	M	T	W	TH	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 3](#) Legislature **reconvenes** (J.R. 51(a)(4)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).
- [Jan. 14](#) Last day for **policy committees** to hear and report to fiscal Committees fiscal bills introduced in their house in 2021 (J.R. 61(b)(1)).
- [Jan. 17](#) Martin Luther King, Jr. Day.
- [Jan. 21](#) Last day for any committee to hear and report to the **Floor** bills introduced in their house in 2021 (J.R. 61(b)(2)).
- [Jan. 21](#) Last day to submit **bill requests** to the Office of Legislative Counsel.
- [Jan. 31](#) Last day for each house to pass **bills introduced in 2021** in their house (Art. IV, Sec. 10(c)), (J.R. 61(b)(3)).

- [Feb. 18](#) Last day for bills to be **introduced** (J.R. 61(b)(4)), (J.R. 54(a)).
- [Feb. 21](#) Presidents' Day.

- [Apr. 1](#) Cesar Chavez Day observed
- [Apr. 7](#) **Spring Recess** begins upon adjournment of this day's session (J.R. 51(b)(1)).
- [Apr. 18](#) Legislature reconvenes from **Spring Recess** (J.R. 51(b)(1)).
- [Apr. 29](#) Last day for **policy committees** to hear and report to fiscal Committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- [May 6](#) Last day for **policy committees** to hear and report to the floor **non-fiscal** bills introduced in their house (J.R. 61(b)(6)).
- [May 13](#) Last day for **policy committees** to meet prior to May 31 (J.R. 61(b)(7)).
- [May 20](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to May 31 (J.R. 61 (b)(9)).
- [May 23-27](#) **Floor Session only.** No committee, other than conference or Rules, may meet for any purpose (J.R. 61(b)(10)).
- [May 27](#) Last day for bills to be **passed out of the house of origin** (J.R. 61(b)(11)).
- [May 30](#) Memorial Day.
- [May 31](#) Committee meetings may resume (J.R. 61(b)(12)).

*Holiday schedule subject to final approval by the Rules Committee

2022 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE & THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 10-21-2021

JUNE						
S	M	T	W	TH	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	<u>15</u>	16	17	18
19	20	21	22	23	24	25
26	27	28	29	<u>30</u>		

June 15 Budget Bill must be passed by **midnight** (Art. IV, Sec. 12 (c)).

June 30 Last day for a legislative measure to qualify for the Nov. 8 General election ballot (Elec. Code Sec. 9040).

JULY						
S	M	T	W	TH	F	S
					<u>1</u>	2
3	<u>4</u>	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

July 1 Last day for **policy committees** to meet and report bills (J.R. 61(b)(13)). **Summer Recess** begins at the end of this day's session if Budget Bill has been passed (J.R. 51(b)(2)).

July 4 Independence Day.

AUGUST						
S	M	T	W	TH	F	S
	<u>1</u>	2	3	4	5	6
7	8	9	10	11	<u>12</u>	13
14	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	20
21	<u>22</u>	<u>23</u>	<u>24</u>	<u>25</u>	<u>26</u>	27
28	<u>29</u>	<u>30</u>	<u>31</u>			

Aug. 1 Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).

Aug. 12 Last day for **fiscal committees** to meet and report bills to the Floor (J.R. 61(b)(14)).

Aug. 15 - 31 Floor Session only. No committees, other than conference and Rules, may meet for any purpose (J.R. 61(b)(15)).

Aug. 25 Last day to **amend** bills on the Floor (J.R. 61(b)(16)).

Aug. 31 Last day for **each house to pass bills** (Art. IV, Sec. 10(c)), (J.R. 61(b)(17)).

Final Recess begins at end of this day's session (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2022

Sept. 30

Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Nov. 8

General Election.

Nov. 30

Adjournment Sine Die at midnight (Art. IV, Sec. 3(a)).

Dec. 5

12 m. convening of the 2023-24 Regular Session (Art. IV, Sec. 3(a)).

2023

Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).

2022 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-21-21

DEADLINES

JANUARY							
	S	M	T	W	TH	F	S
Interim Recess							1
Wk. 1	2	3	4	5	6	7	8
Wk. 2	9	10	11	12	13	14	15
Wk. 3	16	17	18	19	20	21	22
Wk. 4	23	24	25	26	27	28	29
Wk. 1	30	31					

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Wk. 4	20	21	22	23	24	25	26
Wk. 1	27	28					

MARCH							
	S	M	T	W	TH	F	S
Wk. 1			1	2	3	4	5
Wk. 2	6	7	8	9	10	11	12
Wk. 3	13	14	15	16	17	18	19
Wk. 4	20	21	22	23	24	25	26
Wk. 1	27	28	29	30	31		

APRIL							
	S	M	T	W	TH	F	S
Wk. 1						1	2
Wk. 2	3	4	5	6	7	8	9
Spring Recess	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30

MAY							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
No Hrgs.	22	23	24	25	26	27	28
Wk. 4	29	30	31				

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 14** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 17** Martin Luther King, Jr. Day.
- Jan. 21** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)).
Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).

- Feb. 18** Last day for bills to be **introduced** (J.R. 61(b)(4), J.R. 54(a)).
- Feb. 21** Presidents' Day.

- Apr. 1** Cesar Chavez Day observed.
- Apr. 7** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Apr. 18** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- Apr. 29** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).
- May 6** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 13** Last day for **policy committees** to meet prior to May 31 (J.R. 61(b)(7)).
- May 20** Last day for **fiscal committees** to hear and report to the **floor** bills introduced in their house (J.R. 61 (b)(8)).
Last day for **fiscal committees** to meet prior to May 31 (J.R. 61 (b)(9)).
- May 23 – 27** **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).
- May 27** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).
- May 30** Memorial Day.
- May 31** Committee meetings may resume (J.R. 61(b)(12)).

*Holiday schedule subject to final approval by Rules Committee.

2022 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-21-21

JUNE							
	S	M	T	W	TH	F	S
Wk. 4				1	2	3	4
Wk. 1	5	6	7	8	9	10	11
Wk. 2	12	13	14	15	16	17	18
Wk. 3	19	20	21	22	23	24	25
Wk. 4	26	27	28	29	30		

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).

June 30 Last day for a legislative measure to qualify for the Nov. 8 General Election ballot (Elections Code Sec. 9040).

JULY							
	S	M	T	W	TH	F	S
Wk. 4						1	2
Summer Recess	3	4	5	6	7	8	9
Summer Recess	10	11	12	13	14	15	16
Summer Recess	17	18	19	20	21	22	23
Summer Recess	24	25	26	27	28	29	30
Wk. 1	31						

July 1 Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).

Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).

July 4 Independence Day.

AUGUST							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
No Hrgs.	14	15	16	17	18	19	20
No Hrgs.	21	22	23	24	25	26	27
No Hrgs.	28	29	30	31			

Aug. 1 Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).

Aug. 12 Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).

Aug. 15 – 31 Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).

Aug. 25 Last day to **amend** bills on the floor (J.R. 61(b)(17)).

Aug. 31 Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)).

Final Recess begins upon adjournment (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2022

Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Oct. 2 Bills enacted on or before this date take effect January 1, 2023. (Art. IV, Sec. 8(c)).

Nov. 8 General Election.

Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).

Dec. 5 2023-24 Regular Session convenes for Organizational Session at 12 noon. (Art. IV, Sec. 3(a)).

2023

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

*Holiday schedule subject to final approval by Rules Committee.



MEMORANDUM

DATE	April 27, 2022
TO	Members of the Dental Board of California
FROM	David Bruggeman, Legislative and Regulatory Specialist Dental Board of California
SUBJECT	Agenda Item 24(b-dd): Update, Discussion, and Possible Action on 2021/2022 Legislation Impacting the Board, DCA, and/or the Dental Professional

Background:

The Dental Board of California (Board) has been tracking bills that impact the Board, the Department of Consumer Affairs, healing arts boards and their respective licensees, and all licensing boards. This memorandum includes information regarding each bill's status, location, date of introduction, date of last amendment, and a summary. The bills are listed in numerical order, with the Assembly Bills (AB XXX) first, followed by the Senate Bills (SB XXX).

Staff will be presenting updates on the following bills that may have a direct impact on the Board for discussion and possible action at the May meeting:

1. [AB 1662](#) (Gipson) Licensing boards: disqualification from licensure: criminal conviction.
2. [AB 1733](#) (Quirk) State bodies: open meetings.
3. [AB 2276](#) (Carrillo) Dental assistants.
4. [SB 652](#) (Bates) Dentistry: use of sedation: training.
5. [SB 889](#) (Ochoa Bogh) Nurse anesthetists.
6. [SB 1031](#) (Ochoa Bogh) Healing arts boards: inactive license fees.
7. [SB 1365](#) (Jones) Licensing boards: procedures.
8. [SB 1443](#) (Roth) The Department of Consumer Affairs
9. [SB 1471](#) (Archuleta) Dentistry: foreign dental schools\
10. [SB 1495](#) (Committee on Business, Professions and Economic Development) Professions and vocations.

Board staff will present the previously listed bills and provide information regarding the impact each one has on the Board.

Agenda Item 24(b-dd) Update, Discussion, and Possible Action on 2021/2022 Legislation Impacting the Board, DCA, and/or the Dental Professional
 Dental Board of California Meeting
 May 12-13, 2022

The following bills have been identified by staff as being of potential interest to Board but do not require discussion at this time. Staff will continue to watch these bills and report on their progression at a future Board meeting. Information regarding each of these bill's status, location, date of introduction, date of last amendment, and a summary has been included in this memorandum. Please note staff will not be presenting these bills; should a Board member desire to discuss one of these bills they may present the bill at the meeting and provide arguments for the Board to take a position. Public comment on these bills will be taken as a group.

This first group of bills were introduced in 2021.

1. [AB 225](#) (Gray, Gallagher, Patterson; Coauthor Dodd) Department of Consumer Affairs: boards: veterans: military spouses: licenses.
2. [AB 562](#) (Low and Flora; Coauthors Chen and Salas) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services.
3. [AB 646](#) (Low, Cunningham, Gipson, and Coauthor: Roth) Department of Consumer Affairs: boards: expunged convictions.
4. [AB 657](#) (Cooper) State civil service system: personal services contracts: professionals.
5. [AB 1102](#) (Low) Telephone medical advice services.
6. [SB 49](#) (Umberg) Income taxes: credits: California Fair Fees Tax Credit.
7. [SB 731](#) (Durazo, Bradford, and Coauthors) Criminal records: relief.

This next group of bills were introduced in 2022.

8. [AB 1604](#) (Holden) The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.
9. [AB 1756](#) (Smith) Department of Consumer Affairs.
10. [AB 1795](#) (Fong) Open meetings: remote participation.
11. [AB 1982](#) (Santiago) Telehealth: dental care.
12. [AB 1996](#) (Cooley) State government: administrative regulations: review.
13. [AB 2055](#) (Low) Controlled substances: CURES database.
14. [AB 2104](#) (Flora) Professions and vocations.
15. [AB 2107](#) (Flora) Department of Consumer Affairs.
16. [AB 2145](#) (Davies) Dental services: skilled nursing facilities and intermediate care facilities/developmentally disabled.
17. [AB 2539](#) (Choi) Public health: COVID-19 vaccination: proof of status.
18. [AB 2948](#) (Cooper) Consumer protection: Department of Consumer Affairs: complaints
19. [SB 1237](#) (Newman) Licenses: military service
20. [SB 1310](#) (Leyva) Professions and vocations: consumer complaints.

If you would like additional information on any of these bills, the following web sites are excellent resources for viewing proposed legislation and finding additional information:

<https://leginfo.legislature.ca.gov/>

<https://www.senate.ca.gov/>

Agenda Item 24(b-dd): Update, Discussion, and Possible Action on 2021/2022 Legislation Impacting the Board, DCA, and/or the Dental Professional
Dental Board of California Meeting
May 12-13, 2022

Page 2 of 20

<https://www.assembly.ca.gov/>

Action Requested:

The Board may take one of the following actions regarding each bill:

- Support
- Support if Amended
- Oppose
- Watch
- Neutral
- No Action

[AB 225](#) (Gray, Gallagher, Patterson, Co-author Dodd) Department of Consumer Affairs:

boards: veterans: military spouses: licenses

Introduced: January 11, 2021

Last Amended: June 28, 2021

Disposition: Pending

Location: Senate

Status: June 28, 2021: Committee Hearing postponed.

Summary: The bill would amend Business and Professions Code section 115.6 to expand the pool of potential applicants for temporary licensure. As currently written the pool is restricted to licenses from certain Boards within the Department of Consumer Affairs and restricted to applicants who are the spouses or domestic partners of active duty service members stationed in California. The bill would expand the pool of applicants to include military veterans and members of the military that are within 60 months of separation, or within 120 months of separation if they lived in California prior to entering service.

Board Impact: While the Dental Board is not covered under the current BPC section 115.6, it will be covered by the revisions to section 115.6 that take effect July 1, 2023 following the passage of AB 107 (Chapter 693, Statutes of 2021). Should AB 225 be passed as currently written, the potential applicants for temporary licensure could expand to include veterans that qualify under the bill.

Recommended Board Position: Watch

[AB 562](#) (Low and Flora, Co-authors Chen and Salas) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: health care providers: mental health services

Introduced: February 11, 2021

Last Amended: April 8, 2021

Disposition: Pending

Location: Senate

Status: August 26, 2021: Held under suspension.

Summary: The proposed legislation adds a section to the Business and Professions Code establishing a mental health services program for frontline COVID-19 workers. Administered by the Department of Consumer Affairs, licensees of certain DCA Boards could apply for access to the program if they had provided 'direct and in-person care' to COVID-19 patients during the pandemic. This program would be started within three months of the effective date of the legislation (which is written as an urgent bill). Boards would notify their licensees and solicit applications for the program.

Board Impact: The April 8, 2021 amendments defined what DCA entities would be Boards under the bill. The list does not include the Dental Board.

Recommended Board Position: Watch

[AB 646](#) (Low, Cunningham, Gipson, and Coauthor: Roth) Department of Consumer Affairs: boards: expunged convictions.

Introduced: February 12, 2021

Last Amended: January 24, 2022

Disposition: Waiting for committee assignment

Location: Senate

Status: January 31, 2022: Passed Assembly, waiting for Senate committee assignment.

Summary: Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked, and information previously posted regarding arrests, charges, and convictions. The bill would authorize the board to charge a fee to the person, not to exceed the cost of administering the bill's provisions. The bill would require the fee to be deposited by the board into the appropriate fund and would make the fee available only upon appropriation by the Legislature.

Board Impact: This is a bill affecting boards at the Department of Consumer Affairs. The DCA License Search tool lists information about licensees which includes information about licenses revoked due to criminal convictions. AB 646 would require the Board to update or remove information about the revoked license and the criminal history if the Board receives an expungement order related to the conviction. If the individual does not currently have a license and does not apply for a license, the Board would need to remove the information about the license revocation within 90 days of receiving an expungement order. If the individual reapplies for a license or has been granted a new license, the Board would need to post notification of the expungement order and the date it was granted within 90 days of receiving an expungement order.

This bill would require changes to the DCA License Search tool as well changes to license modifiers and business rules in BreZE.

Recommended Board Position: Watch

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[AB 657](#) (Cooper) State civil service system: personal services contracts: professionals

Introduced: February 12, 2021

Last Amended: June 15, 2021

Disposition: Pending

Location: Senate

Status: July 6, 2021: Failed to pass committee, reconsideration granted.

Summary: The bill would add Government Code section 19136, which would limit the amount of time a professional (defined to include licensed dentists) may work for a state agency under a personal services contract. Such contracts would typically be to hire an independent contractor for some project-based service.

The professionals are barred from working for more than 365 consecutive days, or for working more than 365 nonconsecutive days during a two-year period.

Board Impact: None, as the June 2021 amendments excepted the Department of Consumer Affairs and its Boards and Bureaus from its provisions. However, if a licensed dentist were under a professional services contract to another state agency, then their employment would be limited as described above.

Recommended Board Position: Watch

[AB 1102](#) (Low) Telephone medical advice services.

Introduced: February 18, 2021

Last Amended: n/a

Disposition: Inactive file

Location: Senate

Status: September 10, 2021: Ordered to inactive file.

Summary: The bill would amend Business and Professions Code section 4999.2 which requires telephone medical advice services to comply with certain requirements. The bill would add a requirement that such services comply with all direction and requests for information from healing arts licensing boards. It would also add a requirement of health care professionals providing advice from out-of-state locations. The bill would require those professionals to operate consistent with the laws governing their licenses.

Board Impact: The bill would allow the Board to contact telephone medical advice services directly rather than asking DCA to do so on their behalf. It should make it easier for Board staff to investigate any complaints concerning these services.

Recommended Board Position: Watch

[AB 1604](#) (Holden) The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.

Introduced: January 7, 2022

Last Amended: March 7, 2022

Disposition: Placed on Assembly Appropriations Committee suspense calendar

Location: Assembly

Status: April 6, 2022, Placed on Assembly Appropriations Committee suspense calendar.

Summary: Requires boards to, as of January 1, 2023, have at least one member from an underrepresented community. These communities could reflect certain racial, gender identity, disability, sexual orientation characteristics or veteran status. This would be done through appointments to vacancies as they occur. That is, if a board does not have such a member, the next board member vacancy would be filled in order to comply with the bill.

The legislation would also require state agencies that collect demographic data on ancestry and/or ethnic origin to note whether those who identify as African-American were or were not descended from enslaved people. The bill also amends sections of the Government Code concerning the state Department of Human Resources

Board Impact: The Board would need to update the demographic data collection information if this bill were enacted.

Recommended Board Position: Watch

[AB 1662](#) (Gipson) Licensing boards: disqualification from licensure: criminal conviction.

Introduced: January 18, 2022

Last Amended: April 26, 2022

Disposition: April 26, 2022, Passed Assembly Committee on Business and Professions

Location: Assembly

Status: April 26, 2022, referred to Assembly Committee on Appropriations.

Summary: The bill would amend section 480 of the Business and Professions Code to permit prospective applicants to inquire with a Board to determine if their criminal conviction may result in denial of their application. The prospective applicant may request a preapplication determination prior to paying an application fee or obtaining any of the education and/or training required for licensure. The Board would make the determination based on information provided by the prospective applicant and send their determination by mail or email within a reasonable time.

The Assembly Committee on Business and Professions amended the bill on April 26, 2022. At the time this memo was written, the text of the amendments was not available. However, the Committee analysis of the bill recommended amendments to allow boards to charge a fee for these pre-application determinations, to require fingerprints from people seeking pre-application determinations, and other measures to

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Board Impact: The bill would require staff time and resources to review any requests for preapplication determinations. As currently written the bill does not permit collecting a fee for these determinations,

Recommended Board Position: Oppose

[AB 1733](#) (Quirk) State bodies: open meetings.

Introduced: January 31, 2022

Last Amended: n/a

Disposition: February 18, 2022, Referred to Assembly Committee on Governmental Organization

Location: Assembly

Status: April 20, 2022: Assembly Committee on Governmental Organization postponed scheduled hearing.

Summary: The bill would amend the Bagley-Keene open meeting law to allow for Boards to hold meetings by teleconference. These meetings would have to provide the capability for the public to view and/or listen to and view the meeting and to provide public comment via teleconference or audiovisual means. Boards would also have to provide a physical location where the public may listen and view the meeting as well as provide public comment. Board members that attend a meeting by teleconference would not need to make their location public but would have to disclose whether any people 18 years or older were in the same room and the relationship of those individuals to the Board member.

Board Impact: The requirement to provide a physical location would add to the expense of a teleconference meeting. However, the additional expense (reserving a location and having staff and IT resources available at the location) would keep the total meeting expenses lower than a comparable meeting with everyone in person.

Recommended Board Position: Support

[AB 1756](#) (Smith) Department of Consumer Affairs.

Introduced: February 2, 2022

Last Amended: n/a

Disposition: Awaiting committee referral

Location: Assembly

Status: February 2, 2022, introduced.

Summary: The bill is currently a 'spot bill' awaiting amendments. As currently written it would make a non-substantive change to Business and Professions Code 312.2 concerning

Board Impact: Watch.

Recommended Board Position: Watch

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[AB 1795](#) (Fong) Open meetings: remote participation.

Introduced: February 7, 2022

Last Amended: n/a

Disposition: Referred to committee

Location: Assembly

Status: February 18, 2022: Referred to Assembly Committee on Governmental Organization.

Summary: Makes minor changes to the Bagley-Keene Act that would allow public participation in meetings via 'remote participation' – electronic communication. It would require that the public have the ability to attend a meeting and to address the state body via remote participation in addition to in-person participation. It would permit teleconference meetings where there are parties at different sites, but the bill as currently written does not allow for the same kind of in-person meetings that Boards have held during the COVID-19 pandemic.

Board Impact: The bill would require the Board to add teleconferencing and video conferencing capability to its meetings in addition to the expense it would normally occur for an in-person meeting.

Recommended Board Position: Watch

[AB 1982](#) (Santiago) Telehealth: dental care.

Introduced: February 10, 2022

Last Amended: n/a

Disposition: April 5, 2022, referred to Assembly Appropriations Committee

Location: Assembly

Status: April 5, 2022: Passed by Assembly Committee on Health and referred to Assembly Committee on Appropriations.

Summary: The bill would amend the Health and Safety Code and the Insurance Code to permit a licensed dentist to be considered a 'contracting individual health professional' for the purposes of providing services through a third-party telehealth provider. The dental insurer or the dental health care service plan shall disclose to their enrollees the impact of third-party telehealth visits on their benefit limits.

Board Impact: The bill would not affect Board operations but would be of interested to dental licensees.

Recommended Board Position: Watch

[AB 1996](#) (Cooley) State government: administrative regulations: review.

Introduced: February 10, 2022

Last Amended: n/a

Disposition: April 27, 2022, Hearing with Assembly Committee on Appropriations

Location: Assembly

Status: March 23, 2022: Passed Assembly Committee on Accountability and Administrative Review and re-referred to Assembly Committee on Appropriations.

Summary: This bill is another attempt at AB 2 from 2021 and would require DCA to identify any duplicative, overlapping, inconsistent or out of date regulations. Agencies would also need to take the necessary regulatory steps to address the identified regulations, hold at least one noticed hearing to take public comment on the proposed changes, and inform the Legislature and Governor about their compliance with this bill. This would all need to be completed by January 1, 2026

Board Impact: If enacted, the bill would require the Board to address proposed changes identified by staff and DCA at a noticed hearing. It would add a rulemaking package to the regulatory calendar and require the Board and staff to prioritize the package in order to meet the January 1, 2026 deadline for identifying the regulations and addressing them through the regulatory process.

Recommended Board Position: Watch

[AB 2055](#) (Low) Controlled substances: CURES database.

Introduced: February 14, 2022

Last Amended: April 21, 2022

Disposition: April 26, 2022, scheduled for hearing with Assembly Committee on Public Safety

Location: Assembly

Status: March 29, 2022: Approved by Assembly Committee on Business and Professions

Summary: The bill would transfer operation of the CURES database from the Department of Justice to a department determined by the Governor. The transfer would be effective April 1, 2023.

Board Impact: The Board would need to adjust its licensing processes to pass through the CURES fees to the new department.

Recommended Board Position: Watch

[AB 2104](#) (Flora) Professions and vocations.

Introduced: February 14, 2022

Last Amended: n/a

Disposition: Referred to committee

Location: Assembly

Status: February 23, 2022, Referred to Assembly Committee on Business and Professions

Summary: The bill would set fees for the Department of Consumer Affairs and boards in the department. Unless otherwise provided by law, boards may charge fees for certification of documents and copies not to exceed two dollars. Unless otherwise provided by law, delinquency fees for licensees shall be one half of the renewal fee in effect at the time of renewal but shall not exceed \$150.

Board Impact: As the Board has its delinquency fees already set in the Dental Practice Act, this bill would not affect the Board.

Recommended Board Position: Watch

[AB 2145](#) (Davies) Dental services: skilled nursing facilities and intermediate care facilities/developmentally disabled.

Introduced: February 15, 2022

Last Amended: March 16, 2022

Disposition: April 21, 2022, Passed Assembly

Location: Senate

Status: April 21, 2022, Passed Assembly and awaits Senate referral

Summary: The bill would permit registered dental hygienists in alternative practice to provide dental services (to patients) and oral health inservice training (to staff) in skilled nursing facilities and intermediate care facilities/developmentally disabled.

Board Impact: As the bill addresses what dental hygienists in alternative practice can do, the bill does not directly impact the Board.

The bill has highlighted a potential issue with Health and Safety Code (HSC) section 1315, which this bill would amend. As currently written, the section limits who can provide dental services in a licensed health facility to those licensed pursuant to Business and Professions Code (BPC) section 1611 – dentists and dental assistants. AB 2145 as currently written would amend HSC 1315 to allow registered dental hygienists in alternative practice (RDHAP) to provide dental services in skilled nursing facilities and intermediate care facilities/developmentally disabled.

The Board may wish to consider developing a legislative proposal to amend HSC section 1315. Such a proposal might:

- Limit the provision of dental services in licensed health facilities to dentists, or

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- Allow it for all types of dental professional, provided they practice according to the relevant provisions of the Practice Act.

Recommended Board Position: Watch

[AB 2276](#) (Carrillo) Dental assistants.

Introduced: February 16, 2022

Last Amended: April 5, 2022

Disposition: April 5, 2022, Referred to Assembly Appropriations Committee

Location: Assembly

Status: April 5, 2022, Passed Assembly Committee on Business and Professions

Summary: The bill would add section 1750.1.5 to the Business and Professions Code, which would permit dental assistants to conduct coronal polishing or pit and fissure sealing if certain requirements are met. Dental assistants seeking to perform these procedures must complete a board approved, two-hour course in the Dental Practice Act, a board approved, eight-hour course in infection control, and a board approved course in the procedure they seek to practice. The dental assistant can perform these procedures only under the direct supervision of a licensed dentist and only after the dental assistant has submitted evidence to the Board that they have completed a board-approved course in the procedure.

Amendments on April 5, 2022 added additional requirements for the supervising dentist and the dental practice where these procedures would be performed. The supervising dentist would have to review the pit and fissure sealant application, be listed in the record for the procedure, and along with the dental practice, confirm the competency of the dental assistant. The dental practice must retain records of the dental assistant's training in the procedures and retain records of the procedures for at least two years after the dental assistant has left the practice. The amendments did not remove the requirement that the dental assistant must submit evidence to the Board that they completed a board-approved course in the procedure.

Board Impact: As currently written the bill would require Board staff to develop regulations for implementing this bill and to identify courses for Board approval in infection control, the Dental Practice Act, and both coronal polishing and pit and fissure sealant procedures. It would expand the scope of dental assistant activities. However, there is no indication of a possible increase in risk to the public, in part because the Board does not track activities of unlicensed dental assistants.

Recommended Board Position: Support if amended.

The two practices singled out in this bill, pit and fissure sealant application and coronal polishing, are activities that RDAs must be trained in. Board staff anticipate unlicensed dental assistants that seek to complete these courses to perform these procedures will be more inclined to seek RDA licensure. Unlicensed dental assistants that are in continuous employment for at least 120 days must have completed (within a year of their date of

employment) the courses in the Dental Practice Act and infection control that would be required by this legislation (Business and Professions Code section 1750(c)).

While the bill as currently written places responsibility for assuring the competence of the unlicensed dental assistant with the supervising dentists, consistent with existing law, it still requires that the Board receive evidence that the dental assistant has completed board-approved courses in the relevant procedure(s). Board staff recommend requesting an amendment to require the supervising dentist be responsible for ensuring successful completion of the applicable Board-approved courses, rather than require the Board to track such completions. Since the Board does not issue licenses to dental assistants, there would be significant workload and expenses associated with establishing tracking system and additional staff would be required. Such amendment would align the provisions of this bill with the provisions contained in existing law.

[AB 2539](#) (Choi) Public health: COVID-19 vaccination: proof of status.

Introduced: February 17, 2022

Last Amended: n/a

Disposition: Pending referral

Location: Assembly

Status: February 17, 2022, introduced

Summary: Any public or private entity that requires or is required to check documentation of vaccination status of individuals seeking services and/or entry can accept either a digital or written record of that status.

Board Impact: The bill would not affect Board operations but could affect our licensees depending on the vaccination rules in place in their local jurisdictions.

Recommended Board Position: Watch

[AB 2948](#) (Cooper) Consumer protection: Department of Consumer Affairs: complaints

Introduced: February 18, 2022

Last Amended: n/a

Disposition: Referred to Assembly Business and Professions Committee

Location: Assembly

Status: March 17, 2022. Referred to Assembly Business and Professions Committee

Summary: The bill would amend the obligations of the Director of the Department of Consumer Affairs (DCA) to inform consumers about the status of their complaints. Current law allows the Director to notify consumers of the action taken on the complaint if appropriate. The bill would require the Director to make that notification within 60 days of the date that the complaint has been closed, unless disclosure would be injurious to the public.

Board Impact: Board staff would need to ensure that the Department is notified of complaint closures with sufficient time from the Department to make the necessary notifications.

Recommended Board Position: Watch

[SB 49](#) (Umberg) Income taxes: credits: California Fair Fees Tax Credit

Introduced: December 7, 2020

Last Amended: May 11, 2021

Disposition: Pending

Location: Assembly

Status: January 24, 2022: Passed Senate, awaiting committee assignment in Assembly.

Summary: The bill would revise sections of the Revenue and Taxation Code specific to the Personal Income Tax Law and the Corporation Tax Law. It would establish tax credits for qualified taxpayers that ceased business operations for certain periods of time in response to an emergency order. The credit would cover taxable years beginning on or after January 1, 2021 and before January 1, 2026.

Qualified taxpayers under the bill would have to be businesses that have a substantial in-person contact to conduct business, have average annual gross receipts of \$10 million or less for the three previous tax years, and ceased business operations for at least 30 consecutive days during the taxable year (or the year 2020).

Board Impact: The Board would not be directly affected by this legislation, but many of our licensees could qualify for the tax credit.

Recommended Board Position: Watch

[SB 652](#) (Bates) Dentistry: use of sedation: training.

Introduced: February 19, 2021

Last Amended: May 11, 2021

Disposition: Pending

Location: Assembly

Status: January 31, 2022: Passed Senate, awaiting committee assignment in Assembly.

Summary: Existing law, prescribes requirements for dentists and assisting personnel who administer or order the administration of general anesthesia, deep sedation, or moderate sedation. Additional requirements are specified if the patient is under 13 years of age.

This bill would require, if the patient is 13 years of age or older, that the operating dentist and at least 2 additional personnel be present throughout the procedure and that the

dentist and one additional personnel maintain current certification in Advanced Cardiac Life Support (ACLS).

Existing law, commencing on January 1, 2022, requires a dentist who desires to administer or to order the administration of moderate sedation to apply to the board for a permit and produce evidence showing that they have successfully completed training in moderate sedation that meets specified requirements.

This bill would require a permitholder to maintain current and continuous certification in ACLS and airway management.

Board Impact: In its current form, SB 652 would extend the current requirements for dental patients under 13 years of age, specifically that an operating dentist and at least two additional personnel be present throughout a procedure involving deep sedation or general anesthesia, and that the dentist and one additional personnel maintain current certification in Advanced Cardiac Life Support (ACLS), to all patients regardless of age.

Recommended Board Position: This bill is the expected vehicle to carry the Board's proposed legislation to address the implementation gap between the effective date of SB 501 (Glazer, Chapter 929, Statutes of 2018) and the Board's implementation of the new permits. The language is anticipated to be amended in the Assembly. The Board voted to support the pending amendments at its February 10-11, 2022 meeting.

[SB 731](#) (Durazo, Bradford, and Coauthors) Criminal records: relief.

Introduced: February 19, 2021

Last Amended: September 2, 2021

Disposition: Pending

Location: Assembly

Status: April 7, 2022: Bill placed in Assembly inactive file.

Summary: Existing law authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence, as specified. Existing law requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified.

This bill would make this relief available to a defendant who has been convicted of any felony.

Commencing July 1, 2022, existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for specified automatic conviction and records of arrest relief without requiring the filing of a petition or motion. Under existing law, a person is eligible for arrest record relief if they were arrested on or after January 1, 2021, and the arrest was for a misdemeanor and the charge was dismissed or criminal proceedings have not been initiated within one year after the arrest, or the arrest was for a felony punishable in the

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county jail and criminal proceedings have not been initiated within 3 years after the date of the arrest. Under existing law, a person is eligible for automatic conviction record relief if, on or after January 1, 2021, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met, as specified.

This bill would generally make this arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified. The bill would additionally make this conviction record relief available for a defendant convicted of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, post release supervision, and parole.

Board Impact: This bill affects boards at the Department of Consumer Affairs. SB 731 would allow a person convicted of a felony to petition to withdraw their guilty plea after the completion of their sentence and permit additional relief by way of deleting arrest records for the purpose of most criminal background checks. Some of the records that the Department of Justice (DOJ) would be prohibited from disclosing to the Board may be relevant to professional licensure.

Recommended Board Position: Watch

[SB 889](#) (Ochoa Bogh) Nurse anesthetists

Introduced: January 31, 2022

Last Amended: n/a

Disposition: Referred to Senate Committee on Business, Professions and Economic Development

Location: Senate

Status: April 18, 2022, hearing cancelled at Senate Committee on Business, Professions and Economic Development

Summary: The bill would amend provisions of the Business and Professions Code concerning the use of deep sedation and general anesthesia involving nurse anesthetists. It would modify the requirement in BPC Section 2827 that a dentist would have to have a sedation permit for a nurse anesthetist to administer general anesthetic. The bill would allow for a nurse anesthetist to administer deep sedation or a general anesthetic if it is done in compliance with Article 2.75. Use of Deep Sedation and General Anesthesia of the practice act. Language in the bill would allow a nurse anesthetist to administer deep sedation or a general anesthetic even if the dentist lacks the permit to do so.

Board Impact: The proposed legislation would appear to permit nurse anesthetists to administer deep sedation or a general anesthetic under a dentist's authorization assuming the dentist and nurse anesthetist are following Article 2.75.

Recommended Board Position: Watch

[SB 1031](#) (Ochoa Bogh) Healing arts boards: inactive license fees.

Introduced: February 15, 2022

Last Amended: n/a

Disposition: May 2, 2022, scheduled for hearing at Senate Committee on Appropriations

Location: Senate

Status: April 18, 2022, passed Senate Committee on Business, Professions, and Economic Development.

Summary: The bill would set a cap for inactive license renewal fees for healing arts boards, notwithstanding any other law. Inactive license fee renewals would be set at one-half the amount of an active license fee renewal at the time of renewal, unless the board sets a lower renewal fee.

Board Impact: Since the Board has its inactive renewal fee set in regulation, and not in statute, this law would apply to the Board. Currently the inactive license renewal fee is set as equal to the license renewal fee. This would mean inactive license revenue would decrease by fifty percent, assuming no change in the number of licensees seeking inactive status. With the reduction in an inactive license fee, it is plausible more licensees may seek inactive status at a minimum, Board staff would need to process the same amount of inactive license renewals with half of the related fee revenue available to support that work. If there is an increase in inactive license applications, then that workload would increase and there would not be a proportional increase in fee revenue.

Recommended Board Position: Oppose

[SB 1237](#) (Newman) Licenses: military service.

Introduced: February 17, 2022

Last Amended: March 30, 2022

Disposition: April 27, 2022, scheduled for hearing with Senate Committee on Business, Professions and Economic Development

Location: Senate

Status: April 4, 2022 passed by Senate Committee on Business, Professions and Economic Development and re-referred to Senate Committee on Military and Veterans' Affairs.

Summary: Bill would amend section 114.3 of the Business and Profession Code, which permits waiving the renewal fees, continuing education requirements, and other renewal requirements as determined by the board for licensees called to active duty in the U.S. armed services or the California National Guard. The bill would clarify the meaning of "called to active duty."

Board Impact: The March 30th amendments clarify the meaning of the bill and should make it easier for licensees called to active duty to utilize the waivers permitted under the law. It may result in a slight increase in the number of dental licensees that would use such waivers.

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Recommended Board Position: Watch

[SB 1310](#) (Leyva) Professions and vocations: consumer complaints.

Introduced: February 18, 2022

Last Amended: n/a

Disposition: April 18, 2022, scheduled for hearing with Senate Committee on Business, Professions and Economic Development

Location: Senate

Status: March 2, 2022 referred to Senate Committee on Business, Professions and Economic Development.

Summary: The bill would amend section 328 of the Business and Professions Code concerning the Department of Consumer Affairs Complaint Prioritization Guidelines. The bill would require DCA to post these guidelines on the Department website and to review and amend them periodically. It would also remove a portion of section 328 concerning a 2019 deadline.

Board Impact: The guidelines have been in existence for some time and having them online would make more transparent the guidance for when the Department would handle investigations through the Division of Investigation and when individual boards would handle these investigations. The impact of this legislation would be most likely felt in any revisions to the guidelines.

Recommended Board Position: Watch

[SB 1365](#) (Jones) Licensing boards: procedures.

Introduced: February 18, 2022

Last Amended: n/a

Disposition: April 26, 2022, scheduled for hearing with Senate Committee on Public Safety

Location: Senate

Status: April 4, 2022 passed by Senate Committee on Business, Professions and Economic Development, and rereferred to Senate Committee on Public Safety.

Summary: Would add section 114.6 to the Business and Professions Code. This proposed section would require that boards post on their websites the criteria they use for evaluating applicants with criminal convictions. The bill requires the Department of Consumer affairs to do three things:

1. Establish a process to help boards post these criteria to their websites,
2. Develop a process for boards to use in verifying applicant information and conduct background checks, and
3. Develop an informal appeals process.

Board Impact: The Board already has processes in place to conduct background checks. Posting criteria used for evaluating applicants with convictions can be posted online while

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using existing resources. Applicants who are denied licensure can appeal the decision to the Board. Establishing an informal appeals process would require statutory authority and regulations to implement. The bill conflicts with provisions in section 480 of the Business and Professions Code that also address applicants with criminal convictions.

Recommended Board Position: Watch

[SB 1443](#) (Roth) The Department of Consumer Affairs

Introduced: February 18, 2022

Last Amended: n/a

Disposition: April 18, 2022, scheduled for hearing with Senate Committee on Business, Professions and Economic Development

Location: Senate

Status: April 18, 2022, passed Senate Committee on Business, Professions and Economic Development and rereferred to Senate Committee on Appropriations.

Summary: Bill would extend the sunset date of several boards, including the Dental Board, until January 1, 2025. Bill also would extend provisions of law referring to service contractors.

Board Impact: The Board's sunset review process would be delayed one year.

Recommended Board Position: Support

[SB 1471](#) (Archuleta) Dentistry: foreign dental schools

Introduced: February 18, 2022

Last Amended: n/a

Disposition: Referred to committee

Location: Senate

Status: March 9, 2022 referred to Senate Committee on Business, Professions and Economic Development.

Summary: The bill would amend section 1636.5 of the Practice Act and repeal section 1636.6. These provisions concern approval of foreign dental schools. Current law requires that beginning January 1, 2024, foreign dental schools must be approved through the CODA accreditation process. Any schools approved prior to January 1, 2020 through a date between January 1, 2024 and June 30, 2026 would retain their approval through that date.

The bill would amend the approval window for schools approved prior to January 1, 2020. These schools that were approved through a date before June 30, 2026 would retain their approval through that date. The bill also repeals the provision where graduates (that enrolled prior to January 1, 2020) of foreign dental schools that were approved prior to January 1, 2020 through any date before January 1, 2024 would be eligible for licensure.

Board Impact: Compliance with this bill would require minor adjustments to Board staff processes to reflect the changes in deadlines.

Recommended Board Position: Watch

[SB 1495](#) (Committee on Business, Professions and Economic Development) Professions and vocations.

Introduced: March 15, 2022

Last Amended: n/a

Disposition: April 18, 2022, passed Senate Committee on Business, Professions and Economic Development

Location: Senate

Status: April 18, 2022, passed Senate Committee on Business, Professions, and Economic Development and re-referred to Senate Committee on Appropriations.

Summary: The bill would make non-substantive changes in several provisions of the Business and Professions Code affecting dentists and dental hygienists. Many of these changes reflect that the Office of Statewide Health Planning and Development was renamed the Department of Health Care Access and Information. It would amend section 1936.1 of the Practice Act to change the assurances made concerning continuing education coursework by dental hygienists from prospective (“they will”) to retrospective (“they had”).

Board Impact: The changes directly affecting the Dental Board are non-substantive.

Recommended Board Position: Watch

AMENDED IN SENATE JUNE 28, 2021

AMENDED IN ASSEMBLY MAY 24, 2021

AMENDED IN ASSEMBLY APRIL 20, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 225

Introduced by Assembly Members Gray, Gallagher, and Patterson
(Coauthor: Senator Dodd)

January 11, 2021

An act to amend Section 115.6 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 225, as amended, Gray. Department of Consumer Affairs: boards: veterans: military spouses: licenses.

Under existing law, the Department of Consumer Affairs, under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires specified boards within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current,

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active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance. Under existing law, some of the funds within the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would expand the eligibility for a temporary license to an applicant who meets the specified criteria and who supplies evidence satisfactory to the board that the applicant is a veteran of the Armed Forces of the United States within ~~6 months~~ *60 months* of separation from active duty under ~~other than dishonorable~~ *other than dishonorable* conditions, ~~and an applicant who supplies evidence satisfactory to the board that the applicant is a veteran of the Armed Forces of the United States within 120 months of separation from active duty under other than dishonorable conditions and a resident of California prior to entering into military service, or an active duty member of the Armed Forces of the United States with official orders for separation within 90 days under~~ *other than dishonorable other than dishonorable* conditions. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill’s expansion of the requirement to issue temporary licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

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: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary

1 licenses to an applicant if the applicant meets the requirements set
2 forth in subdivision (c):

3 (1) Registered nurse license by the Board of Registered Nursing.

4 (2) Vocational nurse license issued by the Board of Vocational
5 Nursing and Psychiatric Technicians of the State of California.

6 (3) Psychiatric technician license issued by the Board of
7 Vocational Nursing and Psychiatric Technicians of the State of
8 California.

9 (4) Speech-language pathologist license issued by the
10 Speech-Language Pathology and Audiology and Hearing Aid
11 Dispensers Board.

12 (5) Audiologist license issued by the Speech-Language
13 Pathology and Audiology and Hearing Aid Dispensers Board.

14 (6) Veterinarian license issued by the Veterinary Medical Board.

15 (7) All licenses issued by the Board for Professional Engineers,
16 Land Surveyors, and Geologists.

17 (8) All licenses issued by the Medical Board of California.

18 (9) All licenses issued by the Podiatric Medical Board of
19 California.

20 (b) The board may conduct an investigation of an applicant for
21 purposes of denying or revoking a temporary license issued
22 pursuant to this section. This investigation may include a criminal
23 background check.

24 (c) An applicant seeking a temporary license pursuant to this
25 section shall meet the following requirements:

26 (1) The applicant shall supply evidence satisfactory to the board
27 that the applicant is one of the following:

28 (A) Married to, or in a domestic partnership or other legal union
29 with, an active duty member of the Armed Forces of the United
30 States who is assigned to a duty station in this state under official
31 active duty military orders.

32 (B) A veteran of the Armed Forces of the United States within
33 ~~six~~ 60 months of separation from active duty under
34 ~~other than dishonorable~~ other than dishonorable conditions.

35 (C) A veteran of the Armed Forces of the United States within
36 120 months of separation from active duty under other than
37 dishonorable conditions and a resident of California prior to
38 entering into military service.

39 (E)

1 (D) An active duty member of the Armed Forces of the United
2 States with official orders for separation within 90 days under
3 ~~other than dishonorable~~ *other than dishonorable* conditions.

4 (2) The applicant shall hold a current, active, and unrestricted
5 license that confers upon the applicant the authority to practice,
6 in another state, district, or territory of the United States, the
7 profession or vocation for which the applicant seeks a temporary
8 license from the board.

9 (3) The applicant shall submit an application to the board that
10 shall include a signed affidavit attesting to the fact that the
11 applicant meets all of the requirements for the temporary license
12 and that the information submitted in the application is accurate,
13 to the best of the applicant's knowledge. The application shall also
14 include written verification from the applicant's original licensing
15 jurisdiction stating that the applicant's license is in good standing
16 in that jurisdiction.

17 (4) The applicant shall not have committed an act in any
18 jurisdiction that would have constituted grounds for denial,
19 suspension, or revocation of the license under this code at the time
20 the act was committed. A violation of this paragraph may be
21 grounds for the denial or revocation of a temporary license issued
22 by the board.

23 (5) The applicant shall not have been disciplined by a licensing
24 entity in another jurisdiction and shall not be the subject of an
25 unresolved complaint, review procedure, or disciplinary proceeding
26 conducted by a licensing entity in another jurisdiction.

27 (6) The applicant shall, upon request by a board, furnish a full
28 set of fingerprints for purposes of conducting a criminal
29 background check.

30 (d) A board may adopt regulations necessary to administer this
31 section.

32 (e) A temporary license issued pursuant to this section may be
33 immediately terminated upon a finding that the temporary
34 licenseholder failed to meet any of the requirements described in
35 subdivision (c) or provided substantively inaccurate information
36 that would affect the person's eligibility for temporary licensure.
37 Upon termination of the temporary license, the board shall issue
38 a notice of termination that shall require the temporary
39 licenseholder to immediately cease the practice of the licensed
40 profession upon receipt.

1 (f) An applicant seeking a temporary license as a civil engineer,
2 geotechnical engineer, structural engineer, land surveyor,
3 professional geologist, professional geophysicist, certified
4 engineering geologist, or certified hydrogeologist pursuant to this
5 section shall successfully pass the appropriate California-specific
6 examination or examinations required for licensure in those
7 respective professions by the Board for Professional Engineers,
8 Land Surveyors, and Geologists.

9 (g) A temporary license issued pursuant to this section shall
10 expire 12 months after issuance, upon issuance of a standard
11 license, a license by endorsement, or an expedited license pursuant
12 to Section 115.5, whichever occurs first.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

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AMENDED IN ASSEMBLY APRIL 8, 2021
AMENDED IN ASSEMBLY MARCH 18, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 562

Introduced by Assembly Member Low
(Principal coauthor: Assembly Member Flora)
(Coauthors: Assembly Members Chen and Salas)

February 11, 2021

An act to add Chapter 1.7 (commencing with Section 950) to Division 2 of, and to repeal Section 953 of, the Business and Professions Code, and to amend Section 6276.30 of the Government Code, relating to mental health ~~services~~: *services, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 562, as amended, Low. ~~Mental health services for health care providers~~: Frontline COVID-19 Provider Mental Health Resiliency Act of ~~2021~~: *2021: health care providers: mental health services.*

Existing law establishes the Department of Consumer Affairs under the direction of the Director of Consumer Affairs. Existing law establishes various boards within the department for the licensure and regulation of various health care providers, including physicians and surgeons and nurses. Existing law generally provides for mental health services, including the Bronzan-McCorquodale Act, which contains provisions governing the organization and financing of community mental health services for persons with mental disorders in every county through locally administered and locally controlled community mental health programs, and the Mental Health Services Act, an initiative

statute enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election that establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs.

This bill would require the director to establish a mental health resiliency program, as specified, to provide mental health services to licensed health care providers who provide or have provided *consistent in-person* healthcare services to COVID-19 patients. The bill would require the relevant ~~healing arts~~ boards to notify licensees and solicit applications for access to the ~~mental health resiliency~~ program immediately upon the availability of services. The bill would require an applicant to make an attestation that states, among other things, that the applicant is an eligible licensee, as defined. The bill would make an applicant who willfully makes a false statement in their attestation guilty of a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program. The bill would repeal these provisions on January 1, 2025.

The bill would require the department and relevant boards, no later than June 30, 2025, to report to the relevant policy committees of the Legislature prescribed information regarding the program.

The bill would exempt the records associated with the mental health resiliency program from disclosure pursuant to the California Public Records Act.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Chapter 1.7 (commencing with Section 950) is
2 added to Division 2 of the Business and Professions Code, to read:

3
4 CHAPTER 1.7. FRONTLINE COVID-19 PROVIDER MENTAL
5 HEALTH RESILIENCY ACT OF 2021
6

7 950. This chapter shall be known, and may be cited, as the
8 Frontline COVID-19 Provider Mental Health Resiliency Act of
9 2021.

10 951. (a) The Legislature finds and declares the following:

11 (1) Since the start of the pandemic, California’s frontline health
12 care workers have been caring for COVID-19 patients through
13 multiple surges, which included a record-shattering death toll in
14 December 2020.

15 (2) Nurses, physicians and surgeons, and other frontline health
16 care providers are suffering from burnout and have been
17 experiencing, or are at high risk of, a variety of mental health
18 conditions, including depression, anxiety, post-traumatic stress
19 disorder, and suicidal thoughts.

20 (3) As the result of prolonged stress and repeated trauma,
21 frontline health care providers may continue to endure the negative
22 effects of the pandemic long after it ends.

23 (4) To bolster the resiliency of the health care workforce through
24 the COVID-19 pandemic and beyond, it is imperative that
25 additional mental health services are made immediately available.

26 (b) It is the intent of the Legislature that the Department of
27 Consumer Affairs, through the relevant ~~healing arts~~ boards,
28 immediately establish a mental health resiliency program for
29 frontline health care providers who have provided direct and
30 in-person care to COVID-19 patients during the pandemic.

31 952. For the purposes of this chapter, the following definitions
32 apply:

33 (a) “Board” means the following:

34 (1) *The Board of Registered Nursing.*

35 (2) *The Medical Board of California.*

36 (3) *The Osteopathic Medical Board of California.*

37 (4) *The Physician Assistant Board.*

38 (5) *The Respiratory Care Board of California.*

1 (a)
2 (b) “Eligible licensee” means a person licensed pursuant to this
3 division who is or was also a frontline health care COVID-19
4 provider.

5 (b)
6 (c) “Frontline COVID-19 health care provider” means a person
7 who provides or has provided consistent in-person health care
8 services to patients with COVID-19.

9 (e)
10 (d) “Mental health services” means targeted in-person, online,
11 and telehealth ~~psychological~~ *psychological* distress and behavioral
12 health ~~service~~ assessments and ~~interventions~~ *(professional or*
13 ~~self-administered) *interventions, professional or self-administered,*
14 to support mental and behavioral health needs resulting from the
15 COVID-19 pandemic. Interventions include counseling, wellness
16 coaching, and any other mental health treatment to improve the
17 psychological and behavioral health of the eligible licensee.~~

18 (d)
19 (e) “Vendor of mental health services” means a third-party
20 vendor that provides mental health services, assessments, or
21 interventions.

22 953. (a) (1) Within three months of the effective date of this
23 section, the director shall, in consultation with the relevant ~~healing~~
24 ~~arts~~ boards, establish a mental health resiliency program to provide
25 mental health services to frontline COVID-19 providers.

26 (2) The director shall contract with one or more vendors of
27 mental health services for the duration of the program. *The director*
28 *may in addition contract or partner with vendors or agencies that*
29 *offer services that are publicly available and free of charge.*

30 (3) The director, or the director’s designee, shall supervise all
31 vendors, shall monitor vendor utilization rates, and may terminate
32 any contract. If the vendor’s contract is terminated, the director
33 shall contract with a replacement vendor as soon as practicable.

34 (4) The contract shall specify that all personal or identifiable
35 program participant data shall be kept confidential, and that the
36 confidentiality obligations shall survive the termination of the
37 contract.

38 (5) The development of the mental health resiliency program
39 under this section shall be exempt from the requirements of the
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code).

3 (b) (1) The relevant ~~healing arts~~ boards shall notify licensees
4 and solicit applications for access to the mental health resiliency
5 program immediately upon the availability of any services
6 contracted for.

7 (2) An applicant to the program shall make an attestation that
8 states all of the following:

9 (A) The applicant is an eligible licensee, as defined under
10 subdivision (a) of Section 952.

11 (B) ~~The name, location,~~ *location* and type of the facility or
12 facilities the applicant worked as a frontline COVID-19 provider.

13 (C) The applicant's assigned unit or units at the facility or
14 facilities.

15 (3) An applicant shall be deemed an eligible licensee if the
16 attestation is complete and any facility and unit listed would
17 provide care to COVID-19 patients.

18 (4) An applicant who willfully makes a false statement in their
19 attestation is guilty of a misdemeanor.

20 (5) The relevant ~~healing arts~~ boards shall grant all eligible
21 licensees access to the program.

22 ~~(6) Application to or participation in the mental health resiliency
23 program shall not be used for purposes of disciplinary action and,
24 except as specified under Section 954, shall be kept confidential.~~

25 *(6) The relevant boards shall include in the application a
26 voluntary survey of race or ethnicity and gender identity.*

27 (c) This section shall remain in effect only until January 1, 2025,
28 and as of that date is repealed.

29 954. No later than June 30, 2025, the department and relevant
30 ~~healing arts~~ boards shall report to the relevant policy committees
31 of the Legislature the following information regarding the mental
32 health resiliency program:

33 (a) A description of the contracted vendors, services provided,
34 and contract dates.

35 (b) ~~The depersonalized~~ *deidentified* aggregate number of
36 applicants and eligible licensees and a monthly breakdown.

37 *(c) The deidentified and aggregate number of eligible licensees
38 by location, race, ethnicity, and gender identity.*

39 ~~(e) Any available utilization~~

40 *(d) Utilization* rates from the vendors.

1 ~~(d)~~

2 (e) The costs associated with the program.

3 955. (a) Except as specified under Section 954, records
4 associated with the mental health resiliency program are exempt
5 from disclosure pursuant to the California Public Records Act
6 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
7 Title 1 of the Government Code).

8 (b) *Application to or participation in the mental health resiliency*
9 *program shall not be used for purposes of disciplinary action and,*
10 *except as specified under Section 954, shall be kept confidential.*

11 SEC. 2. Section 6276.30 of the Government Code is amended
12 to read:

13 6276.30. Managed care health plans, confidentiality of
14 proprietary information, Section 14091.3 of the Welfare and
15 Institutions Code.

16 Managed Risk Medical Insurance Board, negotiations with
17 entities contracting or seeking to contract with the board,
18 subdivisions (v) and (y) of Section 6254.

19 Mandated blood testing and confidentiality to protect public
20 health, prohibition against compelling identification of test subjects,
21 Section 120975 of the Health and Safety Code.

22 Mandated blood testing and confidentiality to protect public
23 health, unauthorized disclosures of identification of test subjects,
24 Sections 1603.1, 1603.3, and 121022 of the Health and Safety
25 Code.

26 Mandated blood testing and confidentiality to protect public
27 health, disclosure to patient’s spouse, sexual partner, needle sharer,
28 or county health officer, Section 121015 of the Health and Safety
29 Code.

30 Manufactured home, mobilehome, floating home, confidentiality
31 of home address of registered owner, Section 18081 of the Health
32 and Safety Code.

33 Marital confidential communications, Sections 980, 981, 982,
34 983, 984, 985, 986, and 987 of the Evidence Code.

35 Market reports, confidential, subdivision (e) of Section 6254.

36 Marketing of commodities, confidentiality of financial
37 information, Section 58781 of the Food and Agricultural Code.

38 Marketing orders, confidentiality of processors’ or distributors’
39 information, Section 59202 of the Food and Agricultural Code.

- 1 Marriage, confidential, certificate, Section 511 of the Family
- 2 Code.
- 3 Medi-Cal Benefits Program, confidentiality of information,
- 4 Section 14100.2 of the Welfare and Institutions Code.
- 5 Medi-Cal Benefits Program, Request of Department for Records
- 6 of Information, Section 14124.89 of the Welfare and Institutions
- 7 Code.
- 8 Medi-Cal Fraud Bureau, confidentiality of complaints, Section
- 9 12528.
- 10 Medi-Cal managed care program, exemption from disclosure
- 11 for financial and utilization data submitted by Medi-Cal managed
- 12 care health plans to establish rates, Section 14301.1 of the Welfare
- 13 and Institutions Code.
- 14 Medi-Cal program, exemption from disclosure for best price
- 15 contracts between the State Department of Health Care Services
- 16 and drug manufacturers, Section 14105.33 of the Welfare and
- 17 Institutions Code.
- 18 Medical information, disclosure by provider unless prohibited
- 19 by patient in writing, Section 56.16 of the Civil Code.
- 20 Medical information, types of information not subject to patient
- 21 prohibition of disclosure, Section 56.30 of the Civil Code.
- 22 Medical and other hospital committees and peer review bodies,
- 23 confidentiality of records, Section 1157 of the Evidence Code.
- 24 Medical or dental licensee, action for revocation or suspension
- 25 due to illness, report, confidentiality of, Section 828 of the Business
- 26 and Professions Code.
- 27 Medical or dental licensee, disciplinary action, denial or
- 28 termination of staff privileges, report, confidentiality of, Sections
- 29 805, 805.1, and 805.5 of the Business and Professions Code.
- 30 Meetings of state agencies, disclosure of agenda, Section
- 31 11125.1.
- 32 Mental health resiliency program, records, Section 955 of the
- 33 Business and Professions Code.
- 34 Mentally abnormal sex offender committed to state hospital,
- 35 confidentiality of records, Section 4135 of the Welfare and
- 36 Institutions Code.
- 37 Mentally disordered and developmentally disabled offenders,
- 38 access to criminal histories of, Section 1620 of the Penal Code.

1 Mentally disordered persons, court-ordered evaluation,
2 confidentiality of reports, Section 5202 of the Welfare and
3 Institutions Code.

4 Mentally disordered or mentally ill person, confidentiality of
5 written consent to detainment, Section 5326.4 of the Welfare and
6 Institutions Code.

7 Mentally disordered or mentally ill person, voluntarily or
8 involuntarily detained and receiving services, confidentiality of
9 records and information, Sections 5328, 5328.15, 5328.2, 5328.4,
10 5328.8, and 5328.9 of the Welfare and Institutions Code.

11 Mentally disordered or mentally ill person, weapons restrictions,
12 confidentiality of information about, Section 8103 of the Welfare
13 and Institutions Code.

14 Milk marketing, confidentiality of records, Section 61443 of the
15 Food and Agricultural Code.

16 Milk product certification, confidentiality of, Section 62121 of
17 the Food and Agricultural Code.

18 Milk, market milk, confidential records and reports, Section
19 62243 of the Food and Agricultural Code.

20 Milk product registration, confidentiality of information, Section
21 38946 of the Food and Agricultural Code.

22 Milk equalization pool plan, confidentiality of producers' voting,
23 Section 62716 of the Food and Agricultural Code.

24 Mining report, confidentiality of report containing information
25 relating to mineral production, reserves, or rate of depletion of
26 mining operation, Section 2207 of the Public Resources Code.

27 Minor, criminal proceeding testimony closed to public, Section
28 859.1 of the Penal Code.

29 Minors, material depicting sexual conduct, records of suppliers
30 to be kept and made available to law enforcement, Section 1309.5
31 of the Labor Code.

32 Misdemeanor and felony reports by police chiefs and sheriffs
33 to Department of Justice, confidentiality of, Sections 11107 and
34 11107.5 of the Penal Code.

35 Monetary instrument transaction records, confidentiality of,
36 Section 14167 of the Penal Code.

37 Missing persons' information, disclosure of, Sections 14204 and
38 14205 of the Penal Code.

39 Morbidity and mortality studies, confidentiality of records,
40 Section 100330 of the Health and Safety Code.

1 Motor vehicle accident reports, disclosure, Sections 16005,
2 20012, and 20014 of the Vehicle Code.

3 Motor vehicles, department of, public records, exceptions,
4 Sections 1808 to 1808.7, inclusive, of the Vehicle Code.

5 Motor vehicle insurance fraud reporting, confidentiality of
6 information acquired, Section 1874.3 of the Insurance Code.

7 Motor vehicle liability insurer, data reported to Department of
8 Insurance, confidentiality of, Section 11628 of the Insurance Code.

9 Multijurisdictional drug law enforcement agency, closed sessions
10 to discuss criminal investigation, Section 54957.8.

11 SEC. 3. The Legislature finds and declares that Section 1 of
12 this act, which adds Section 955 to the Business and Professions
13 Code, imposes a limitation on the public's right of access to the
14 meetings of public bodies or the writings of public officials and
15 agencies within the meaning of Section 3 of Article I of the
16 California Constitution. Pursuant to that constitutional provision,
17 the Legislature makes the following findings to demonstrate the
18 interest protected by this limitation and the need for protecting
19 that interest:

20 In order to protect the privacy of frontline providers of health
21 care services to COVID-19 patients, it is necessary to prevent
22 disclosure of records associated with the mental health resiliency
23 program.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 *SEC. 5. This act is an urgency statute necessary for the*
34 *immediate preservation of the public peace, health, or safety within*
35 *the meaning of Article IV of the California Constitution and shall*
36 *go into immediate effect. The facts constituting the necessity are:*

37 *In order to preserve the current and future health care workforce*
38 *by ensuring that frontline health care providers have access to*
39 *necessary services to address the ongoing stress and trauma of*

- 1 *the COVID-19 pandemic as soon as possible, it is necessary that*
- 2 *this act take effect immediately.*

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AMENDED IN ASSEMBLY JANUARY 24, 2022

AMENDED IN ASSEMBLY APRIL 14, 2021

AMENDED IN ASSEMBLY APRIL 12, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 646

Introduced by Assembly Members Low, Cunningham, and Gipson
(Coauthor: Senator Roth)

February 12, 2021

An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 646, as amended, Low. Department of Consumer Affairs: boards: expunged convictions.

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its ~~internet website~~ *online license search system* that a person’s license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on ~~the board’s internet website~~; *its online license search system*. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its ~~internet website~~ *online license search system* that the person’s license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would ~~authorize~~ *require* the board to charge a fee of \$25 to the person, ~~not to exceed the cost person to cover the reasonable regulatory cost~~ of administering the bill’s ~~provisions~~; *provisions, unless there is no associated cost*. The bill would require the fee to be deposited by the board into the appropriate fund and would make the fee available only upon appropriation by the Legislature.

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

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

- 1 SECTION 1. Section 493.5 is added to the Business and
- 2 Professions Code, to read:
- 3 493.5. (a) A board within the department that has posted on
- 4 its ~~internet website~~ *online license search system* that a person’s
- 5 license was revoked because the person was convicted of a crime,
- 6 upon receiving from the person a certified copy of an expungement
- 7 order granted pursuant to Section 1203.4 of the Penal Code for the
- 8 underlying offense, shall, within 90 days of receiving the
- 9 expungement order, unless it is otherwise prohibited by law, or by
- 10 other terms or conditions, do either of the following:
- 11 (1) If the person reapplies for licensure or has been relicensed,
- 12 post notification of the expungement order and the date thereof on
- 13 its ~~internet website~~; *online license search system*.
- 14 (2) If the person is not currently licensed and does not reapply
- 15 for licensure, remove the initial posting on its ~~internet website~~
- 16 *online license search system* that the person’s license was revoked

1 and information previously posted regarding arrests, charges, and
2 convictions.

3 (b) ~~A(1) Except as provided in paragraph (2), a board within~~
4 ~~the department may shall charge a fee of twenty-five dollars (\$25)~~
5 ~~to a person described in subdivision (a), not to exceed (a) to cover~~
6 ~~the reasonable regulatory cost of associated with administering~~
7 ~~this section. The~~

8 (2) *A board shall not charge the fee if there is no cost associated*
9 *with administering this section.*

10 (3) *A board may adopt regulations to implement this subdivision.*
11 *The adoption, amendment, or repeal of a regulation authorized*
12 *by this subdivision is hereby exempted from the rulemaking*
13 *provisions of the Administrative Procedure Act (Chapter 3.5*
14 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
15 *2 of the Government Code).*

16 (4) *The fee shall be deposited by the board into the appropriate*
17 *fund and shall be available only upon appropriation by the*
18 *Legislature.*

19 (c) For purposes of this section, “board” means an entity listed
20 in Section 101.

21 (d) If any provision in this section conflicts with Section 2027,
22 Section 2027 shall prevail.

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AMENDED IN SENATE JUNE 15, 2021

AMENDED IN ASSEMBLY APRIL 21, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 657

Introduced by Assembly Member Cooper

February 12, 2021

An act to add Section 19136 to the Government Code, relating to state employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 657, as amended, Cooper. State civil service system: personal services contracts: professionals.

Existing law, the State Civil Service Act, establishes standards for the use of personal services contracts by state agencies and authorizes personal services contracts when prescribed conditions are met, including, among others, when the contracting agency demonstrates that the proposed contract will result in actual overall cost savings to the state, as specified.

Existing law authorizes the Governor to suspend, during a state of war emergency or a state of emergency, any regulatory statute or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency if the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency.

This bill would prohibit a state agency from entering into a contract with a professional, as defined, for a period of more than 365 consecutive days or for a period of 365 nonconsecutive days in a

24-month period. The bill, however, would authorize a state agency to renew, during a state of emergency, a personal services contract with a professional beyond these time period limitations if the state agency receives approval for the renewal from ~~an unspecified entity,~~ *the Department of Human Resources*, as provided. The bill would prohibit ~~the unspecified entity~~ *Department of Human Resources* from approving a personal services contract renewal unless the renewal is necessary for the state agency to address the state of emergency. The bill would provide that the bill's provisions relating to renewals shall not be construed to limit the Governor's authority to suspend statutes. The bill would define "professional," for these provisions, to include, among others, a physician and surgeon, dentist, and clinical psychologist. The bill would require each state agency that has a contract with a professional pursuant to the bill's provisions to assign a unique identification number to each of those professionals for specified purposes. The bill would require each state agency that has a contract with a professional pursuant to these provisions to prepare a monthly report to the exclusive bargaining representative for the professional, if the professional is represented, providing certain information, including the names and unique identification numbers of the professionals subject to a contract with the state agency, the details of the contract period for each professional, and the number of open professional positions available, as specified.

This bill would also require a state ~~agency, with specified exclusions,~~ *agency* that uses a personal services contract for an employee position for each state agency that has a budgetary allocation to provide the applicable employee organization that represents employees who provide the same or similar services with certain information, including, among other things, the expenditures for recruiting and advertising to fill positions for which contractors are hired, and the number of applications for personal services received in the most recent quarter of the fiscal year.

The bill would except the Department of Consumer Affairs or a board or bureau of the Department of Consumer Affairs from its provisions.

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

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

1 SECTION 1. Section 19136 is added to the Government Code,
2 to read:

3 19136. (a) Notwithstanding Section 19130 or any other law,
4 a professional, as defined in subdivision (c), who has a personal
5 services contract with any state ~~agency~~, *agency* shall not be under
6 contract with the state agency for a time period that exceeds either
7 of the following:

8 (1) Three hundred sixty-five consecutive days to the state
9 agency.

10 (2) Three hundred sixty-five nonconsecutive days in a 24-month
11 period.

12 (b) (1) Notwithstanding subdivision (a), during a state of
13 emergency declared by the Governor pursuant to Section 8625, a
14 state agency may renew a personal services contract with a
15 professional even if the renewal will exceed the time period
16 limitations described in subdivision (a) if it receives approval for
17 ~~such~~ the renewal from ~~_____~~, *the Department of Human Resources*.

18 The request to renew shall include at least all of the following:

19 (A) A detailed accounting of the state agency's expenditures in
20 efforts to increase and expand recruitment and retention efforts
21 for the agency.

22 (B) An analysis of the state agency's vacancies for the position
23 *for which* the professional was ~~contracted for~~, *contracted*. The
24 analysis shall include a comparison of current vacancies for the
25 position and vacancies for the position one year prior.

26 (C) A detailed analysis of the state agency's efforts to fill the
27 position with permanent civil service employees.

28 (D) A discussion of how the renewal of the contract will assist
29 the agency in addressing the state of emergency.

30 (2) A state agency shall be required to seek authorization to
31 renew pursuant to this subdivision each time it renews a contract
32 under this subdivision. A renewed personal services contract
33 pursuant to this subdivision shall not be between a professional
34 and any state agency for a time period that exceeds either of the
35 following:

36 (A) Three hundred sixty-five consecutive days to the state
37 agency.

1 (B) Three hundred sixty-five nonconsecutive days in a 24-month
 2 period.

3 (3) The ~~_____~~ *Department of Human Resources* shall not approve
 4 a renewal of a personal services contract with a professional
 5 pursuant to this subdivision unless the renewal is necessary for the
 6 state agency to address the state of emergency.

7 (4) This subdivision shall not be construed to limit the
 8 Governor’s authority to suspend statutes pursuant to Section 8571.

9 (c) For purposes of this section, “professional” means any of
 10 the following:

11 (1) A physician and surgeon licensed by the Medical Board of
 12 California or the Osteopathic Medical Board of California.

13 (2) A dentist licensed by the Dental Board of California.

14 (3) A clinical psychologist licensed by the Board of Psychology.

15 (4) A clinical social worker licensed by the Board of Behavioral
 16 Sciences.

17 (5) A pharmacist licensed by the California State Board of
 18 Pharmacy.

19 (d) Each state agency that has a contract with a professional
 20 ~~pursuant~~ to *which* this section *applies* shall assign a unique
 21 identification number to each of those professionals for purposes
 22 of determining compliance with this section and complying with
 23 subdivisions (e) and (f).

24 (e) Each state agency that has a contract with a professional
 25 ~~pursuant~~ to *which* this section *applies* shall prepare a monthly
 26 report to the exclusive bargaining representative for the
 27 professional, if the professional is represented. The monthly report
 28 shall include all of the following information:

29 (1) The names and unique identification numbers, as assigned
 30 pursuant to subdivision (d), of the professionals subject to a
 31 contract with the state agency.

32 (2) The details of the contract period for each professional,
 33 including, but not limited to, their hourly rate, beginning and end
 34 date, and the number of days worked pursuant to their current
 35 contract.

36 (3) The number of ~~“open”~~ *open* professional positions for the
 37 state agency and the number of ~~“contract”~~ *contract* professional
 38 positions. For purposes of this paragraph, “open” means a position
 39 authorized in the budget for the state agency.

1 (f) If a state agency uses a personal services contract for an
2 employee position for which the agency has a budgetary allocation,
3 the agency shall provide to the applicable employee organization
4 that represents employees who provide the same or similar services
5 the following information:

6 (1) The expenditures for recruiting and advertising in the most
7 recent quarter of the fiscal year to fill positions for which
8 contractors are hired.

9 (2) The number of applications for personal services contracts
10 received in the most recent quarter of the fiscal year.

11 (3) The number of applicants interviewed for personal services
12 contracts received in the most recent quarter of the fiscal year.

13 (4) The number of applicants rejected for personal services
14 contracts received in the most recent quarter of the fiscal year.

15 (g) This section shall not apply to *the Department of Consumer*
16 *Affairs* or a board or bureau of the Department of Consumer
17 Affairs, as described in Section 101 of the Business and Professions
18 Code.

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ASSEMBLY BILL

No. 1102

Introduced by Assembly Member Low

February 18, 2021

An act to amend Section 4999.2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, as introduced, Low. Telephone medical advice services.

Existing law requires a telephone medical advice service, as defined, to be responsible for, among other requirements, ensuring that all health care professionals who provide medical advice services are appropriately licensed, certified, or registered, as specified. Existing law requires the respective healing arts licensing board to be responsible for enforcing specified provisions related to telephone medical advice services.

Existing law requires a telephone medical advice service to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice. Existing law further requires a telephone medical advice service to comply with all directions and requests for information made by the Department of Consumer Affairs.

This bill would specify that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses. The bill would specify that a telephone medical advice service is

required to comply with all directions and requests for information made by the respective healing arts licensing boards.

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

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

1 SECTION 1. Section 4999.2 of the Business and Professions
2 Code is amended to read:

3 4999.2. A telephone medical advice service shall be responsible
4 for complying with the following requirements:

5 (a) (1) Ensuring that all health care professionals who provide
6 medical advice services are appropriately licensed, certified, or
7 registered as a physician and surgeon pursuant to Chapter 5
8 (commencing with Section 2000) or the Osteopathic Initiative Act,
9 as a dentist, dental hygienist, dental hygienist in alternative
10 practice, or dental hygienist in extended functions pursuant to
11 Chapter 4 (commencing with Section 1600), as an occupational
12 therapist pursuant to Chapter 5.6 (commencing with Section 2570),
13 as a registered nurse pursuant to Chapter 6 (commencing with
14 Section 2700), as a psychologist pursuant to Chapter 6.6
15 (commencing with Section 2900), as a naturopathic doctor pursuant
16 to Chapter 8.2 (commencing with Section 3610), as a marriage
17 and family therapist pursuant to Chapter 13 (commencing with
18 Section 4980), as a licensed clinical social worker pursuant to
19 Chapter 14 (commencing with Section 4991), as a licensed
20 professional clinical counselor pursuant to Chapter 16
21 (commencing with Section 4999.10), as an optometrist pursuant
22 to Chapter 7 (commencing with Section 3000), or as a chiropractor
23 pursuant to the Chiropractic Initiative Act, and operating consistent
24 with the laws governing their respective scopes of practice in the
25 state within which they provide telephone medical advice services,
26 except as provided in subdivision (b).

27 (2) Ensuring that all health care professionals who provide
28 telephone medical advice services from an out-of-state location,
29 as identified in paragraph (1), are licensed, registered, or certified
30 in the state within which they are providing the telephone medical
31 advice services and are operating consistent with the laws
32 governing their respective *licenses and* scopes of practice.

1 (b) Ensuring that the telephone medical advice provided is
2 consistent with good professional practice.

3 (c) Maintaining records of telephone medical advice services,
4 including records of complaints, provided to patients in California
5 for a period of at least five years.

6 (d) Ensuring that no staff member uses a title or designation
7 when speaking to an enrollee, subscriber, or consumer that may
8 cause a reasonable person to believe that the staff member is a
9 licensed, certified, or registered health care professional described
10 in paragraph (1) of subdivision (a), unless the staff member is a
11 licensed, certified, or registered professional.

12 (e) Complying with all directions and requests for information
13 made by the ~~department.~~ *department and respective healing arts*
14 *licensing boards.*

15 (f) Notifying the department within 30 days of any change of
16 name, physical location, mailing address, or telephone number of
17 any business, owner, partner, corporate officer, or agent for service
18 of process in California, together with copies of all resolutions or
19 other written communications that substantiate these changes.

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AMENDED IN ASSEMBLY MARCH 7, 2022
AMENDED IN ASSEMBLY FEBRUARY 23, 2022
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1604

Introduced by Assembly Member Holden

January 4, 2022

An act to amend Sections 11140, 18502, 18931, 18933, 18936, 19402, and 19574 of, and to add Sections 8310.6, 18553, and 18930.1 to, the Government Code, relating to human resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1604, as amended, Holden. The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.

Existing law provides that it is the policy of the State of California that the composition of state boards and commissions shall be broadly reflective of the general public, including ethnic minorities and women.

This bill ~~would~~ *would, except as specified*, require that, on or after January 1, 2023, all state boards and commissions consisting of one or more volunteer members have at least one board member or commissioner from an underrepresented community. The bill would define the term “board member or commissioner from an underrepresented community” as an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native; who self-identifies as gay, lesbian, bisexual, or transgender; who is a veteran, as defined; or who has a disability, as defined. The bill would apply these requirements only as vacancies on state boards and commissions occur.

The California Constitution establishes the State Personnel Board (board) and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Under existing law, the board is authorized to conduct audits and investigations of the personnel practices of the Department of Human Resources and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. Existing law establishes the Department of Human Resources (department) and provides that, subject to the requirements of the California Constitution, it succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the board as its designee with respect to the board's administrative and ministerial functions.

This bill, among other things, would instead authorize the department, at the direction of and in conjunction with the State Personnel Board, to conduct audits and investigations of personnel practices of other departments and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. The bill would require the department to oversee compliance with rules prescribed by the board consistent with a merit-based civil service system to govern appointments, classifications, examinations, probationary periods, disciplinary actions, and other matters related to the board's constitutional authority, and require the department, pursuant to a process established by the State Personnel Board, to investigate complaints filed by employees in a state department's equal employment opportunity program and personnel office, other civil service employees, applicants, and members of the public alleging violations of civil service laws and report findings to the board for adjudication.

Existing law requires any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for major Asian and Pacific Islander groups, as specified.

This bill would require any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for specified African American groups. The bill would distinguish between African Americans who are descendants of persons

enslaved in the United States and African Americans who are not descendants of persons enslaved in the United States, as defined.

Existing law requires that lists of eligible applicants for civil service positions be established as a result of free competitive examinations. Existing law, with regard to the requirements governing examinations for establishing employment lists, authorizes the department to designate an appointing power to design, announce, or administer examinations and requires the board to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position.

This bill would require instead that the board establish a process that includes diversity and best practices in each aspect of the design, announcement, and administration of the examinations and, in developing qualifications for determining the fitness and qualifications of employees, create standards for statements of qualifications used as examination criteria for the State of California in determining the fitness and qualifications of employees for each class of position. The bill would also require that examinations with an oral component be video and otherwise electronically recorded and all other examination materials be maintained for each examination, as specified. The bill would also require the announcement for an examination to include the core competencies, as defined, and the standard statement of qualifications, if applicable.

Existing law requires all appointing authorities of state government to establish an effective program of upward mobility for employees in low-paying occupational groups. Existing law requires each upward mobility program to include annual goals for upward mobility and a timetable for when progress will occur, and requires the department to approve the goals and timetables. Existing law authorizes an appointing authority that determines that it will be unable to achieve the goals to ask the department for a reduction in the goals, as specified.

This bill would repeal the authorization for an appointing authority to ask the department for a reduction in their annual upward mobility goals, and would instead require the appointing authority to submit a report explaining the failure to achieve the goals and what requirements are necessary to facilitate achieving the goals, as specified, and then submit the report to specified persons. The bill would, on or before July 1, 2023, require the department to develop model upward mobility goals that include race, gender, LGBTQ, veteran status, or physical or mental

disability as factors, and to provide a report to the Legislature outlining the department workforce analysis used to develop those model goals.

Existing law authorizes a state appointing power to take adverse action against state civil service employees for specified causes for discipline, and provides procedures for state civil service disciplinary proceedings. Existing law authorizes the board to hold hearings and make investigations concerning all matters relating to the enforcement and effect of the State Civil Service Act, as specified.

This bill would require each appointing power to provide the Department of Human Resources with a report, no later than April 1 of each year, detailing certain information regarding adverse actions against state employees, including, but not limited to, the ethnicity, race, gender identity, or sexual orientation of each employee served with an adverse action in the preceding calendar year.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Upward Mobility Act of 2022.

3 SEC. 2. Section 8310.6 is added to the Government Code, to
4 read:

5 8310.6. (a) A state agency, board, or commission that directly
6 or by contract collects demographic data as to the ancestry or
7 ethnic origin of Californians shall use separate collection
8 categories and tabulations for the following:

9 (1) African Americans who are descendants of persons enslaved
10 in the United States.

11 (2) African Americans who are not descendants of persons
12 enslaved in the United States, including, but not limited to, African
13 Blacks, Caribbean Blacks, and other African Americans or Blacks.

14 (b) The data collected pursuant to the different collection
15 categories and tabulations described in subdivision (a) shall be
16 included in every demographic report on ancestry or ethnic origins
17 of Californians by the state agency, board, or commission
18 published or released on or after January 1, 2023. The data shall
19 be made available to the public in accordance with state and
20 federal law, except for personal identifying information, which
21 shall be deemed confidential.

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

2 (1) “African Americans who are descendants of persons
3 enslaved in the United States” means individuals who self-identify
4 as Black or African American with at least one ancestor who was
5 enslaved or subject to chattelization in the United States.

6 (2) “African Blacks” means individuals with origins from the
7 continent of Africa, including, but not limited to, one or more of
8 the following countries: Algeria, Angola, Benin, Botswana, Burkina
9 Faso, Burundi, Cabo Verde, Cameroon, Central African Republic,
10 Chad, Comoros, Côte d’Ivoire, Democratic Republic of Congo,
11 Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini, Ethiopia,
12 Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho,
13 Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius,
14 Morocco, Mozambique, Namibia, Niger, Nigeria, Republic of the
15 Congo, Rwanda, São Tomé and Príncipe, Senegal, Seychelles,
16 Sierra Leone, Somalia, South Africa, South Sudan, Sudan,
17 Tanzania, Togo, Tunisia, Uganda, Zambia, or Zimbabwe.

18 (3) “Caribbean Blacks” means individuals with origins from
19 Caribbean countries, including, but not limited to, one or more of
20 the following countries: Belize, Puerto Rico, Cuba, Jamaica, Haiti,
21 Trinidad and Tobago, Guyana, Barbados, Grenada, St. Croix, St.
22 Kitts, the Bahamas, and the Dominican Republic.

23 (4) “Other African Americans or Blacks” means individuals
24 with African ancestry originating from any country not included
25 in paragraph (2) or (3).

26 ~~SEC. 2:~~

27 ~~SEC. 3.~~ Section 11140 of the Government Code is amended
28 to read:

29 11140. (a) It is the policy of the State of California that the
30 composition of state boards and commissions shall be broadly
31 reflective of the general public, including ethnic minorities and
32 women.

33 (b) (1) On or after January 1, 2023, all state boards and
34 commissions consisting of one or more volunteer members or
35 commissioners shall have at least one volunteer board member or
36 commissioner from an underrepresented community.

37 (2) Notwithstanding paragraph (1), this subdivision shall not
38 apply to a state board or commission concerning public
39 employment, public education, or public contracting.

40 (c) For purposes of this section, the following definitions apply:

1 (1) “Board member or commissioner from an underrepresented
2 community” means all of the following:

3 (A) An individual who self-identifies as Black, African
4 American, Hispanic, Latino, Asian, Pacific Islander, Native
5 American, Native Hawaiian, or Alaska Native.

6 (B) An individual who self-identifies as gay, lesbian, bisexual,
7 or transgender.

8 (C) An individual who has served in and has been discharged
9 under other than dishonorable conditions from service in the United
10 States Army, Navy, Air Force, Marine Corps, or Coast Guard.

11 (D) An individual who has a “physical disability” or a “mental
12 disability” as defined in Section 12926.

13 (2) “Volunteer member or commissioner” means an
14 “administrative volunteer” as defined in subdivision (b) of Section
15 3111, who is selected to serve on a board or commission by the
16 appropriate nominating authority and who does not receive any
17 compensation or financial gain from any state agency, as defined
18 in Section 11000. A volunteer may receive per diem and remain
19 a volunteer within the meaning of this section, and that volunteer
20 shall not be considered to be an employee solely on the basis of
21 receiving the per diem.

22 (d) Notwithstanding the date specified in *paragraph (1) of*
23 *subdivision (b)*, the requirements of this section shall only apply
24 as vacancies on state boards and commissions occur.

25 (e) Subject to subdivision (d), this section shall only apply to a
26 vacancy appointment by the Governor or the Governor’s designees,
27 the chair of a board or commission or the chair’s designees, the
28 Speaker of the Assembly, and the President pro Tempore of the
29 Senate or Senate Rules Committee, or any combination thereof.

30 ~~SEC. 3.~~

31 *SEC. 4.* Section 18502 of the Government Code is amended
32 to read:

33 18502. (a) There is hereby created in state government the
34 Department of Human Resources. The department succeeds to and
35 is vested with the following:

36 (1) All of the powers and duties exercised and performed by
37 the Department of Personnel Administration.

38 (2) Those powers, duties, and authorities necessary to operate
39 the state civil service system pursuant to Article VII of the

1 California Constitution, this code, the merit principle, and
2 applicable rules duly adopted by the State Personnel Board.

3 (b) (1) The State Personnel Board shall prescribe rules
4 consistent with a merit based civil service system to govern
5 appointments, classifications, examinations, probationary periods,
6 disciplinary actions, and other matters related to the board's
7 authority under Article VII of the California Constitution. The
8 State Personnel Board shall ensure that all changes to regulations
9 are circulated for public comment.

10 (2) The department shall oversee compliance with rules
11 prescribed by the State Personnel Board consistent with a
12 merit-based civil service system to govern appointments,
13 classifications, examinations, probationary periods, disciplinary
14 actions, and other matters related to the board's authority under
15 Article VII of the California Constitution.

16 (3) The department, at the direction of and in conjunction with
17 the State Personnel Board, may conduct audits and investigations
18 of personnel practices of other departments and appointing
19 authorities to ensure compliance with civil service policies,
20 procedures, and statutes.

21 (4) Pursuant to a process established by the State Personnel
22 Board, the department shall investigate complaints filed by
23 employees in a state department's equal employment opportunity
24 program and personnel office, other civil service employees,
25 applicants, and members of the public alleging violations of civil
26 service laws and report findings to the State Personnel Board for
27 adjudication.

28 (c) This section shall not limit the authority of the Department
29 of Human Resources and the State Personnel Board to delegate,
30 share, or transfer between them responsibilities for programs within
31 their respective jurisdictions pursuant to an agreement.

32 (d) The rules and regulations of the State Personnel Board and
33 of the Department of Personnel Administration shall remain in
34 effect unless and until contradicted by the terms of this chapter or
35 amended or repealed by the board or the Department of Human
36 Resources.

37 ~~SEC. 4. Section 8310.6 is added to the Government Code, to~~
38 ~~read:~~

39 ~~8310.6. (a) A state agency, board, or commission that directly~~
40 ~~or by contract collects demographic data as to the ancestry or ethnic~~

1 origin of Californians shall use separate collection categories and
2 tabulations for the following:

3 (1) African Americans who are descendants of persons enslaved
4 in the United States.

5 (2) African Americans who are not descendants of persons
6 enslaved in the United States, including, but not limited to, African
7 Blacks, Caribbean Blacks, and other African Americans or Blacks.

8 (b) The data collected pursuant to the different collection
9 categories and tabulations described in subdivision (a) shall be
10 included in every demographic report on ancestry or ethnic origins
11 of Californians by the state agency, board, or commission published
12 or released on or after January 1, 2023. The data shall be made
13 available to the public in accordance with state and federal law,
14 except for personal identifying information, which shall be deemed
15 confidential.

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

17 (1) "African Americans who are descendants of persons enslaved
18 in the United States" means individuals who self-identify as Black
19 or African American with at least one ancestor who was enslaved
20 or subject to chattelization in the United States.

21 (2) "African Blacks" means individuals with origins from the
22 continent of Africa, including, but not limited to, one or more of
23 the following countries: Algeria, Angola, Benin, Botswana,
24 Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African
25 Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of
26 Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini,
27 Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya,
28 Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania,
29 Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria,
30 Republic of the Congo, Rwanda, São Tomé and Príncipe, Senegal,
31 Seychelles, Sierra Leone, Somalia, South Africa, South Sudan,
32 Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, or Zimbabwe.

33 (3) "Caribbean Blacks" means individuals with origins from
34 Caribbean countries, including, but not limited to, one or more of
35 the following countries: Belize, Puerto Rico, Cuba, Jamaica, Haiti,
36 Trinidad and Tobago, Guyana, Barbados, Grenada, St. Croix, St.
37 Kitts, the Bahamas, and the Dominican Republic.

38 (4) "Other African Americans or Blacks" means individuals
39 with African ancestry originating from any country not included
40 in paragraph (2) or (3).

1 SEC. 5. Section 18553 is added to the Government Code, to
2 read:

3 18553. “Core competencies” mean the particular education,
4 experience, knowledge, and abilities that each applicant is required
5 to have in order to be considered eligible for a particular group of
6 classifications.

7 SEC. 6. Section 18930.1 is added to the Government Code, to
8 read:

9 18930.1. The board shall establish a process that includes
10 diversity and best practices in each aspect of the design,
11 announcement, and administration of examinations for the
12 establishment of employment lists.

13 SEC. 7. Section 18931 of the Government Code is amended
14 to read:

15 18931. (a) The board shall establish minimum qualifications
16 for determining the fitness and qualifications of employees for
17 each class of position. The department may require applicants for
18 examination or appointment to provide documentation as it deems
19 necessary to establish the applicants’ qualifications.

20 (b) The board, in developing the qualifications referenced in
21 subdivision (a), shall also incorporate standards for statements of
22 qualifications used as examination criteria for the State of
23 California in determining the fitness and qualifications of
24 employees for each class of position. The department may require
25 applicants for examination or appointment to provide
26 documentation as it deems necessary to establish the applicants’
27 qualifications.

28 (c) Whenever the law requires that an applicant for a position
29 as a peace officer be screened to ensure that the applicant is free
30 from emotional and mental impairment, the department or the
31 designated appointing authority shall undertake that screening
32 subject to the applicant’s right to appeal to the board.

33 SEC. 8. Section 18933 of the Government Code is amended
34 to read:

35 18933. (a) Within a reasonable time before the scheduled date,
36 the department or a designated appointing power shall announce
37 or advertise examinations for the establishment of eligible lists.
38 The announcement shall include the following:

39 (1) The date and place of the examination.

1 (2) The nature of the minimum qualifications and the functional
2 core competencies.

3 (3) The general scope of the examination.

4 (4) The relative weight of its several parts if more than one type
5 of test is to be utilized.

6 (5) Any other information the department deems proper.

7 (6) The standard statement of qualifications, if applicable.

8 (b) The department shall notify the Department of Veterans
9 Affairs when any promotional examination for the establishment
10 of an eligible list is announced or advertised to eligible candidates.
11 The notification shall state the job position and include all of the
12 information listed in paragraphs (1) to (6), inclusive, of subdivision
13 (a).

14 SEC. 9. Section 18936 of the Government Code is amended
15 to read:

16 18936. (a) All examination materials, including examination
17 questions and any written material, shall be maintained for each
18 examination for three years, after which they shall be disposed of
19 pursuant to a policy adopted by the board.

20 (b) Examinations that have an oral examination component shall
21 be video or otherwise electronically recorded. Examinees shall be
22 informed that they are being recorded. The recordings shall be
23 maintained for each examination for three years, after which they
24 shall be disposed of pursuant to a policy adopted by the board.

25 (c) The final earned rating of each person competing in any
26 examination shall be determined by the weighted average of the
27 earned ratings on all phases of the examination, according to the
28 weights for each phase established by the department or a
29 designated appointing power in advance of the giving of the
30 examination and published as a part of the announcement of the
31 examination.

32 (d) The department or a designated appointing power may set
33 minimum qualifying ratings for each phase of an examination and
34 may provide that competitors failing to achieve those ratings in
35 any phase shall be disqualified from any further participation in
36 the examination.

37 SEC. 10. Section 19402 of the Government Code is amended
38 to read:

39 19402. (a) All upward mobility programs shall include annual
40 goals that include the number of employees expected to progress

1 from positions in low-paying occupational groups to entry-level
2 technical, professional, and administrative positions, and the
3 timeframe within which this progress shall occur. The Department
4 of Human Resources shall be responsible for approving each
5 department's annual upward mobility goals and timetables.

6 (b) (1) By July 1, 2023, the Department of Human Resources
7 shall develop model upward mobility goals based on department
8 workforce analysis and shall post the model goals on its internet
9 website.

10 (2) The model upward mobility goals may include race, gender,
11 LGBTQ, veteran status, and physical or mental disability as factors
12 to the extent permissible under state and federal equal protection
13 laws.

14 (3) On or before July 1, 2023, the Department of Human
15 Resources shall provide a copy of the model upward mobility goals
16 and a corresponding report outlining the workforce analysis used
17 to develop the model upward mobility goals to each member of
18 the Legislature. The report shall be submitted in compliance with
19 Section 9795.

20 (c) If the appointing authority is unable to meet its annual
21 upward mobility goals and timetables for two consecutive fiscal
22 years, the appointing authority shall submit a report explaining
23 why it failed to achieve its goals and what requirements are
24 necessary to facilitate achieving its goals in the subsequent two
25 fiscal years. The appointing authority shall submit the report to
26 the department, the Director of the Department of Finance, and
27 the Legislative Analyst.

28 SEC. 11. Section 19574 of the Government Code is amended
29 to read:

30 19574. (a) The appointing power, or its authorized
31 representative, may take adverse action against an employee for
32 one or more of the causes for discipline specified in this article.
33 Adverse action is valid only if a written notice is served on the
34 employee prior to the effective date of the action, as defined by
35 board rule. The notice shall be served upon the employee either
36 personally or by mail and shall include: (1) a statement of the
37 nature of the adverse action; (2) the effective date of the action;
38 (3) a statement of the reasons therefor in ordinary language; (4) a
39 statement advising the employee of the right to answer the notice
40 orally or in writing; and (5) a statement advising the employee of

1 the time within which an appeal must be filed. The notice shall be
2 filed with the board not later than 15 calendar days after the
3 effective date of the adverse action.

4 (b) Effective January 1, 1996, this subdivision shall apply only
5 to state employees in State Bargaining Unit 5. This section shall
6 not apply to discipline as defined by Section 19576.1.

7 (c) (1) No later than April 1 of each year, each appointing power
8 shall provide to the Department of Human Resources a report
9 detailing all of the following information:

10 (A) The total number of adverse actions served on state
11 employees in the preceding calendar year.

12 (B) The ethnicity or race of each employee served with an
13 adverse action in the preceding calendar year, if available.

14 (C) The gender identity or sexual orientation of each employee
15 served with an adverse action in the preceding calendar year, if
16 available.

17 (D) The statutory basis for discipline under Section 19572 for
18 each adverse action served in the preceding calendar year.

19 (E) A brief factual summary of the basis for discipline for each
20 adverse action served in the preceding calendar year.

21 (F) The type of discipline imposed in each adverse action,
22 including, but not limited to, outright termination, the nature of
23 any demotion, the length of any suspension, or any other type of
24 discipline.

25 (2) No later than June 1 of each year, the department shall
26 include in its annual workforce analysis and census report the items
27 as reported by each appointing authority pursuant to this
28 subdivision and submit this report to the Legislature.

29 (3) This report shall be submitted in compliance with Section
30 9795.

31 (4) The information required pursuant to subparagraphs (B) and
32 (C) of paragraph (1) may be provided at the discretion of the
33 employee, and an appointing power shall not require an employee
34 to disclose this information.

35 SEC. 12. The provisions of this act are severable. If any
36 provision of this act or its application is held invalid, that invalidity
37 shall not affect other provisions or applications that can be given
38 effect without the invalid provision or application.

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AMENDED IN ASSEMBLY APRIL 27, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1662

Introduced by Assembly Member Gipson

January 18, 2022

An act to ~~amend Section 480 of~~ *add Section 480.7* to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1662, as amended, Gipson. Licensing boards: disqualification from licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified.

This bill would ~~authorize a prospective applicant that has been convicted of a crime to submit to a board a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require a board that receives that request to determine if the prospective applicant would be disqualified from licensure by the board based on the information submitted with the request, and deliver that determination to the prospective applicant.~~ *require a board to establish a process by which prospective applicants may request a preapplication determination as to whether their criminal history could be cause for denial of a completed application for licensure by the board. The bill*

would provide that the preapplication determination, among other things, may be requested by the prospective applicant at any time prior to the submission of an application and would require the board to include specified written information regarding the criteria used to evaluate criminal history and how the prospective applicant may challenge a denial by the board. The bill would provide that a preapplication determination does not constitute a denial or disqualification of an application and would prohibit requiring a preapplication determination for licensure or for participation in any education or training program. The bill would require a board to publish information regarding its process for requesting a preapplication determination on its internet website and authorize a board to charge a fee, as specified, to be deposited by the board into the appropriate fund and available only upon appropriation by the Legislature.

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

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

- 1 SECTION 1. Section 480.7 is added to the Business and
- 2 Professions Code, to read:
- 3 480.7. (a) A board shall establish a process by which
- 4 prospective applicants may request a preapplication determination
- 5 as to whether their criminal history could be cause for denial of
- 6 a completed application for licensure by the board pursuant to
- 7 Section 480.
- 8 (b) The process required by subdivision (a) shall allow for
- 9 prospective applicants to request a preapplication determination
- 10 at any time prior to the submission of a completed application
- 11 through any method through which the board allows for the
- 12 submission of completed applications.
- 13 (c) (1) If a prospective applicant requests a preapplication
- 14 determination, a board designated in subdivision (b) of Section
- 15 144 may require a prospective applicant to furnish a full set of
- 16 fingerprints for purposes of conducting a criminal history record
- 17 check as part of a preapplication determination.
- 18 (2) Prospective applicants seeking a preapplication
- 19 determination shall be considered applicants for purposes of
- 20 Section 144.

1 (3) A board that receives criminal history information as part
2 of a preapplication determination is not required to request
3 subsequent arrest notification service from the Department of
4 Justice pursuant to Section 11105.2 of the Penal Code.

5 (d) If a prospective applicant requests a preapplication
6 determination, a board issuing a license pursuant to Chapter 3
7 (commencing with Section 5500), Chapter 3.5 (commencing with
8 Section 5615), Chapter 10 (commencing with Section 7301),
9 Chapter 20 (commencing with Section 9800), or Chapter 20.3
10 (commencing with Section 9880), of Division 3, or Chapter 3
11 (commencing with Section 19000) or Chapter 3.1 (commencing
12 with Section 19225) of Division 8 may require prospective
13 applicants for licensure under those chapters to disclose criminal
14 conviction history as part of a preapplication determination.

15 (e) A preapplication determination shall not constitute the denial
16 or disqualification of an application for purposes of Section 489
17 or any other law.

18 (f) Upon making a preapplication determination finding that a
19 prospective applicant's criminal history could be cause for denial
20 of a completed application, a board shall provide the prospective
21 applicant with all of the following in writing:

22 (1) A summary of the criteria used by the board to consider
23 whether a crime is considered to be substantially related to the
24 qualifications, functions, or duties of the business or profession it
25 regulates consistent with Section 481.

26 (2) The processes for the applicant to request a copy of the
27 applicant's complete conviction history and question the accuracy
28 or completeness of the record pursuant to Sections 11122 to 11127,
29 inclusive, of the Penal Code.

30 (3) That the applicant would have the right to appeal the board's
31 decision.

32 (4) Any existing procedure the board has for the prospective
33 applicant would have to challenge the decision or to request
34 reconsideration following the denial of a completed application,
35 including a copy of the criteria relating to rehabilitation formulated
36 under Section 482.

37 (g) A board shall publish information regarding its process for
38 requesting a preapplication determination on its internet website.

1 (h) A preapplication determination shall not be a requirement
2 for licensure or for participation in any education or training
3 program.

4 (i) Pursuant to this section, a board may charge a fee to a
5 prospective applicant in an amount not to exceed the lesser of fifty
6 dollars (\$50) or the reasonable cost of administering this section.
7 The fee shall be deposited by the board into the appropriate fund
8 and shall be available only upon appropriation by the Legislature.

9 (j) For purposes of this section, "board" includes each licensing
10 entity listed in Section 101, excluding the Bureau for Private
11 Postsecondary Education and the State Athletic Commission, and
12 the Department of Real Estate.

13 SECTION 1. Section 480 of the Business and Professions Code
14 is amended to read:

15 480. (a) Notwithstanding any provision of this code, a board
16 may deny a license regulated by this code on the grounds that the
17 applicant has been convicted of a crime or has been subject to
18 formal discipline only if either of the following conditions are met:

19 (1) The applicant has been convicted of a crime within the
20 preceding seven years from the date of application that is
21 substantially related to the qualifications, functions, or duties of
22 the business or profession for which the application is made,
23 regardless of whether the applicant was incarcerated for that crime,
24 or the applicant has been convicted of a crime that is substantially
25 related to the qualifications, functions, or duties of the business or
26 profession for which the application is made and for which the
27 applicant is presently incarcerated or for which the applicant was
28 released from incarceration within the preceding seven years from
29 the date of application. However, the preceding seven-year
30 limitation shall not apply in either of the following situations:

31 (A) The applicant was convicted of a serious felony, as defined
32 in Section 1192.7 of the Penal Code or a crime for which
33 registration is required pursuant to paragraph (2) or (3) of
34 subdivision (d) of Section 290 of the Penal Code.

35 (B) The applicant was convicted of a financial crime currently
36 classified as a felony that is directly and adversely related to the
37 fiduciary qualifications, functions, or duties of the business or
38 profession for which the application is made, pursuant to
39 regulations adopted by the board, and for which the applicant is
40 seeking licensure under any of the following:

- ~~(i) Chapter 6 (commencing with Section 6500) of Division 3.~~
- ~~(ii) Chapter 9 (commencing with Section 7000) of Division 3.~~
- ~~(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.~~

~~(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.~~

- ~~(v) Division 4 (commencing with Section 10000).~~

~~(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.~~

~~(b) Notwithstanding any provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.~~

~~(c) Notwithstanding any provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.~~

~~(d) Notwithstanding any provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.~~

1 ~~(e) A board may deny a license regulated by this code on the~~
 2 ~~ground that the applicant knowingly made a false statement of fact~~
 3 ~~that is required to be revealed in the application for the license. A~~
 4 ~~board shall not deny a license based solely on an applicant’s failure~~
 5 ~~to disclose a fact that would not have been cause for denial of the~~
 6 ~~license had it been disclosed.~~

7 ~~(f) A board shall follow the following procedures in requesting~~
 8 ~~or acting on an applicant’s criminal history information:~~

9 ~~(1) A board issuing a license pursuant to Chapter 3 (commencing~~
 10 ~~with Section 5500), Chapter 3.5 (commencing with Section 5615),~~
 11 ~~Chapter 10 (commencing with Section 7301), Chapter 20~~
 12 ~~(commencing with Section 9800), or Chapter 20.3 (commencing~~
 13 ~~with Section 9880), of Division 3, or Chapter 3 (commencing with~~
 14 ~~Section 19000) or Chapter 3.1 (commencing with Section 19225)~~
 15 ~~of Division 8 may require applicants for licensure under those~~
 16 ~~chapters to disclose criminal conviction history on an application~~
 17 ~~for licensure.~~

18 ~~(2) Except as provided in paragraph (1), a board shall not require~~
 19 ~~an applicant for licensure to disclose any information or~~
 20 ~~documentation regarding the applicant’s criminal history. However,~~
 21 ~~a board may request mitigating information from an applicant~~
 22 ~~regarding the applicant’s criminal history for purposes of~~
 23 ~~determining substantial relation or demonstrating evidence of~~
 24 ~~rehabilitation, provided that the applicant is informed that~~
 25 ~~disclosure is voluntary and that the applicant’s decision not to~~
 26 ~~disclose any information shall not be a factor in a board’s decision~~
 27 ~~to grant or deny an application for licensure.~~

28 ~~(3) If a board decides to deny an application for licensure based~~
 29 ~~solely or in part on the applicant’s conviction history, the board~~
 30 ~~shall notify the applicant in writing of all of the following:~~

- 31 ~~(A) The denial or disqualification of licensure.~~
- 32 ~~(B) Any existing procedure the board has for the applicant to~~
 33 ~~challenge the decision or to request reconsideration.~~
- 34 ~~(C) That the applicant has the right to appeal the board’s~~
 35 ~~decision.~~
- 36 ~~(D) The processes for the applicant to request a copy of the~~
 37 ~~applicant’s complete conviction history and question the accuracy~~
 38 ~~or completeness of the record pursuant to Sections 11122 to 11127~~
 39 ~~of the Penal Code.~~

1 ~~(g) (1) A prospective applicant that has been convicted of a~~
2 ~~crime may submit to a board, by mail or email, and at any time,~~
3 ~~including before obtaining any training or education required for~~
4 ~~licensure by that board or before paying any application fee, a~~
5 ~~request for a preapplication determination that includes information~~
6 ~~provided by the prospective applicant regarding their criminal~~
7 ~~conviction.~~

8 ~~(2) Upon receiving a request submitted pursuant to paragraph~~
9 ~~(1), a board shall determine if the prospective applicant may be~~
10 ~~disqualified from licensure by the board based on the information~~
11 ~~submitted with the request, and deliver the determination by mail~~
12 ~~or email to the prospective applicant within a reasonable time.~~

13 ~~(h) (1) For a minimum of three years, each board under this~~
14 ~~code shall retain application forms and other documents submitted~~
15 ~~by an applicant, any notice provided to an applicant, all other~~
16 ~~communications received from and provided to an applicant, and~~
17 ~~criminal history reports of an applicant.~~

18 ~~(2) Each board under this code shall retain the number of~~
19 ~~applications received for each license and the number of~~
20 ~~applications requiring inquiries regarding criminal history. In~~
21 ~~addition, each licensing authority shall retain all of the following~~
22 ~~information:~~

23 ~~(A) The number of applicants with a criminal record who~~
24 ~~received notice of denial or disqualification of licensure.~~

25 ~~(B) The number of applicants with a criminal record who~~
26 ~~provided evidence of mitigation or rehabilitation.~~

27 ~~(C) The number of applicants with a criminal record who~~
28 ~~appealed any denial or disqualification of licensure.~~

29 ~~(D) The final disposition and demographic information,~~
30 ~~consisting of voluntarily provided information on race or gender,~~
31 ~~of any applicant described in subparagraph (A), (B), or (C).~~

32 ~~(3) (A) Each board under this code shall annually make~~
33 ~~available to the public through the board's internet website and~~
34 ~~through a report submitted to the appropriate policy committees~~
35 ~~of the Legislature deidentified information collected pursuant to~~
36 ~~this subdivision. Each board shall ensure confidentiality of the~~
37 ~~individual applicants.~~

38 ~~(B) A report pursuant to subparagraph (A) shall be submitted~~
39 ~~in compliance with Section 9795 of the Government Code.~~

1 (i) ~~“Conviction” as used in this section shall have the same~~
2 ~~meaning as defined in Section 7.5.~~

3 (j) ~~This section does not in any way modify or otherwise affect~~
4 ~~the existing authority of the following entities in regard to~~
5 ~~licensure:~~

6 ~~(1) The State Athletic Commission.~~

7 ~~(2) The Bureau for Private Postsecondary Education.~~

8 ~~(3) The California Horse Racing Board.~~

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ASSEMBLY BILL**No. 1733**

Introduced by Assembly Member QuirkJanuary 31, 2022

An act to amend Section 101.7 of the Business and Professions Code, and to amend Sections 11122.5, 11123, 11124, 11125, 11125.4, 11128.5, and 11129 of, and to repeal Section 11123.5 of, the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1733, as introduced, Quirk. State bodies: open meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines a “meeting” to include any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. The act authorizes teleconferenced meetings under specified circumstances, provided that at least one member of the state body is physically present at the location specified in the notice of the meeting, and all votes taken during a teleconferenced meeting are taken by rollcall. The act provides that if the state body elects to conduct a meeting or proceeding by teleconference, the state body is required to post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. The act requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference

location to be accessible to the public, and the agenda to provide an opportunity for members of the public to address the state body at each teleconference location.

Existing law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Existing law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Existing law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or reconvene any hearing being held, or noticed, or ordered to be held by a state body at any meeting.

This bill would specify that a “meeting” under the act, includes a meeting held entirely by teleconference. The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public. The bill would instead require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service, as specified, and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely. The bill would require the state body to provide an opportunity for members of the public to address the state body. The bill would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting. The bill would require the agenda to be posted 10 days in advance of the meeting, or as provided in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body’s internet website and, on the day of the meeting, at any physical meeting location designated in the notice. The bill would also provide that the notice of the meeting is required to specify the means by which a meeting may be accessed by teleconference. The bill would prohibit the notice and agenda from disclosing any information regarding any remote location

from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room, as specified.

If a state body discovers that a means of remote participation, as defined, required by these provisions has failed during a meeting and cannot be restored, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

This bill would remove certain notice provisions specific to advisory bodies of state boards.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition an internet website or other online platform that may require identification to log into a teleconference.

Existing law limits the purposes for which a state body is authorized to call a special meeting, including, among others, consideration of disciplinary action involving a state officer or employee and consideration of license examinations and applications.

This bill would add to those purposes deliberation on a decision to be reached in a proceeding required to be conducted pursuant to provisions governing administrative adjudicative proceedings or similar provisions of law.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is composed of various boards, as defined, that license and regulate various professions and vocations. Existing law requires the boards to meet at least 2 times each calendar year. Existing law requires those boards to meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

This bill would exempt a board from the requirement to meet in northern and southern California each once a year if the board's meetings are held entirely by teleconference.

This bill would also make conforming changes.

This bill would declare the Legislature’s intent, consistent with the Governor’s Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

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

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

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

1 SECTION 1. Section 101.7 of the Business and Professions
2 Code is amended to read:
3 101.7. (a) Notwithstanding any other provision of law, boards
4 shall meet at least two times each calendar year. Boards shall meet
5 at least once each calendar year in northern California and once
6 each calendar year in southern California in order to facilitate
7 participation by the public and its ~~licensees~~. *licensees, unless the*
8 *board’s meetings are held entirely by teleconference.*
9 (b) The director has discretion to exempt any board from the
10 requirement in subdivision (a) upon a showing of good cause that
11 the board is not able to meet at least two times in a calendar year.
12 (c) The director may call for a special meeting of the board
13 when a board is not fulfilling its duties.
14 (d) An agency within the department that is required to provide
15 a written notice pursuant to subdivision (a) of Section 11125 of
16 the Government Code, may provide that notice by regular mail,
17 email, or by both regular mail and email. An agency shall give a
18 person who requests a notice the option of receiving the notice by
19 regular mail, email, or by both regular mail and email. The agency
20 shall comply with the requester’s chosen form or forms of notice.
21 (e) An agency that plans to webcast a meeting shall include in
22 the meeting notice required pursuant to subdivision (a) of Section
23 11125 of the Government Code a statement of the board’s intent
24 to webcast the meeting. An agency may webcast a meeting even
25 if the agency fails to include that statement of intent in the notice.
26 SEC. 2. Section 11122.5 of the Government Code is amended
27 to read:

1 11122.5. (a) As used in this article, “meeting” includes any
2 congregation of a majority of the members of a state body at the
3 same time and ~~place~~ *place, including one held entirely by*
4 *teleconference*, to hear, discuss, or deliberate upon any item that
5 is within the subject matter jurisdiction of the state body to which
6 it pertains.

7 (b) (1) A majority of the members of a state body shall not,
8 outside of a meeting authorized by this chapter, use a series of
9 communications of any kind, directly or through intermediaries,
10 to discuss, deliberate, or take action on any item of business that
11 is within the subject matter of the state body.

12 (2) Paragraph (1) shall not be construed to prevent an employee
13 or official of a state agency from engaging in separate
14 conversations or communications outside of a meeting authorized
15 by this chapter with members of a legislative body in order to
16 answer questions or provide information regarding a matter that
17 is within the subject matter jurisdiction of the state agency, if that
18 person does not communicate to members of the legislative body
19 the comments or position of any other member or members of the
20 legislative body.

21 (c) The prohibitions of this article do not apply to any of the
22 following:

23 (1) Individual contacts or conversations between a member of
24 a state body and any other person that do not violate subdivision
25 (b).

26 (2) (A) The attendance of a majority of the members of a state
27 body at a conference or similar gathering open to the public that
28 involves a discussion of issues of general interest to the public or
29 to public agencies of the type represented by the state body, if a
30 majority of the members do not discuss among themselves, other
31 than as part of the scheduled program, business of a specified
32 nature that is within the subject matter jurisdiction of the state
33 body.

34 (B) Subparagraph (A) does not allow members of the public
35 free admission to a conference or similar gathering at which the
36 organizers have required other participants or registrants to pay
37 fees or charges as a condition of attendance.

38 (3) The attendance of a majority of the members of a state body
39 at an open and publicized meeting organized to address a topic of
40 state concern by a person or organization other than the state body,

1 if a majority of the members do not discuss among themselves,
 2 other than as part of the scheduled program, business of a specific
 3 nature that is within the subject matter jurisdiction of the state
 4 body.

5 (4) The attendance of a majority of the members of a state body
 6 at an open and noticed meeting of another state body or of a
 7 legislative body of a local agency as defined by Section 54951, if
 8 a majority of the members do not discuss among themselves, other
 9 than as part of the scheduled meeting, business of a specific nature
 10 that is within the subject matter jurisdiction of the other state body.

11 (5) The attendance of a majority of the members of a state body
 12 at a purely social or ceremonial occasion, if a majority of the
 13 members do not discuss among themselves business of a specific
 14 nature that is within the subject matter jurisdiction of the state
 15 body.

16 (6) The attendance of a majority of the members of a state body
 17 at an open and noticed meeting of a standing committee of that
 18 body, if the members of the state body who are not members of
 19 the standing committee attend only as observers.

20 SEC. 3. Section 11123 of the Government Code is amended
 21 to read:

22 11123. (a) All meetings of a state body shall be open and
 23 public and all persons shall be permitted to attend any meeting of
 24 a state body except as otherwise provided in this article.

25 (b) (1) This article ~~does not prohibit~~ *requires* a state body ~~from~~
 26 ~~holding to hold~~ an open ~~or closed~~ meeting by teleconference for
 27 the benefit of the public and state ~~body.~~ *body, and allows for use*
 28 *of teleconference in closed sessions.* The meeting or proceeding
 29 held by teleconference shall otherwise comply with all applicable
 30 requirements or laws relating to a specific type of meeting or
 31 proceeding, including *all of* the following:

32 (A) ~~The teleconferencing~~ *teleconferenced* meeting shall comply
 33 with all requirements of this article applicable to other meetings.

34 (B) The portion of the teleconferenced meeting that is required
 35 to be open to the public *at any physical location specified in the*
 36 *notice of the meeting* shall be *visible and* audible to the public at
 37 the location specified in the notice of the meeting.

38 (C) ~~If the~~ *The* state body ~~elects to conduct a meeting or~~
 39 ~~proceeding by teleconference, it shall post agendas at all~~
 40 ~~teleconference locations and shall~~ conduct teleconference meetings

1 in a manner that protects the rights of any party or member of the
 2 public appearing before the state body. *The state body shall provide*
 3 *a means by which the public may remotely hear audio of the*
 4 *meeting or remotely hear and observe the meeting, and a means*
 5 *by which the public may remotely address the state body, as*
 6 *appropriate, via either a two-way audio-visual platform or a*
 7 *two-way telephonic service. Should the state body elect to use a*
 8 *two-way telephonic service only, it must also provide live*
 9 *webcasting of the open meeting. The applicable teleconference*
 10 *phone number or internet website, or other information indicating*
 11 *how the public can access the meeting remotely, shall be specified*
 12 *in any notice required by this article. ~~Each teleconference location~~*
 13 *shall be identified in the notice and agenda of the meeting or*
 14 *proceeding, and each teleconference location shall be accessible*
 15 *to the public. The agenda shall provide an opportunity for members*
 16 *of the public to remotely address the state body directly pursuant*
 17 *to Section ~~11125.7~~ at each teleconference location. 11125.7.*

18 (D) *The state body shall provide members of the public with a*
 19 *physical location at which the public may hear, observe, and*
 20 *address the state body. Each physical location shall be identified*
 21 *in the notice of the meeting.*

22 (E) *Members of the public shall be entitled to exercise their*
 23 *right to directly address the state body during the teleconferenced*
 24 *meeting without being required to submit public comments prior*
 25 *to the meeting or in writing.*

26 ~~(D)~~

27 (F) *The members of the state body may remotely participate in*
 28 *a meeting. The members of the state body may also be physically*
 29 *present and participate at a designated physical meeting location,*
 30 *but no member of the state body shall be required to be physically*
 31 *present at any physical meeting location designated in the notice*
 32 *of the meeting in order to be deemed present at the meeting. All*
 33 *votes taken during a teleconferenced meeting shall be by rollcall.*

34 ~~(E)~~ *The portion of the teleconferenced meeting that is closed*
 35 *to the public may not include the consideration of any agenda item*
 36 *being heard pursuant to Section ~~11125.5~~.*

37 ~~(F)~~ *At least one member of the state body shall be physically*
 38 *present at the location specified in the notice of the meeting.*

39 (G) *This section does not affect the requirement prescribed by*
 40 *this article that the state body post an agenda of a meeting in*

1 accordance with the applicable notice requirements of this article,
2 including Section 11125, requiring the state body post an agenda
3 of a meeting at least 10 days in advance of the meeting, Section
4 11125.4, applicable to special meetings, and Sections 11125.5 and
5 11125.6, applicable to emergency meetings. The state body shall
6 post the agenda on its internet website and, on the day of the
7 meeting, at any physical meeting location designated in the notice
8 of the meeting. The notice and agenda shall not disclose
9 information regarding any remote location from which a member
10 is participating.

11 (H) Upon discovering that a means of remote participation
12 required by this section has failed during a meeting and cannot
13 be restored, the state body shall end or adjourn the meeting in
14 accordance with Section 11128.5. In addition to any other
15 requirements that may apply, the state body shall provide notice
16 of the meeting's end or adjournment on the state body's internet
17 website and by email to any person who has requested notice of
18 meetings of the state body by email under this article. If the meeting
19 will be adjourned and reconvened on the same day, further notice
20 shall be provided by an automated message on a telephone line
21 posted on the state body's agenda, internet website, or by a similar
22 means, that will communicate when the state body intends to
23 reconvene the meeting and how a member of the public may hear
24 audio of the meeting or observe the meeting.

25 (2) For the purposes of this subdivision, ~~“teleconference”~~ all of
26 the following definitions shall apply:

27 (A) ~~“Teleconference”~~ means a meeting of a state ~~body, the~~
28 ~~members of which are at different locations, connected~~ body that
29 provides for a connection by electronic means, including by
30 telephone, an internet website, or other online platform, through
31 ~~either audio or both~~ audio and video. This section does not prohibit
32 a state body from providing members of the public with additional
33 physical locations in which the public may observe ~~or~~ and address
34 the state body by electronic means, through either audio or both
35 audio and video.

36 (B) ~~“Remote location”~~ means a location from which a member
37 of a state body participates in a meeting other than any physical
38 meeting location designated in the notice of the meeting. Remote
39 locations need not be accessible to the public.

1 (C) “Remote participation” means participation in a meeting
2 by teleconference at a location other than any physical meeting
3 location designated in the notice of the meeting. Watching or
4 listening to a meeting via webcasting or another similar electronic
5 medium that does not permit members to interactively hear,
6 discuss, or deliberate on matters, does not constitute participation
7 remotely.

8 (D) “Two-way audio-visual platform” means an online platform
9 that provides participants with the ability to participate in a
10 meeting via both an interactive video conference and a two-way
11 telephonic function.

12 (E) “Two-way telephonic service” means a telephone service
13 that does not require internet access, is not provided as part of a
14 two-way audio-visual platform, and allows participants to dial a
15 telephone number to listen and verbally participate.

16 (F) “Webcasting” means a streaming video broadcast online
17 or on television, using streaming media technology to distribute
18 a single content source to many simultaneous listeners and viewers.
19 This section does not prohibit a state body from providing members
20 of the public with additional physical locations in which the public
21 may observe and address the state body by electronic means.

22 (c) The state body shall publicly report any action taken and the
23 vote or abstention on that action of each member present for the
24 action.

25 (d) A state body that is organized within the Department of
26 Consumer Affairs and meets at least two times each calendar year
27 shall be deemed to have met the requirements of subdivision (a)
28 of Section 101.7 of the Business and Professions Code.

29 (e) This section shall not be construed to deny state bodies the
30 ability to encourage full participation by appointees with
31 developmental or other disabilities.

32 (f) If a member of a state body attends a meeting by
33 teleconference from a remote location, the member shall disclose
34 whether any other individuals 18 years of age or older are present
35 in the room at the remote location with the member, and the
36 general nature of the member’s relationship with any such
37 individuals.

38 SEC. 4. Section 11123.5 of the Government Code is repealed.

39 ~~11123.5. (a) In addition to the authorization to hold a meeting~~
40 ~~by teleconference pursuant to subdivision (b) of Section 11123,~~

1 any state body that is an advisory board, advisory commission,
2 advisory committee, advisory subcommittee, or similar
3 multimember advisory body may hold an open meeting by
4 teleconference as described in this section, provided the meeting
5 complies with all of the section's requirements and, except as set
6 forth in this section, it also complies with all other applicable
7 requirements of this article.

8 (b) A member of a state body as described in subdivision (a)
9 who participates in a teleconference meeting from a remote location
10 subject to this section's requirements shall be listed in the minutes
11 of the meeting.

12 (c) The state body shall provide notice to the public at least 24
13 hours before the meeting that identifies any member who will
14 participate remotely by posting the notice on its Internet Web site
15 and by emailing notice to any person who has requested notice of
16 meetings of the state body under this article. The location of a
17 member of a state body who will participate remotely is not
18 required to be disclosed in the public notice or email and need not
19 be accessible to the public. The notice of the meeting shall also
20 identify the primary physical meeting location designated pursuant
21 to subdivision (e).

22 (d) This section does not affect the requirement prescribed by
23 this article that the state body post an agenda of a meeting at least
24 10 days in advance of the meeting. The agenda shall include
25 information regarding the physical meeting location designated
26 pursuant to subdivision (c), but is not required to disclose
27 information regarding any remote location.

28 (e) A state body described in subdivision (a) shall designate the
29 primary physical meeting location in the notice of the meeting
30 where members of the public may physically attend the meeting
31 and participate. A quorum of the members of the state body shall
32 be in attendance at the primary physical meeting location, and
33 members of the state body participating remotely shall not count
34 towards establishing a quorum. All decisions taken during a
35 meeting by teleconference shall be by rolleall vote. The state body
36 shall post the agenda at the primary physical meeting location, but
37 need not post the agenda at a remote location.

38 (f) When a member of a state body described in subdivision (a)
39 participates remotely in a meeting subject to this section's
40 requirements, the state body shall provide a means by which the

1 public may remotely hear audio of the meeting or remotely observe
2 the meeting, including, if available, equal access equivalent to
3 members of the state body participating remotely. The applicable
4 teleconference phone number or Internet Web site, or other
5 information indicating how the public can access the meeting
6 remotely, shall be in the 24-hour notice described in subdivision
7 (a) that is available to the public.

8 (g) Upon discovering that a means of remote access required
9 by subdivision (f) has failed during a meeting, the state body
10 described in subdivision (a) shall end or adjourn the meeting in
11 accordance with Section 11128.5. In addition to any other
12 requirements that may apply, the state body shall provide notice
13 of the meeting's end or adjournment on its Internet Web site and
14 by email to any person who has requested notice of meetings of
15 the state body under this article. If the meeting will be adjourned
16 and reconvened on the same day, further notice shall be provided
17 by an automated message on a telephone line posted on the state
18 body's agenda, or by a similar means, that will communicate when
19 the state body intends to reconvene the meeting and how a member
20 of the public may hear audio of the meeting or observe the meeting.

21 (h) For purposes of this section:

22 (1) "Participate remotely" means participation in a meeting at
23 a location other than the physical location designated in the agenda
24 of the meeting.

25 (2) "Remote location" means a location other than the primary
26 physical location designated in the agenda of a meeting.

27 (3) "Teleconference" has the same meaning as in Section 11123.

28 (i) This section does not limit or affect the ability of a state body
29 to hold a teleconference meeting under another provision of this
30 article.

31 SEC. 5. Section 11124 of the Government Code is amended
32 to read:

33 11124. (a) No person shall be required, as a condition to
34 attendance at a meeting of a state body, to register his or her *the*
35 *person's* name, to provide other information, to complete a
36 questionnaire, or otherwise to fulfill any condition precedent to
37 his or her *the person's* attendance.

38 If

39 (b) If an attendance list, register, questionnaire, or other similar
40 document is posted at or near the entrance to the room where the

1 meeting is to be held, *or electronically posted*, or is circulated to
2 persons present during the meeting, it shall state clearly that the
3 signing, registering, or completion of the document is voluntary,
4 and that all persons may attend the meeting regardless of whether
5 a person signs, registers, or completes the document.

6 *(c) This section does not apply to an internet website or other*
7 *online platform that may require identification to log into a*
8 *teleconference.*

9 SEC. 6. Section 11125 of the Government Code is amended
10 to read:

11 11125. (a) The state body shall provide notice of its meeting
12 to any person who requests that notice in writing. Notice shall be
13 given and also made available on the ~~Internet~~ *state body's internet*
14 *website* at least 10 days in advance of the meeting, and shall include
15 the name, address, and telephone number of any person who can
16 provide further information prior to the meeting, but need not
17 include a list of witnesses expected to appear at the meeting. The
18 written notice shall additionally include the address of the ~~Internet~~
19 *site internet website* where notices required by this article are made
20 available. *The notice shall specify the means by which a meeting*
21 *may be accessed by teleconference in accordance with the*
22 *requirements of subparagraph (C) of paragraph (1) of subdivision*
23 *(b) of Section 11123, including sufficient information necessary*
24 *to access the teleconference. The notice shall also specify any*
25 *designated physical meeting location at which the public may*
26 *observe and address the state body.*

27 (b) The notice of a meeting of a body that is a state body shall
28 include a specific agenda for the meeting, containing a brief
29 description of the items of business to be transacted or discussed
30 in either open or closed session. A brief general description of an
31 item generally need not exceed 20 words. A description of an item
32 to be transacted or discussed in closed session shall include a
33 citation of the specific statutory authority under which a closed
34 session is being held. No item shall be added to the agenda
35 subsequent to the provision of this notice, unless otherwise
36 permitted by this article.

37 ~~(c) Notice of a meeting of a state body that complies with this~~
38 ~~section shall also constitute notice of a meeting of an advisory~~
39 ~~body of that state body, provided that the business to be discussed~~
40 ~~by the advisory body is covered by the notice of the meeting of~~

1 ~~the state body, provided that the specific time and place of the~~
2 ~~advisory body's meeting is announced during the open and public~~
3 ~~state body's meeting, and provided that the advisory body's~~
4 ~~meeting is conducted within a reasonable time of, and nearby, the~~
5 ~~meeting of the state body.~~

6 ~~(d)~~

7 (c) A person may request, and shall be provided, notice pursuant
8 to subdivision (a) for all meetings of a state body or for a specific
9 meeting or meetings. In addition, at the state body's discretion, a
10 person may request, and may be provided, notice of only those
11 meetings of a state body at which a particular subject or subjects
12 specified in the request will be discussed.

13 ~~(e)~~

14 (d) A request for notice of more than one meeting of a state
15 body shall be subject to the provisions of Section 14911.

16 ~~(f)~~

17 (e) The notice shall be made available in appropriate alternative
18 formats, as required by Section 202 of the Americans with
19 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
20 rules and regulations adopted in implementation thereof, upon
21 request by any person with a disability. The notice shall include
22 information regarding how, to whom, and by when a request for
23 any disability-related modification or accommodation, including
24 auxiliary aids or services may be made by a person with a disability
25 who requires these aids or services in order to participate in the
26 public meeting.

27 (f) *State bodies shall conduct meetings subject to this chapter*
28 *consistent with applicable state and federal civil rights laws,*
29 *including, but not limited to, any applicable language access and*
30 *other nondiscrimination obligations.*

31 SEC. 7. Section 11125.4 of the Government Code is amended
32 to read:

33 11125.4. (a) A special meeting may be called at any time by
34 the presiding officer of the state body or by a majority of the
35 members of the state body. A special meeting may only be called
36 for one of the following purposes when compliance with the 10-day
37 notice provisions of Section 11125 would impose a substantial
38 hardship on the state body or when immediate action is required
39 to protect the public interest:

- 1 (1) To consider “pending litigation” as that term is defined in
- 2 subdivision (e) of Section 11126.
- 3 (2) To consider proposed legislation.
- 4 (3) To consider issuance of a legal opinion.
- 5 (4) To consider disciplinary action involving a state officer or
- 6 employee.
- 7 (5) To consider the purchase, sale, exchange, or lease of real
- 8 property.
- 9 (6) To consider license examinations and applications.
- 10 (7) To consider an action on a loan or grant provided pursuant
- 11 to Division 31 (commencing with Section 50000) of the Health
- 12 and Safety Code.
- 13 (8) To consider its response to a confidential final draft audit
- 14 report as permitted by Section 11126.2.
- 15 (9) To provide for an interim executive officer of a state body
- 16 upon the death, incapacity, or vacancy in the office of the executive
- 17 officer.
- 18 (10) *To deliberate on a decision to be reached in a proceeding*
- 19 *required to be conducted pursuant to Chapter 5 (commencing with*
- 20 *Section 11500) or similar provisions of law.*
- 21 (b) When a special meeting is called pursuant to one of the
- 22 purposes specified in subdivision (a), the state body shall provide
- 23 notice of the special meeting to each member of the state body and
- 24 to all parties that have requested notice of its meetings as soon as
- 25 is practicable after the decision to call a special meeting has been
- 26 made, but shall deliver the notice in a manner that allows it to be
- 27 received by the members and by newspapers of general circulation
- 28 and radio or television stations at least 48 hours before the time
- 29 of the special meeting specified in the notice. Notice shall be made
- 30 available to newspapers of general circulation and radio or
- 31 television stations by providing that notice to all national press
- 32 wire services. Notice shall also be made available on the Internet
- 33 within the time periods required by this section. The notice shall
- 34 specify the time and place of the special meeting and the business
- 35 to be transacted. The written notice shall additionally specify the
- 36 address of the ~~Internet Web site~~ *internet website* where notices
- 37 required by this article are made available. No other business shall
- 38 be considered at a special meeting by the state body. The written
- 39 notice may be dispensed with as to any member who at or prior
- 40 to the time the meeting convenes files with the clerk or secretary

1 of the state body a written waiver of notice. The waiver may be
2 given by telegram, facsimile transmission, or similar means. The
3 written notice may also be dispensed with as to any member who
4 is actually present at the meeting at the time it convenes. Notice
5 shall be required pursuant to this section regardless of whether any
6 action is taken at the special meeting.

7 (c) At the commencement of any special meeting, the state body
8 must make a finding in open session that the delay necessitated
9 by providing notice 10 days prior to a meeting as required by
10 Section 11125 would cause a substantial hardship on the body or
11 that immediate action is required to protect the public interest. The
12 finding shall set forth the specific facts that constitute the hardship
13 to the body or the impending harm to the public interest. The
14 finding shall be adopted by a two-thirds vote of the body, or, if
15 less than two-thirds of the members are present, a unanimous vote
16 of those members present. The finding shall be made available on
17 the ~~Internet~~. *state body's internet website*. Failure to adopt the
18 finding terminates the meeting.

19 SEC. 8. Section 11128.5 of the Government Code is amended
20 to read:

21 11128.5. The state body may adjourn any regular, adjourned
22 regular, special, or adjourned special meeting to a time and ~~place~~
23 *place, including by teleconference*, specified in the order of
24 adjournment. Less than a quorum may so adjourn from time to
25 time. If all members are absent from any regular or adjourned
26 regular meeting, the clerk or secretary of the state body may declare
27 the meeting adjourned to a stated time and ~~place~~ *place, including*
28 *by teleconference*, and ~~he or she~~ *the clerk or the secretary* shall
29 cause a written notice of the adjournment to be given in the same
30 manner as provided in Section 11125.4 for special meetings, unless
31 that notice is waived as provided for special meetings. A copy of
32 the order or notice of adjournment shall be conspicuously posted
33 *on the state body's internet website, and if applicable*, on or near
34 the door of the place where the regular, adjourned regular, special,
35 or adjourned special meeting was held within 24 hours after the
36 time of the adjournment. When a regular or adjourned regular
37 meeting is adjourned as provided in this section, the resulting
38 adjourned regular meeting is a regular meeting for all purposes.
39 When an order of adjournment of any meeting fails to state the

1 hour at which the adjourned meeting is to be held, it shall be held
2 at the hour specified for regular meetings by law or regulation.

3 SEC. 9. Section 11129 of the Government Code is amended
4 to read:

5 11129. Any hearing being held, or noticed or ordered to be
6 held by a state body at any meeting may by order or notice of
7 continuance be continued or recontinued to any subsequent meeting
8 of the state body in the same manner and to the same extent set
9 forth in Section 11128.5 for the adjournment of meetings. A copy
10 of the order or notice of continuance shall be conspicuously posted
11 *on the state body's internet website, and if applicable*, on or near
12 the door of the place where the hearing was held within 24 hours
13 after the time of the continuance; provided, that if the hearing is
14 continued to a time less than 24 hours after the time specified in
15 the order or notice of hearing, a copy of the order or notice of
16 continuance of hearing shall be posted immediately following the
17 meeting at which the order or declaration of continuance was
18 adopted or made.

19 SEC. 10. It is the intent of the Legislature in enacting this act
20 to improve and enhance public access to state and local agency
21 meetings by allowing broader access through teleconferencing
22 options consistent with the Governor's Executive Order No.
23 N-29-20 dated March 17, 2020, and related executive orders,
24 permitting expanded use of teleconferencing during the COVID-19
25 pandemic.

26 SEC. 11. This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the California Constitution and shall
29 go into immediate effect. The facts constituting the necessity are:

30 In order to protect public health, expand access to government
31 participation by the public, and increase transparency in state
32 government operations during the COVID-19 pandemic, it is
33 necessary that this act take effect immediately.

O

ASSEMBLY BILL

No. 1756

Introduced by Assembly Member Smith

February 2, 2022

An act to amend Section 312.2 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, as introduced, Smith. Department of Consumer Affairs.

Existing law provides for the licensure and regulation of various professions and vocations by boards, as defined, within the Department of Consumer Affairs. Existing law requires the department to receive specified complaints from consumers and to transmit any valid complaint to the local, state, or federal agency whose authority provides the most effective means to secure relief. Existing law requires the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusation matters relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

This bill would make a nonsubstantive change to that provision.

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

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

1 SECTION 1. Section 312.2 of the Business and Professions
2 Code is amended to read:

3 312.2. (a) The Attorney General shall submit a report to the
4 department, the Governor, and the appropriate policy committees
5 of the Legislature on or before January 1, 2018, and on or before
6 January 1 of each subsequent year that includes, at a minimum,
7 all of the following for the previous fiscal year for each constituent
8 entity within the department represented by the Licensing Section
9 and Health Quality Enforcement Section of the Office of the
10 Attorney General:

11 (1) The number of accusation matters referred to the Attorney
12 General.

13 (2) The number of accusation matters rejected for filing by the
14 Attorney General.

15 (3) The number of accusation matters for which further
16 investigation was requested by the Attorney General.

17 (4) The number of accusation matters for which further
18 investigation was received by the Attorney General.

19 (5) The number of accusations filed by each constituent entity.

20 (6) The number of accusations a constituent entity withdraws.

21 (7) The number of accusation matters adjudicated by the
22 Attorney General.

23 (b) The Attorney General shall also report all of the following
24 for accusation matters adjudicated within the previous fiscal year
25 for each constituent entity of the department represented by the
26 Licensing Section and Health Quality Enforcement Section:

27 (1) The average number of days from the Attorney General
28 receiving an accusation referral to when an accusation is filed by
29 the constituent entity.

30 (2) The average number of days to prepare an accusation for a
31 case that is rereferred to the Attorney General after further
32 investigation is received by the Attorney General from a constituent
33 entity or the Division of Investigation.

34 (3) The average number of days from an agency filing an
35 accusation to the Attorney General transmitting a stipulated
36 settlement to the constituent entity.

1 (4) The average number of days from an agency filing an
2 accusation to the Attorney General transmitting a default decision
3 to the constituent entity.

4 (5) The average number of days from an agency filing an
5 accusation to the Attorney General requesting a hearing date from
6 the Office of Administrative Hearings.

7 (6) The average number of days from the Attorney General's
8 receipt of a hearing date from the Office of Administrative
9 Hearings to the commencement of *a* *the* hearing.

10 (c) A report to be submitted pursuant to subdivision (a) shall
11 be submitted in compliance with Section 9795 of the Government
12 Code.

O

ASSEMBLY BILL

No. 1795

Introduced by Assembly Member Fong

February 7, 2022

An act to amend Sections 11123 and 11125.7 of the Government Code, relating to boards and commissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1795, as introduced, Fong. Open meetings: remote participation.

Existing law, the Bagley-Keene Open Meeting Act, requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified.

This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

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

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

1 SECTION 1. Section 11123 of the Government Code is
2 amended to read:
3 11123. (a) All meetings of a state body shall be open and
4 public and all persons shall be permitted to attend any meeting of
5 a state ~~body~~ body, including by both in-person and remote
6 participation, except as otherwise provided in this article. For
7 purposes of this subdivision, "remote participation" means
8 participation in a meeting at a location other than the physical

1 *location designated in the agenda of the meeting via electronic*
2 *communication.*

3 (b) (1) This article does not prohibit a state body from holding
4 an open or closed meeting by teleconference for the benefit of the
5 public and state body. The meeting or proceeding held by
6 teleconference shall otherwise comply with all applicable
7 requirements or laws relating to a specific type of meeting or
8 proceeding, including the following:

9 (A) The teleconferencing meeting shall comply with all
10 requirements of this article applicable to other meetings.

11 (B) The portion of the teleconferenced meeting that is required
12 to be open to the public shall be audible to the public at the location
13 specified in the notice of the meeting.

14 (C) If the state body elects to conduct a meeting or proceeding
15 by teleconference, it shall post agendas at all teleconference
16 locations and conduct teleconference meetings in a manner that
17 protects the rights of any party or member of the public appearing
18 before the state body. Each teleconference location shall be
19 identified in the notice and agenda of the meeting or proceeding,
20 and each teleconference location shall be accessible to the public.
21 The agenda shall provide an opportunity for members of the public
22 to address the state body directly pursuant to Section 11125.7 at
23 each teleconference location.

24 (D) All votes taken during a teleconferenced meeting shall be
25 by rollcall.

26 (E) The portion of the teleconferenced meeting that is closed
27 to the public may not include the consideration of any agenda item
28 being heard pursuant to Section 11125.5.

29 (F) At least one member of the state body shall be physically
30 present at the location specified in the notice of the meeting.

31 (2) For the purposes of this subdivision, “teleconference” means
32 a meeting of a state body, the members of which are at different
33 locations, connected by electronic means, through either audio or
34 both audio and video. This section does not prohibit a state body
35 from providing members of the public with additional locations
36 in which the public may observe or address the state body by
37 electronic means, through either audio or both audio and video.

38 (c) The state body shall publicly report any action taken and the
39 vote or abstention on that action of each member present for the
40 action.

1 SEC. 2. Section 11125.7 of the Government Code is amended
2 to read:

3 11125.7. (a) Except as otherwise provided in this section, the
4 state body shall provide an opportunity for members of the public
5 to directly address the state ~~body~~ *body, including by both in-person*
6 *and remote participation*, on each agenda item before or during
7 the state body's discussion or consideration of the item. This
8 section is not applicable if the agenda item has already been
9 considered by a committee composed exclusively of members of
10 the state body at a public meeting where interested members of
11 the public were afforded the opportunity to address the committee
12 on the item, before or during the committee's consideration of the
13 item, unless the item has been substantially changed since the
14 committee heard the item, as determined by the state body. Every
15 notice for a special meeting at which action is proposed to be taken
16 on an item shall provide an opportunity for members of the public
17 to directly address the state body concerning that item prior to
18 action on the item. In addition, the notice requirement of Section
19 11125 shall not preclude the acceptance of testimony at meetings,
20 other than emergency meetings, from members of the public if no
21 action is taken by the state body at the same meeting on matters
22 brought before the body by members of the public. *For purposes*
23 *of this subdivision, "remote participation" means participation*
24 *in a meeting at a location other than the physical location*
25 *designated in the agenda of the meeting via electronic*
26 *communication.*

27 (b) The state body may adopt reasonable regulations to ensure
28 that the intent of subdivision (a) is carried out, including, but not
29 limited to, regulations limiting the total amount of time allocated
30 for public comment on particular issues and for each individual
31 speaker.

32 (c) (1) Notwithstanding subdivision (b), when a state body
33 limits time for public comment the state body shall provide at least
34 twice the allotted time to a member of the public who utilizes a
35 translator or other translating technology to ensure that non-English
36 speakers receive the same opportunity to directly address the state
37 body.

38 (2) Paragraph (1) shall not apply if the state body utilizes
39 simultaneous translation equipment in a manner that allows the
40 state body to hear the translated public testimony simultaneously.

1 (d) The state body shall not prohibit public criticism of the
2 policies, programs, or services of the state body, or of the acts or
3 omissions of the state body. Nothing in this subdivision shall confer
4 any privilege or protection for expression beyond that otherwise
5 provided by law.

6 (e) This section is not applicable to any of the following:

- 7 (1) Closed sessions held pursuant to Section 11126.
- 8 (2) Decisions regarding proceedings held pursuant to Chapter
9 5 (commencing with Section 11500), relating to administrative
10 adjudication, or to the conduct of those proceedings.
- 11 (3) Hearings conducted by the California Victim Compensation
12 Board pursuant to ~~Sections 13963 and 13963.1.~~ *Section 13959.*
- 13 (4) Agenda items that involve decisions of the Public Utilities
14 Commission regarding adjudicatory hearings held pursuant to
15 Chapter 9 (commencing with Section 1701) of Part 1 of Division
16 1 of the Public Utilities Code. For all other agenda items, the
17 commission shall provide members of the public, other than those
18 who have already participated in the proceedings underlying the
19 agenda item, an opportunity to directly address the commission
20 before or during the commission’s consideration of the item.

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AMENDED IN ASSEMBLY APRIL 19, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1982

Introduced by Assembly Member Santiago

February 10, 2022

An act to ~~amend Section 1374.141 of the Health and Safety Code, and to amend Section 10123.856 of the Insurance Code, add Section 1374.142 to the Health and Safety Code, and to add Section 10123.857 to the Insurance Code,~~ relating to telehealth.

LEGISLATIVE COUNSEL'S DIGEST

AB 1982, as amended, Santiago. Telehealth: dental care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires contract between a health care service plan or health insurer and a health care provider to require the plan or insurer to reimburse the provider for the diagnosis, consultation, or treatment of an enrollee, subscriber, insured, or policyholder appropriately delivered through telehealth services on the same basis and to the same extent as the same service through in-person diagnosis, consultation, or treatment. Existing law requires a health care service plan or health insurer that offers a service via telehealth to meet specified conditions, including, that the health care service plan or health insurer disclose to the enrollee or insured the availability of receiving the service on an in-person basis or via telehealth, ~~from, among others, the primary care provider or from another contracting individual health professional.~~ Existing law defines

~~“contracting individual health professional” for those purposes and excludes a licensed dentist from that definition: telehealth.~~

This bill would remove the exclusion for dentists from the definition of “contracting individual health professional” and would instead require a health care service plan or health insurer offering telehealth, for dental plans, covering dental services that offers a service via telehealth through a third-party corporate telehealth provider to disclose to the enrollee or insured the impact of third-party telehealth visits on the patient’s benefit limitations, including frequency limitations and the patient’s annual maximum. *The bill would also require those plans and insurers to submit specified information for each product type.* Because a willful violation of the bill’s requirements relative to health care service plans would be a crime, the 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.

State-mandated local program: yes.

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

- 1 SECTION 1. ~~Section 1374.141 of the Health and Safety Code~~
- 2 ~~is amended to read:~~
- 3 1374.141. (a) If a health care service plan offers a service via
- 4 telehealth to an enrollee through a third-party corporate telehealth
- 5 provider, all of the following conditions shall be met:
- 6 (1) ~~The health care service plan shall disclose to the enrollee in~~
- 7 ~~any promotion or coordination of the service both of the following:~~
- 8 (A) ~~The availability of receiving the service on an in-person~~
- 9 ~~basis or via telehealth, if available, from the enrollee’s primary~~
- 10 ~~care provider, treating specialist, or from another contracting~~
- 11 ~~individual health professional, contracting clinic, or contracting~~
- 12 ~~health facility consistent with the service and existing timeliness~~
- 13 ~~and geographic access standards in Sections 1367 and 1367.03~~
- 14 ~~and regulations promulgated thereunder.~~
- 15 (B) ~~If the enrollee has coverage for out-of-network benefits, a~~
- 16 ~~reminder of the availability of receiving the service either via~~

1 telehealth or on an in-person basis using the enrollee's
2 out-of-network benefits, and the cost sharing obligation for
3 out-of-network benefits compared to in-network benefits and
4 balance billing protections for services received from contracted
5 providers.

6 (2) After being notified pursuant to paragraph (1), the enrollee
7 chooses to receive the service via telehealth through a third-party
8 corporate telehealth provider.

9 (3) The enrollee consents to the service consistent with Section
10 2290.5 of the Business and Professions Code.

11 (4) If the enrollee is currently receiving specialty telehealth
12 services for a mental or behavioral health condition, the enrollee
13 is given the option of continuing to receive that service with the
14 contracting individual health professional, a contracting clinic, or
15 a contracting health facility.

16 (5) For a dental plan, the health care service plan shall disclose
17 to the enrollee the impact of third-party telehealth visits on the
18 patient's benefit limitations, including frequency limitations and
19 the patient's annual maximum.

20 (b) For purposes of this section, the following definitions apply:

21 (1) "Contracting individual health professional" means a
22 physician and surgeon or other professional who is licensed by the
23 state to deliver or furnish health care services, including mental
24 and behavioral health services, and who is contracted with or
25 employed by the enrollee's health care service plan as a network
26 provider. Application of this definition is not precluded by a
27 contracting individual health professional's affiliation with a group.

28 (2) "Contracting clinic" means a clinic, as defined in Section
29 1200, that is contracted with or owned by the enrollee's health
30 care service plan and as a network provider.

31 (3) "Contracting health facility" means a health facility, as
32 defined in Section 1250 and paragraph (1) of subdivision (f) of
33 Section 1371.9, that is contracted with or operated by the enrollee's
34 health care service plan and serves as a network provider.

35 (4) "Third-party corporate telehealth provider" means a
36 corporation directly contracted with a health care service plan that
37 provides health care services exclusively through a telehealth
38 technology platform and has no physical location at which a patient
39 can receive services.

1 ~~(e) If services are provided to an enrollee through a third-party~~
2 ~~corporate telehealth provider, a health care service plan shall~~
3 ~~comply with all of the following:~~

4 ~~(1) Notify the enrollee of their right to access their medical~~
5 ~~records pursuant to, and consistent with, Chapter 1 (commencing~~
6 ~~with Section 123100) of Part 1 of Division 106.~~

7 ~~(2) Notify the enrollee that the record of any services provided~~
8 ~~to the enrollee through a third-party corporate telehealth provider~~
9 ~~shall be shared with their primary care provider, unless the enrollee~~
10 ~~objects.~~

11 ~~(3) Ensure that the records are entered into a patient record~~
12 ~~system shared with the enrollee’s primary care provider or are~~
13 ~~otherwise provided to the enrollee’s primary care provider, unless~~
14 ~~the enrollee objects, in a manner consistent with state and federal~~
15 ~~law.~~

16 ~~(4) Notify the enrollee that all services received through the~~
17 ~~third-party corporate telehealth provider are available at in-network~~
18 ~~cost-sharing and out-of-pocket costs shall accrue to any applicable~~
19 ~~deductible or out-of-pocket maximum.~~

20 ~~(d) A health care service plan shall include in its reports~~
21 ~~submitted to the department pursuant to Section 1367.035 and~~
22 ~~regulations adopted pursuant to that section, in a manner specified~~
23 ~~by the department, all of the following for each product type:~~

24 ~~(1) By specialty, the total number of services delivered via~~
25 ~~telehealth by third-party corporate telehealth providers.~~

26 ~~(2) The names of each third-party corporate telehealth provider~~
27 ~~contracted with the plan and, for each, the number of services~~
28 ~~provided by specialty.~~

29 ~~(3) For each third-party corporate telehealth provider with which~~
30 ~~it contracts, the percentage of the third-party corporate telehealth~~
31 ~~provider’s contracted providers available to the plan’s enrollees~~
32 ~~that are also contracting individual health professionals.~~

33 ~~(4) For each third-party corporate telehealth provider with which~~
34 ~~it contracts, the types of telehealth services utilized by enrollees,~~
35 ~~including frequency of use, gender, age, and any other information~~
36 ~~as determined by the department.~~

37 ~~(5) For each enrollee that has accessed services for a third-party~~
38 ~~corporate telehealth provider, enrollee demographic data, including~~
39 ~~gender and age, and any other information as determined by the~~
40 ~~department.~~

1 ~~(e) The director shall investigate and take enforcement action,~~
2 ~~as appropriate, against a health care service plan that fails to~~
3 ~~comply with these requirements and shall periodically evaluate~~
4 ~~contracts between health care service plans and third-party~~
5 ~~corporate telehealth providers to determine if any audit, evaluation,~~
6 ~~or enforcement actions should be undertaken by the department.~~

7 ~~(f) If a health care service plan delegates responsibilities under~~
8 ~~this section to a contracted entity, including, but not limited to, a~~
9 ~~medical group or independent practice association, the delegated~~
10 ~~entity shall comply with this section.~~

11 ~~(g) This section shall not apply when an enrollee seeks services~~
12 ~~directly from a third-party corporate telehealth provider.~~

13 ~~(h) This section shall not apply to a health care service plan~~
14 ~~contract or a Medi-Cal managed care plan contract with the State~~
15 ~~Department of Health Care Services pursuant to Chapter 7~~
16 ~~(commencing with Section 14000) or Chapter 8 (commencing with~~
17 ~~Section 14200) of Part 3 of Division 9 of the Welfare and~~
18 ~~Institutions Code. The State Department of Health Care Services~~
19 ~~shall consider the appropriateness of applying the requirements of~~
20 ~~this section, in whole or in part, to the Medi-Cal program pursuant~~
21 ~~to the advisory group process described in paragraph (2) of~~
22 ~~subdivision (f) of Section 14124.12 of the Welfare and Institutions~~
23 ~~Code.~~

24 ~~SEC. 2. Section 10123.856 of the Insurance Code is amended~~
25 ~~to read:~~

26 ~~10123.856. (a) If a health insurer offers a service via telehealth~~
27 ~~to an insured through a third-party corporate telehealth provider,~~
28 ~~all of the following conditions shall be met:~~

29 ~~(1) The health insurer shall disclose to the insured in any~~
30 ~~promotion or coordination of the service both of the following:~~

31 ~~(A) The availability of receiving the service on an in-person~~
32 ~~basis or via telehealth, if available, from the insured's primary care~~
33 ~~provider, treating specialist, or from another contracting individual~~
34 ~~health professional, a contracting clinic, or a contracting health~~
35 ~~facility consistent with the service and existing timeliness and~~
36 ~~geographic access standards in Section 10133.5 and regulations~~
37 ~~promulgated thereunder.~~

38 ~~(B) If the insured has coverage for out-of-network benefits, a~~
39 ~~reminder of the availability of receiving the service either via~~
40 ~~telehealth or on an in-person basis using the insured's~~

1 out-of-network benefits, and the cost sharing obligation for
2 out-of-network benefits compared to in-network benefits and
3 balance billing protections for services received from contracted
4 providers.

5 (2) After being notified pursuant to paragraph (1), the insured
6 chooses to receive the service via telehealth through a third-party
7 corporate telehealth provider.

8 (3) The insured consents to the service consistent with Section
9 2290.5 of the Business and Professions Code.

10 (4) If the insured is currently receiving specialty telehealth
11 services for a mental or behavioral health condition, the insured
12 is given the option of continuing to receive that service with the
13 contracting individual health professional, a contracting clinic, or
14 a contracting health facility.

15 (5) For dental insurers, the health insurer shall disclose to the
16 insured the impact of third-party telehealth visits on the patient's
17 benefit limitations, including frequency limitations and the patient's
18 annual maximum.

19 (b) For purposes of this section, the following definitions shall
20 apply:

21 (1) "Contracting individual health professional" means a
22 physician and surgeon or other professional who is licensed by the
23 state to deliver or furnish health care services, including mental
24 or behavioral health services, and who is contracted with the
25 insured's health insurer. Application of this definition is not
26 precluded by a contracting individual health professional's
27 affiliation with a group.

28 (2) "Contracting clinic" means a clinic, as defined in Section
29 1200 of the Health and Safety Code, that is contracted with the
30 insured's health insurer.

31 (3) "Contracting health facility" mean a health facility, as
32 defined in Section 1250 of the Health and Safety Code, that is
33 contracted with the insured's health insurer.

34 (4) "Third-party corporate telehealth provider" means a
35 corporation directly contracted with a health insurer that provides
36 health care services exclusively through a telehealth technology
37 platform and has no physical location at which a patient can receive
38 services.

- 1 ~~(e) If services are provided to an insured through a third-party~~
2 ~~corporate telehealth provider, a health insurer shall comply with~~
3 ~~all of the following:~~
- 4 ~~(1) Notify the insured of the insured's right to access the~~
5 ~~insured's medical records pursuant to, and consistent with, Chapter~~
6 ~~1 (commencing with Section 123100) of Part 1 of Division 106 of~~
7 ~~the Health and Safety Code.~~
- 8 ~~(2) Notify the insured that the record of any services provided~~
9 ~~to the insured through a third-party corporate telehealth provider~~
10 ~~shall be shared with the insured's primary care provider, unless~~
11 ~~the insured objects.~~
- 12 ~~(3) Ensure that the records are entered into a patient record~~
13 ~~system shared with the insured's primary care provider or are~~
14 ~~otherwise provided to the insured's primary care provider, unless~~
15 ~~the insured objects, in a manner consistent with state and federal~~
16 ~~law.~~
- 17 ~~(4) Notify the insured that all services received through the~~
18 ~~third-party corporate telehealth provider are considered to be in~~
19 ~~network available at in-network cost-sharing and out-of-pocket~~
20 ~~costs shall accrue to any applicable deductible or out-of-pocket~~
21 ~~maximum.~~
- 22 ~~(d) A health insurer shall include in its reports submitted to the~~
23 ~~department pursuant to Section 10133.5 and regulations adopted~~
24 ~~pursuant to that section, in a manner specified by the commissioner,~~
25 ~~all of the following for each product type:~~
- 26 ~~(1) By specialty, the total number of services delivered via~~
27 ~~telehealth provided by third-party corporate telehealth providers.~~
- 28 ~~(2) The names of each third-party corporate telehealth provider~~
29 ~~contracted with the insurer and, for each, the number of services~~
30 ~~provided by specialty.~~
- 31 ~~(3) For each third-party corporate telehealth provider with which~~
32 ~~it contracts, the percentage of the third-party corporate telehealth~~
33 ~~provider's contracted providers available to the insurer's insured~~
34 ~~that are also contracting individual health professionals.~~
- 35 ~~(4) For each third-party corporate telehealth provider with which~~
36 ~~it contracts, the types of telehealth services utilized by insureds,~~
37 ~~including frequency of use, gender, age, and any other information~~
38 ~~as determined by the department.~~
- 39 ~~(5) For each enrollee that has accessed services for a third-party~~
40 ~~corporate telehealth provider, enrollee demographic data, including~~

1 gender and age, and any other information as determined by the
2 department.

3 ~~(e) The commissioner shall investigate and take enforcement~~
4 ~~action, as appropriate, against a health insurer that fails to comply~~
5 ~~with these requirements and shall periodically evaluate contracts~~
6 ~~between health insurers and third-party corporate telehealth~~
7 ~~providers to determine if any audit, evaluation, or enforcement~~
8 ~~actions should be undertaken by the commissioner.~~

9 ~~(f) This section shall not apply when an insured seeks services~~
10 ~~directly from a third-party corporate telehealth provider.~~

11 *SECTION 1. Section 1374.142 is added to the Health and*
12 *Safety Code, immediately following Section 1374.141, to read:*

13 *1374.142. (a) A health care service plan that issues, sells,*
14 *renews, or offers a plan contract covering dental services,*
15 *including a specialized health care service plan contract covering*
16 *dental services, or a contracting entity that offers a service via*
17 *telehealth to an enrollee through a third-party corporate telehealth*
18 *provide shall include in its reports submitted to the department*
19 *pursuant to Section 1367.035 and regulations adopted pursuant*
20 *to that section, in a manner specified by the department, all of the*
21 *following for each product type:*

22 *(1) The total number of services delivered via telehealth by a*
23 *third-party corporate telehealth provider.*

24 *(2) For each third-party corporate telehealth provider with*
25 *which it contracts, the percentage of the third-party telehealth*
26 *provider’s contracted providers available to the plan’s enrollees*
27 *that are also contracting dental professionals.*

28 *(3) For each third-party corporate telehealth provider with*
29 *which it contracts, the types of telehealth services utilized by*
30 *enrollees, including information on the gender and age, and any*
31 *other information as determined by the department.*

32 *(b) A health care service plan that issues, sells, renews, or offers*
33 *a plan contract covering dental services, including a specialized*
34 *health care service plan contract covering dental services, or a*
35 *contracting entity that offers a service via telehealth to an enrollee*
36 *through a third-party corporate telehealth provider, shall disclose*
37 *to the enrollee the impact of third-party telehealth visits on the*
38 *patient’s benefit limitations, including frequency limitations and*
39 *the patient’s annual maximum.*

1 SEC. 2. Section 10123.857 is added to the Insurance Code,
2 immediately following Section 10123.856, to read:

3 10123.857. (a) A health insurer that issues, sells, renews, or
4 offers a policy covering dental services, including a specialized
5 health insurance policy covering dental services, or a contracting
6 entity that offers a service via telehealth to an insured through a
7 third-party corporate telehealth provide shall include in its reports
8 submitted to the department pursuant to Section 10133.54 and
9 regulations adopted pursuant to that section, in a manner specified
10 by the department, all of the following for each product type:

11 (1) The total number of services delivered via telehealth by a
12 third-party corporate telehealth provider.

13 (2) For each third-party corporate telehealth provider with
14 which it contracts, the percentage of the third-party telehealth
15 provider's contracted providers available to the insurer's insured
16 that are also contracting dental professionals.

17 (3) For each third-party corporate telehealth provider with
18 which it contracts, the types of telehealth services utilized by
19 insureds, including information on the gender and age, and any
20 other information as determined by the department.

21 (b) A health care insurance policy that issues, sells, renews, or
22 offers an insurance policy covering dental services, including a
23 specialized health care policy covering dental services, or a
24 contracting entity that offers a service via telehealth to an enrollee
25 through a third-party corporate telehealth provider, shall disclose
26 to the insured the impact of third-party telehealth visits on the
27 patient's benefit limitations, including frequency limitations and
28 the patient's annual maximum.

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

O

ASSEMBLY BILL

No. 1996

Introduced by Assembly Member Cooley

February 10, 2022

An act to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1996, as introduced, Cooley. State government: administrative regulations: review.

Existing law, the Administrative Procedure Act, in part, authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. These rulemaking provisions of the act require the Office of Administrative Law and the state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations. Existing law requires the office to initiate a priority review of existing regulations when requested by a committee of the Legislature, as specified.

This bill would require each state agency to, on or before January 1, 2026, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2027.

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

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

1 SECTION 1. Chapter 3.6 (commencing with Section 11366)
2 is added to Part 1 of Division 3 of Title 2 of the Government Code,
3 to read:

4
5 CHAPTER 3.6. REGULATORY REFORM

6
7 Article 1. Findings and Declarations

8
9 11366. The Legislature finds and declares all of the following:

10 (a) The rulemaking provisions of the Administrative Procedure
11 Act (Chapter 3.5 (commencing with Section 11340)) require
12 agencies and the Office of Administrative Law to review
13 regulations to ensure their consistency with law and to consider
14 impacts on the state’s economy and businesses, including small
15 businesses.

16 (b) However, the act does not expressly require agencies to
17 individually review their regulations to identify overlapping,
18 inconsistent, duplicative, or out-of-date regulations that may exist.

19 (c) At a time when the state’s economy is slowly recovering,
20 unemployment and underemployment continue to affect all
21 Californians, especially older workers and younger workers who
22 received college degrees in the last seven years but are still awaiting
23 their first great job, and with state government improving but in
24 need of continued fiscal discipline, it is important that state
25 agencies systematically undertake to identify, publicly review, and
26 eliminate overlapping, inconsistent, duplicative, or out-of-date
27 regulations, both to ensure they more efficiently implement and
28 enforce laws and to reduce unnecessary and outdated rules and
29 regulations.

30
31 Article 2. Definitions

32
33 11366.1. For the purposes of this chapter, the following
34 definitions shall apply:

35 (a) “State agency” means a state agency, as defined in Section
36 11000, except those state agencies or activities described in Section
37 11340.9.

1 (b) “Regulation” has the same meaning as provided in Section
2 11342.600.

3
4 Article 3. State Agency Duties
5

6 11366.2. On or before January 1, 2026, each state agency shall
7 do all of the following:

8 (a) Review all provisions of the California Code of Regulations
9 adopted by that state agency.

10 (b) Identify any regulations that are duplicative, overlapping,
11 inconsistent, or out of date.

12 (c) Adopt, amend, or repeal regulations to reconcile or eliminate
13 any duplication, overlap, inconsistencies, or out-of-date provisions,
14 and shall comply with the process specified in Article 5
15 (commencing with Section 11346) of Chapter 3.5, unless the
16 addition, revision, or deletion is without regulatory effect and may
17 be done pursuant to Section 100 of Title 1 of the California Code
18 of Regulations.

19 (d) Hold at least one noticed public hearing, which shall be
20 noticed on the internet website of the state agency, for the purposes
21 of accepting public comment on proposed revisions to its
22 regulations.

23 (e) Notify the appropriate policy and fiscal committees of each
24 house of the Legislature of the revisions to regulations that the
25 state agency proposes to make at least 30 days prior to initiating
26 the process under Article 5 (commencing with Section 11346) of
27 Chapter 3.5 or Section 100 of Title 1 of the California Code of
28 Regulations.

29 (f) (1) Report to the Governor and the Legislature on the state
30 agency’s compliance with this chapter, including the number and
31 content of regulations the state agency identifies as duplicative,
32 overlapping, inconsistent, or out of date, and the state agency’s
33 actions to address those regulations.

34 (2) The report shall be submitted in compliance with Section
35 9795.

36 11366.3. (a) On or before January 1, 2026, each agency listed
37 in Section 12800 shall notify a department, board, or other unit
38 within that agency of any existing regulations adopted by that
39 department, board, or other unit that the agency has determined
40 may be duplicative, overlapping, or inconsistent with a regulation

1 adopted by another department, board, or other unit within that
2 agency.

3 (b) A department, board, or other unit within an agency shall
4 notify that agency of revisions to regulations that it proposes to
5 make at least 90 days prior to a noticed public hearing pursuant to
6 subdivision (d) of Section 11366.2 and at least 90 days prior to
7 adoption, amendment, or repeal of the regulations pursuant to
8 subdivision (c) of Section 11366.2. The agency shall review the
9 proposed regulations and make recommendations to the
10 department, board, or other unit within 30 days of receiving the
11 notification regarding any duplicative, overlapping, or inconsistent
12 regulation of another department, board, or other unit within the
13 agency.

14 11366.4. An agency listed in Section 12800 shall notify a state
15 agency of any existing regulations adopted by that agency that
16 may duplicate, overlap, or be inconsistent with the state agency's
17 regulations.

18 11366.45. This chapter shall not be construed to weaken or
19 undermine in any manner any human health, public or worker
20 rights, public welfare, environmental, or other protection
21 established under statute. This chapter shall not be construed to
22 affect the authority or requirement for an agency to adopt
23 regulations as provided by statute. Rather, it is the intent of the
24 Legislature to ensure that state agencies focus more efficiently and
25 directly on their duties as prescribed by law so as to use scarce
26 public dollars more efficiently to implement the law, while
27 achieving equal or improved economic and public benefits.

28
29 Article 4. Chapter Repeal
30

31 11366.5. This chapter shall remain in effect only until January
32 1, 2027, and as of that date is repealed.

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AMENDED IN ASSEMBLY APRIL 21, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2055

Introduced by Assembly Member Low

February 14, 2022

An act to amend Section 208 of, and to amend, repeal, and add Section 209 of, the Business and Professions Code, and to amend, repeal, and add Sections 11164.1, 11165, 11165.1, 11165.2, and 11165.5 of, and to add Section 11164.8 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2055, as amended, Low. Controlled substances: CURES database. Existing law classifies certain controlled substances into Schedules I to V, inclusive. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) database for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a Schedule II, Schedule III, or Schedule IV controlled substance. Existing law requires a dispensing pharmacy, clinic, or other dispenser to report specified information to the department for inclusion in the database and requires a health care practitioner to consult the CURES database to review a patient's controlled substance history before prescribing Schedule II, III, or IV controlled substances to the patient for the first time and at least once every 4 months thereafter if the controlled substance remains part of the treatment plan, except as specified.

This bill, as of April 1, 2023, would transfer the responsibility for administration of the CURES database from the Department of Justice to a department specified by the Governor: *the California State Board of Pharmacy.*

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

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

1 SECTION 1. Section 208 of the Business and Professions
2 Code, as amended by Section 6 of Chapter 630 of the Statutes of
3 2021, is amended to read:

4 208. (a) Beginning April 1, 2023, a Controlled Substance
5 Utilization Review and Evaluation System (CURES) fee of nine
6 dollars (\$9) shall be assessed annually on each of the licensees
7 specified in subdivision (b) to pay the reasonable costs associated
8 with operating and maintaining CURES for the purpose of
9 regulating those licensees. The fee assessed pursuant to this
10 subdivision shall be billed and collected by the regulating agency
11 of each licensee at the time of the licensee’s license renewal. If
12 the reasonable regulatory cost of operating and maintaining CURES
13 is less than nine dollars (\$9) per licensee, the Department of
14 Consumer Affairs may, by regulation, reduce the fee established
15 by this section to the reasonable regulatory cost.

16 (b) (1) Licensees authorized pursuant to Section 11150 of the
17 Health and Safety Code to prescribe, order, administer, furnish,
18 or dispense Schedule II, Schedule III, or Schedule IV controlled
19 substances or pharmacists licensed pursuant to Chapter 9
20 (commencing with Section 4000) of Division 2.

21 (2) Licensees issued a license that has been placed in a retired
22 or inactive status pursuant to a statute or regulation are exempt
23 from the CURES fee requirement in subdivision (a). This
24 exemption shall not apply to licensees whose license has been
25 placed in a retired or inactive status if the licensee is at any time
26 authorized to prescribe, order, administer, furnish, or dispense
27 Schedule II, Schedule III, or Schedule IV controlled substances.

28 (3) Wholesalers, third-party logistics providers, nonresident
29 wholesalers, and nonresident third-party logistics providers of
30 dangerous drugs licensed pursuant to Article 11 (commencing with
31 Section 4160) of Chapter 9 of Division 2.

1 (4) Nongovernmental clinics licensed pursuant to Article 13
2 (commencing with Section 4180) and Article 14 (commencing
3 with Section 4190) of Chapter 9 of Division 2.

4 (5) Nongovernmental pharmacies licensed pursuant to Article
5 7 (commencing with Section 4110) of Chapter 9 of Division 2.

6 (c) The funds collected pursuant to subdivision (a) shall be
7 deposited in the CURES Fund, which is hereby created within the
8 State Treasury. Moneys in the CURES Fund shall, upon
9 appropriation by the Legislature, be available to the Department
10 of Consumer Affairs to reimburse the ~~department specified by the~~
11 ~~Governor pursuant to Section 11164.8 of the Health and Safety~~
12 ~~Code California State Board of Pharmacy~~ for costs to operate and
13 maintain CURES for the purposes of regulating the licensees
14 specified in subdivision (b).

15 (d) The Department of Consumer Affairs shall contract with
16 the ~~department specified by the Governor pursuant to Section~~
17 ~~11164.8 of the Health and Safety Code California State Board of~~
18 ~~Pharmacy~~ on behalf of the Medical Board of California, the Dental
19 Board of California, ~~the California State Board of Pharmacy~~, the
20 Veterinary Medical Board, the Board of Registered Nursing, the
21 Physician Assistant Board, the Osteopathic Medical Board of
22 California, the Naturopathic Medicine Committee of the
23 Osteopathic Medical Board, the California State Board of
24 Optometry, and the Podiatric Medical Board of California to
25 operate and maintain CURES for the purposes of regulating the
26 licensees specified in subdivision (b).

27 (e) This section shall become operative on April 1, 2023.

28 SEC. 2. Section 209 of the Business and Professions Code is
29 amended to read:

30 209. The Department of Justice, in conjunction with the
31 Department of Consumer Affairs and the boards and committees
32 identified in subdivision (d) of Section 208, shall do all of the
33 following:

34 (a) Identify and implement a streamlined application and
35 approval process to provide access to the CURES Prescription
36 Drug Monitoring Program (PDMP) database for licensed health
37 care practitioners eligible to prescribe, order, administer, furnish,
38 or dispense Schedule II, Schedule III, or Schedule IV controlled
39 substances and for pharmacists. Every reasonable effort shall be
40 made to implement a streamlined application and approval process

1 that a licensed health care practitioner or pharmacist can complete
2 at the time that they are applying for licensure or renewing their
3 license.

4 (b) Identify necessary procedures to enable licensed health care
5 practitioners and pharmacists with access to the CURES PDMP
6 to delegate their authority to access reports from the CURES
7 PDMP.

8 (c) Develop a procedure to enable health care practitioners who
9 do not have a federal Drug Enforcement Administration (DEA)
10 number to opt out of applying for access to the CURES PDMP.

11 (d) This section shall become inoperative on April 1, 2023, and,
12 as of January 1, 2024, is repealed.

13 SEC. 3. Section 209 is added to the Business and Professions
14 Code, to read:

15 209. ~~The department specified by the Governor pursuant to~~
16 ~~Section 11164.8 of the Health and Safety Code, California State~~
17 ~~Board of Pharmacy, in conjunction with the Department of~~
18 ~~Consumer Affairs and the boards and committees identified in~~
19 ~~subdivision (d) of Section 208, shall do all of the following:~~

20 (a) Identify and implement a streamlined application and
21 approval process to provide access to the CURES Prescription
22 Drug Monitoring Program (PDMP) database for licensed health
23 care practitioners eligible to prescribe, order, administer, furnish,
24 or dispense Schedule II, Schedule III, or Schedule IV controlled
25 substances and for pharmacists. Every reasonable effort shall be
26 made to implement a streamlined application and approval process
27 that a licensed health care practitioner or pharmacist can complete
28 at the time that they are applying for licensure or renewing their
29 license.

30 (b) Identify necessary procedures to enable licensed health care
31 practitioners and pharmacists with access to the CURES PDMP
32 to delegate their authority to access reports from the CURES
33 PDMP.

34 (c) Develop a procedure to enable health care practitioners who
35 do not have a federal Drug Enforcement Administration (DEA)
36 number to opt out of applying for access to the CURES PDMP.

37 (d) This section shall become operative on April 1, 2023.

38 SEC. 4. Section 11164.1 of the Health and Safety Code is
39 amended to read:

1 11164.1. (a) (1) Notwithstanding any other law, a prescription
2 for a controlled substance issued by a prescriber in another state
3 for delivery to a patient in another state may be dispensed by a
4 California pharmacy, if the prescription conforms with the
5 requirements for controlled substance prescriptions in the state in
6 which the controlled substance was prescribed.

7 (2) A prescription for a Schedule II, Schedule III, Schedule IV,
8 or Schedule V controlled substance dispensed pursuant to this
9 subdivision shall be reported by the dispensing pharmacy to the
10 Department of Justice in the manner prescribed by subdivision (d)
11 of Section 11165.

12 (b) A pharmacy may dispense a prescription for a Schedule III,
13 Schedule IV, or Schedule V controlled substance from an
14 out-of-state prescriber pursuant to Section 4005 of the Business
15 and Professions Code and Section 1717 of Title 16 of the California
16 Code of Regulations.

17 (c) This section shall become inoperative on April 1, 2023, and,
18 as of January 1, 2024, is repealed.

19 SEC. 5. Section 11164.1 is added to the Health and Safety
20 Code, to read:

21 11164.1. (a) (1) Notwithstanding any other law, a prescription
22 for a controlled substance issued by a prescriber in another state
23 for delivery to a patient in another state may be dispensed by a
24 California pharmacy, if the prescription conforms with the
25 requirements for controlled substance prescriptions in the state in
26 which the controlled substance was prescribed.

27 (2) A prescription for a Schedule II, Schedule III, Schedule IV,
28 or Schedule V controlled substance dispensed pursuant to this
29 subdivision shall be reported by the dispensing pharmacy to the
30 ~~department specified by the Governor pursuant to Section 11164.8~~
31 *California State Board of Pharmacy* in the manner prescribed by
32 subdivision (d) of Section 11165.

33 (b) A pharmacy may dispense a prescription for a Schedule III,
34 Schedule IV, or Schedule V controlled substance from an
35 out-of-state prescriber pursuant to Section 4005 of the Business
36 and Professions Code and Section 1717 of Title 16 of the California
37 Code of Regulations.

38 (c) This section shall become operative on April 1, 2023.

39 SEC. 6. Section 11164.8 is added to the Health and Safety
40 Code, to read:

1 11164.8. (a) Beginning April 1, 2023, full responsibility for
2 the maintenance and operation of CURES shall be transferred from
3 the Department of Justice to ~~a department specified by the~~
4 ~~Governor.~~ *the California State Board of Pharmacy.*

5 (b) The ~~specified department~~ *board* may adopt emergency
6 regulations to reorganize, clarify, or make consistent regulations,
7 including regulations adopted by the Department of Justice before
8 or in place as of April 1, 2023.

9 (c) All agreements, memoranda of understanding, and contracts
10 in support of the CURES database that are in effect as of April 1,
11 2023, shall be transferred to the ~~department specified in subdivision~~
12 ~~(a).~~ *board.*

13 (d) This section does not restrict, eliminate, or substantially
14 modify the authority of the Department of Justice to engage in any
15 investigation or enforcement activity, either independently or on
16 behalf of a board or state agency.

17 (e) (1) On or before February 1, 2023, the Department of Justice
18 shall submit a report to the appropriate policy and fiscal committees
19 of the Legislature on the status of the transfer prescribed by this
20 section.

21 (2) The requirement for submitting a report imposed under this
22 subdivision is inoperative on January 1, 2026, pursuant to Section
23 10231.5 of the Government Code.

24 (3) A report to be submitted pursuant to this subdivision shall
25 be submitted in compliance with Section 9795 of the Government
26 Code.

27 (f) Until January 1, 2024, the Department of Justice shall provide
28 staff support to the ~~department specified in subdivision (a) until~~
29 ~~that department~~ *board until the board* has hired its own staff. The
30 Department of Justice shall be reimbursed by the State Department
31 of Consumer Affairs from the CURES Fund for these services.

32 SEC. 7. Section 11165 of the Health and Safety Code, as
33 amended by Section 5 of Chapter 618 of the Statutes of 2021, is
34 amended to read:

35 11165. (a) To assist health care practitioners in their efforts
36 to ensure appropriate prescribing, ordering, administering,
37 furnishing, and dispensing of controlled substances, law
38 enforcement and regulatory agencies in their efforts to control the
39 diversion and resultant abuse of Schedule II, Schedule III, Schedule
40 IV, and Schedule V controlled substances, and for statistical

1 analysis, education, and research, the Department of Justice shall,
2 contingent upon the availability of adequate funds in the CURES
3 Fund, maintain the Controlled Substance Utilization Review and
4 Evaluation System (CURES) for the electronic monitoring of, and
5 internet access to information regarding, the prescribing and
6 dispensing of Schedule II, Schedule III, Schedule IV, and Schedule
7 V controlled substances by all practitioners authorized to prescribe,
8 order, administer, furnish, or dispense these controlled substances.

9 (b) The department may seek and use grant funds to pay the
10 costs incurred by the operation and maintenance of CURES. The
11 department shall annually report to the Legislature and make
12 available to the public the amount and source of funds it receives
13 for support of CURES.

14 (c) (1) The operation of CURES shall comply with all
15 applicable federal and state privacy and security laws and
16 regulations.

17 (2) (A) CURES shall operate under existing provisions of law
18 to safeguard the privacy and confidentiality of patients. Data
19 obtained from CURES shall only be provided to appropriate state,
20 local, and federal public agencies for disciplinary, civil, or criminal
21 purposes and to other agencies or entities, as determined by the
22 department, for the purpose of educating practitioners and others
23 in lieu of disciplinary, civil, or criminal actions. Data may be
24 provided to public or private entities, as approved by the
25 department, for educational, peer review, statistical, or research
26 purposes, if patient information, including information that may
27 identify the patient, is not compromised. The University of
28 California shall be provided access to identifiable data for research
29 purposes if the requirements of subdivision (t) of Section 1798.24
30 of the Civil Code are satisfied. Further, data disclosed to an
31 individual or agency as described in this subdivision shall not be
32 disclosed, sold, or transferred to a third party, unless authorized
33 by, or pursuant to, state and federal privacy and security laws and
34 regulations. The department shall establish policies, procedures,
35 and regulations regarding the use, access, evaluation, management,
36 implementation, operation, storage, disclosure, and security of the
37 information within CURES, consistent with this subdivision.

38 (B) Notwithstanding subparagraph (A), a regulatory board whose
39 licensees do not prescribe, order, administer, furnish, or dispense

1 controlled substances shall not be provided data obtained from
2 CURES.

3 (3) The department shall, no later than January 1, 2021, adopt
4 regulations regarding the access and use of the information within
5 CURES. The department shall consult with all stakeholders
6 identified by the department during the rulemaking process. The
7 regulations shall, at a minimum, address all of the following in a
8 manner consistent with this chapter:

9 (A) The process for approving, denying, and disapproving
10 individuals or entities seeking access to information in CURES.

11 (B) The purposes for which a health care practitioner may access
12 information in CURES.

13 (C) The conditions under which a warrant, subpoena, or court
14 order is required for a law enforcement agency to obtain
15 information from CURES as part of a criminal investigation.

16 (D) The process by which information in CURES may be
17 provided for educational, peer review, statistical, or research
18 purposes.

19 (4) In accordance with federal and state privacy laws and
20 regulations, a health care practitioner may provide a patient with
21 a copy of the patient's CURES patient activity report as long as
22 no additional CURES data are provided and the health care
23 practitioner keeps a copy of the report in the patient's medical
24 record in compliance with subdivision (d) of Section 11165.1.

25 (d) For each prescription for a Schedule II, Schedule III,
26 Schedule IV, or Schedule V controlled substance, as defined in
27 the controlled substances schedules in federal law and regulations,
28 specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15,
29 respectively, of Title 21 of the Code of Federal Regulations, the
30 dispensing pharmacy, clinic, or other dispenser shall report the
31 following information to the department or contracted prescription
32 data processing vendor as soon as reasonably possible, but not
33 more than one working day after the date a controlled substance
34 is released to the patient or patient's representative, in a format
35 specified by the department:

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

- 1 (2) The prescriber’s category of licensure, license number,
2 national provider identifier (NPI) number, if applicable, the federal
3 controlled substance registration number, and the state medical
4 license number of a prescriber using the federal controlled
5 substance registration number of a government-exempt facility.
- 6 (3) Pharmacy prescription number, license number, NPI number,
7 and federal controlled substance registration number.
- 8 (4) National Drug Code (NDC) number of the controlled
9 substance dispensed.
- 10 (5) Quantity of the controlled substance dispensed.
- 11 (6) The International Statistical Classification of Diseases (ICD)
12 Code contained in the most current ICD revision, or any revision
13 deemed sufficient by the State Board of Pharmacy, if available.
- 14 (7) Number of refills ordered.
- 15 (8) Whether the drug was dispensed as a refill of a prescription
16 or as a first-time request.
- 17 (9) Prescribing date of the prescription.
- 18 (10) Date of dispensing of the prescription.
- 19 (11) The serial number for the corresponding prescription form,
20 if applicable.
- 21 (e) The department may invite stakeholders to assist, advise,
22 and make recommendations on the establishment of rules and
23 regulations necessary to ensure the proper administration and
24 enforcement of the CURES database. A prescriber or dispenser
25 invitee shall be licensed by one of the boards or committees
26 identified in subdivision (d) of Section 208 of the Business and
27 Professions Code, in active practice in California, and a regular
28 user of CURES.
- 29 (f) The department shall, prior to upgrading CURES, consult
30 with prescribers licensed by one of the boards or committees
31 identified in subdivision (d) of Section 208 of the Business and
32 Professions Code, one or more of the boards or committees
33 identified in subdivision (d) of Section 208 of the Business and
34 Professions Code, and any other stakeholder identified by the
35 department, for the purpose of identifying desirable capabilities
36 and upgrades to the CURES Prescription Drug Monitoring Program
37 (PDMP).
- 38 (g) The department may establish a process to educate
39 authorized subscribers of the CURES PDMP on how to access and
40 use the CURES PDMP.

1 (h) (1) The department may enter into an agreement with an
2 entity operating an interstate data sharing hub, or an agency
3 operating a prescription drug monitoring program in another state,
4 for purposes of interstate data sharing of prescription drug
5 monitoring program information.

6 (2) Data obtained from CURES may be provided to authorized
7 users of another state’s prescription drug monitoring program, as
8 determined by the department pursuant to subdivision (c), if the
9 entity operating the interstate data sharing hub, and the prescription
10 drug monitoring program of that state, as applicable, have entered
11 into an agreement with the department for interstate data sharing
12 of prescription drug monitoring program information.

13 (3) An agreement entered into by the department for purposes
14 of interstate data sharing of prescription drug monitoring program
15 information shall ensure that all access to data obtained from
16 CURES and the handling of data contained within CURES comply
17 with California law, including regulations, and meet the same
18 patient privacy, audit, and data security standards employed and
19 required for direct access to CURES.

20 (4) For purposes of interstate data sharing of CURES
21 information pursuant to this subdivision, an authorized user of
22 another state’s prescription drug monitoring program shall not be
23 required to register with CURES, if the authorized user is registered
24 and in good standing with that state’s prescription drug monitoring
25 program.

26 (5) The department shall not enter into an agreement pursuant
27 to this subdivision until the department has issued final regulations
28 regarding the access and use of the information within CURES as
29 required by paragraph (3) of subdivision (c).

30 (i) Notwithstanding subdivision (d), a veterinarian shall report
31 the information required by that subdivision to the department as
32 soon as reasonably possible, but not more than seven days after
33 the date a controlled substance is dispensed.

34 (j) If the dispensing pharmacy, clinic, or other dispenser
35 experiences a temporary technological or electrical failure, it shall,
36 without undue delay, seek to correct any cause of the temporary
37 technological or electrical failure that is reasonably within its
38 control. The deadline for transmitting prescription information to
39 the department or contracted prescription data processing vendor
40 pursuant to subdivision (d) shall be extended until the failure is

1 corrected. If the dispensing pharmacy, clinic, or other dispenser
2 experiences technological limitations that are not reasonably within
3 its control, or is impacted by a natural or manmade disaster, the
4 deadline for transmitting prescription information to the department
5 or contracted prescription data processing vendor shall be extended
6 until normal operations have resumed.

7 (k) This section shall become inoperative on April 1, 2023, and,
8 as of January 1, 2024, is repealed.

9 SEC. 8. Section 11165 is added to the Health and Safety Code,
10 to read:

11 11165. (a) To assist health care practitioners in their efforts
12 to ensure appropriate prescribing, ordering, administering,
13 furnishing, and dispensing of controlled substances, law
14 enforcement and regulatory agencies in their efforts to control the
15 diversion and resultant abuse of Schedule II, Schedule III, Schedule
16 IV, and Schedule V controlled substances, and for statistical
17 analysis, education, and research, ~~the department specified by the~~
18 ~~Governor pursuant to Section 11164.8~~ *California State Board of*
19 *Pharmacy* shall, contingent upon the availability of adequate funds
20 in the CURES Fund, maintain the Controlled Substance Utilization
21 Review and Evaluation System (CURES) for the electronic
22 monitoring of, and internet access to information regarding, the
23 prescribing and dispensing of Schedule II, Schedule III, Schedule
24 IV, and Schedule V controlled substances by all practitioners
25 authorized to prescribe, order, administer, furnish, or dispense
26 these controlled substances.

27 (b) ~~The department~~ *board* may seek and use grant funds to pay
28 the costs incurred by the operation and maintenance of CURES.
29 ~~The department~~ *board* shall annually report to the Legislature and
30 make available to the public the amount and source of funds it
31 receives for support of CURES.

32 (c) (1) The operation of CURES shall comply with all
33 applicable federal and state privacy and security laws and
34 regulations.

35 (2) (A) CURES shall operate under existing provisions of law
36 to safeguard the privacy and confidentiality of patients. Data
37 obtained from CURES shall only be provided to appropriate state,
38 local, and federal public agencies for disciplinary, civil, or criminal
39 purposes and to other agencies or entities, as determined by the
40 ~~department,~~ *board*, for the purpose of educating practitioners and

1 others in lieu of disciplinary, civil, or criminal actions. Data may
2 be provided to public or private entities, as approved by the
3 ~~department~~, *board*, for educational, peer review, statistical, or
4 research purposes, if patient information, including information
5 that may identify the patient, is not compromised. The University
6 of California shall be provided access to identifiable data for
7 research purposes if the requirements of subdivision (t) of Section
8 1798.24 of the Civil Code are satisfied. Further, data disclosed to
9 an individual or agency as described in this subdivision shall not
10 be disclosed, sold, or transferred to a third party, unless authorized
11 by, or pursuant to, state and federal privacy and security laws and
12 regulations. The ~~department~~ *board* shall establish policies,
13 procedures, and regulations regarding the use, access, evaluation,
14 management, implementation, operation, storage, disclosure, and
15 security of the information within CURES, consistent with this
16 subdivision.

17 (B) Notwithstanding subparagraph (A), a regulatory board whose
18 licensees do not prescribe, order, administer, furnish, or dispense
19 controlled substances shall not be provided data obtained from
20 CURES.

21 (3) The ~~department~~ *board* shall, no later than April 1, 2024,
22 revisit existing regulations previously adopted by the Department
23 of Justice regarding the access and use of the information within
24 CURES. If the ~~department~~ *board* initiates a new rulemaking
25 process to make changes or additions to these regulations, the
26 ~~department~~ *board* shall consult with all stakeholders identified by
27 the ~~department~~ *board* during the rulemaking process. The
28 regulations shall, at a minimum, address all of the following in a
29 manner consistent with this chapter:

30 (A) The process for approving, denying, and disapproving
31 individuals or entities seeking access to information in CURES.

32 (B) The purposes for which a health care practitioner may access
33 information in CURES.

34 (C) The conditions under which a warrant, subpoena, or court
35 order is required for a law enforcement agency to obtain
36 information from CURES as part of a criminal investigation.

37 (D) The process by which information in CURES may be
38 provided for educational, peer review, statistical, or research
39 purposes.

1 (4) In accordance with federal and state privacy laws and
2 regulations, a health care practitioner may provide a patient with
3 a copy of the patient’s CURES patient activity report as long as
4 no additional CURES data are provided and the health care
5 practitioner keeps a copy of the report in the patient’s medical
6 record in compliance with subdivision (d) of Section 11165.1.

7 (d) For each prescription for a Schedule II, Schedule III,
8 Schedule IV, or Schedule V controlled substance, as defined in
9 the controlled substances schedules in federal law and regulations,
10 specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15,
11 respectively, of Title 21 of the Code of Federal Regulations, the
12 dispensing pharmacy, clinic, or other dispenser shall report the
13 following information to the ~~department~~ *board* or contracted
14 prescription data processing vendor as soon as reasonably possible,
15 but not more than one working day after the date a controlled
16 substance is released to the patient or patient’s representative, in
17 a format specified by the ~~department~~ *board*:

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

23 (2) The prescriber’s category of licensure, license number,
24 national provider identifier (NPI) number, if applicable, the federal
25 controlled substance registration number, and the state medical
26 license number of a prescriber using the federal controlled
27 substance registration number of a government-exempt facility.

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

30 (4) National Drug Code (NDC) number of the controlled
31 substance dispensed.

32 (5) Quantity of the controlled substance dispensed.

33 (6) The International Statistical Classification of Diseases (ICD)
34 Code contained in the most current ICD revision, or any revision
35 deemed sufficient by the ~~State Board of Pharmacy~~, *board*, if
36 available.

37 (7) Number of refills ordered.

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

40 (9) Prescribing date of the prescription.

- 1 (10) Date of dispensing of the prescription.
- 2 (11) The serial number for the corresponding prescription form,
- 3 if applicable.
- 4 (e) ~~The department~~ *board* may invite stakeholders to assist,
- 5 advise, and make recommendations on the establishment of rules
- 6 and regulations necessary to ensure the proper administration and
- 7 enforcement of the CURES database. A prescriber or dispenser
- 8 invitee shall be licensed by *the board* or one of the boards or
- 9 committees identified in subdivision (d) of Section 208 of the
- 10 Business and Professions Code, in active practice in California,
- 11 and a regular user of CURES.
- 12 (f) ~~The department~~ *board* shall, prior to upgrading CURES,
- 13 consult with prescribers licensed by *the board* or one of the boards
- 14 or committees identified in subdivision (d) of Section 208 of the
- 15 Business and Professions Code, ~~one or more of the boards or~~
- 16 ~~committees identified in subdivision (d) of Section 208 of the~~
- 17 ~~Business and Professions Code~~, and any other stakeholder
- 18 identified by the ~~department~~, *board*, for the purpose of identifying
- 19 desirable capabilities and upgrades to the CURES Prescription
- 20 Drug Monitoring Program (PDMP).
- 21 (g) ~~The department~~ *board* may establish a process to educate
- 22 authorized subscribers of the CURES PDMP on how to access and
- 23 use the CURES PDMP.
- 24 (h) (1) ~~The department~~ *board* may enter into an agreement with
- 25 an entity operating an interstate data sharing hub, or an agency
- 26 operating a prescription drug monitoring program in another state,
- 27 for purposes of interstate data sharing of prescription drug
- 28 monitoring program information.
- 29 (2) Data obtained from CURES may be provided to authorized
- 30 users of another state’s prescription drug monitoring program, as
- 31 determined by the ~~department~~ *board* pursuant to subdivision (c),
- 32 if the entity operating the interstate data sharing hub, and the
- 33 prescription drug monitoring program of that state, as applicable,
- 34 have entered into an agreement with the ~~department~~ *board* for
- 35 interstate data sharing of prescription drug monitoring program
- 36 information.
- 37 (3) An agreement entered into by the ~~department~~ *board* for
- 38 purposes of interstate data sharing of prescription drug monitoring
- 39 program information shall ensure that all access to data obtained
- 40 from CURES and the handling of data contained within CURES

1 comply with California law, including regulations, and meet the
2 same patient privacy, audit, and data security standards employed
3 and required for direct access to CURES.

4 (4) For purposes of interstate data sharing of CURES
5 information pursuant to this subdivision, an authorized user of
6 another state's prescription drug monitoring program shall not be
7 required to register with CURES, if the authorized user is registered
8 and in good standing with that state's prescription drug monitoring
9 program.

10 (5) The ~~department~~ *board* shall not enter into an agreement
11 pursuant to this subdivision until the ~~department~~ *board* has issued
12 final regulations regarding the access and use of the information
13 within CURES as required by paragraph (3) of subdivision (c).

14 (i) Notwithstanding subdivision (d), a veterinarian shall report
15 the information required by that subdivision to the ~~department~~
16 *board* as soon as reasonably possible, but not more than seven
17 days after the date a controlled substance is dispensed.

18 (j) If the dispensing pharmacy, clinic, or other dispenser
19 experiences a temporary technological or electrical failure, it shall,
20 without undue delay, seek to correct any cause of the temporary
21 technological or electrical failure that is reasonably within its
22 control. The deadline for transmitting prescription information to
23 the ~~department~~ *board* or contracted prescription data processing
24 vendor pursuant to subdivision (d) shall be extended until the
25 failure is corrected. If the dispensing pharmacy, clinic, or other
26 dispenser experiences technological limitations that are not
27 reasonably within its control, or is impacted by a natural or
28 manmade disaster, the deadline for transmitting prescription
29 information to the ~~department~~ *board* or contracted prescription
30 data processing vendor shall be extended until normal operations
31 have resumed.

32 (k) This section shall become operative on April 1, 2023.

33 SEC. 9. Section 11165.1 of the Health and Safety Code, as
34 amended by Section 20 of Chapter 77 of the Statutes of 2021, is
35 amended to read:

36 11165.1. (a) (1) (A) (i) A health care practitioner authorized
37 to prescribe, order, administer, furnish, or dispense Schedule II,
38 Schedule III, Schedule IV, or Schedule V controlled substances
39 pursuant to Section 11150 shall, upon receipt of a federal Drug
40 Enforcement Administration (DEA) registration, submit an

1 application developed by the department to obtain approval to
 2 electronically access information regarding the controlled substance
 3 history of a patient that is maintained by the department. Upon
 4 approval, the department shall release to the practitioner or their
 5 delegate the electronic history of controlled substances dispensed
 6 to an individual under the practitioner’s care based on data
 7 contained in the CURES Prescription Drug Monitoring Program
 8 (PDMP).

9 (ii) A pharmacist shall, upon licensure, submit an application
 10 developed by the department to obtain approval to electronically
 11 access information regarding the controlled substance history of
 12 a patient that is maintained by the department. Upon approval, the
 13 department shall release to the pharmacist or their delegate the
 14 electronic history of controlled substances dispensed to an
 15 individual under the pharmacist’s care based on data contained in
 16 the CURES PDMP.

17 (iii) A licensed physician and surgeon who does not hold a DEA
 18 registration may submit an application developed by the department
 19 to obtain approval to electronically access information regarding
 20 the controlled substance history of the patient that is maintained
 21 by the department. Upon approval, the department shall release to
 22 the physician and surgeon or their delegate the electronic history
 23 of controlled substances dispensed to a patient under their care
 24 based on data contained in the CURES PDMP.

25 (iv) The department shall implement its duties described in
 26 clauses (i), (ii), and (iii) upon completion of any technological
 27 changes to the CURES database necessary to support clauses (i),
 28 (ii), and (iii), or by October 1, 2022, whichever is sooner.

29 (B) The department may deny an application or suspend a
 30 subscriber for reasons that include, but are not limited to, the
 31 following:

32 (i) Materially falsifying an application to access information
 33 contained in the CURES database.

34 (ii) Failing to maintain effective controls for access to the patient
 35 activity report.

36 (iii) Having their federal DEA registration suspended or revoked.

37 (iv) Violating a law governing controlled substances or another
 38 law for which the possession or use of a controlled substance is
 39 an element of the crime.

1 (v) Accessing information for a reason other than to diagnose
2 or treat a patient, or to document compliance with the law.

3 (C) An authorized subscriber shall notify the department within
4 30 days of a change to the subscriber account.

5 (D) An approved health care practitioner, pharmacist, or a person
6 acting on behalf of a health care practitioner or pharmacist pursuant
7 to subdivision (b) of Section 209 of the Business and Professions
8 Code may use the department's online portal or a health
9 information technology system that meets the criteria required in
10 subparagraph (E) to access information in the CURES database
11 pursuant to this section. A subscriber who uses a health information
12 technology system that meets the criteria required in subparagraph
13 (E) to access the CURES database may submit automated queries
14 to the CURES database that are triggered by predetermined criteria.

15 (E) An approved health care practitioner or pharmacist may
16 submit queries to the CURES database through a health information
17 technology system if the entity that operates the health information
18 technology system certifies all of the following:

19 (i) The entity will not use or disclose data received from the
20 CURES database for a purpose other than delivering the data to
21 an approved health care practitioner or pharmacist or performing
22 data processing activities that may be necessary to enable the
23 delivery unless authorized by, and pursuant to, state and federal
24 privacy and security laws and regulations.

25 (ii) The health information technology system will authenticate
26 the identity of an authorized health care practitioner or pharmacist
27 initiating queries to the CURES database and, at the time of the
28 query to the CURES database, the health information technology
29 system submits the following data regarding the query to CURES:

30 (I) The date of the query.

31 (II) The time of the query.

32 (III) The first and last name of the patient queried.

33 (IV) The date of birth of the patient queried.

34 (V) The identification of the CURES user for whom the system
35 is making the query.

36 (iii) The health information technology system meets applicable
37 patient privacy and information security requirements of state and
38 federal law.

39 (iv) The entity has entered into a memorandum of understanding
40 with the department that solely addresses the technical

1 specifications of the health information technology system to
2 ensure the security of the data in the CURES database and the
3 secure transfer of data from the CURES database. The technical
4 specifications shall be universal for all health information
5 technology systems that establish a method of system integration
6 to retrieve information from the CURES database. The
7 memorandum of understanding shall not govern, or in any way
8 impact or restrict, the use of data received from the CURES
9 database or impose any additional burdens on covered entities in
10 compliance with the regulations promulgated pursuant to the
11 federal Health Insurance Portability and Accountability Act of
12 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal
13 Regulations.

14 (F) No later than October 1, 2018, the department shall develop
15 a programming interface or other method of system integration to
16 allow health information technology systems that meet the
17 requirements in subparagraph (E) to retrieve information in the
18 CURES database on behalf of an authorized health care practitioner
19 or pharmacist.

20 (G) The department shall not access patient-identifiable
21 information in an entity's health information technology system.

22 (H) An entity that operates a health information technology
23 system that is requesting to establish an integration with the
24 CURES database shall pay a reasonable fee to cover the cost of
25 establishing and maintaining integration with the CURES database.

26 (I) The department may prohibit integration or terminate a health
27 information technology system's ability to retrieve information in
28 the CURES database if the health information technology system
29 fails to meet the requirements of subparagraph (E), or the entity
30 operating the health information technology system does not fulfill
31 its obligation under subparagraph (H).

32 (2) A health care practitioner authorized to prescribe, order,
33 administer, furnish, or dispense Schedule II, Schedule III, Schedule
34 IV, or Schedule V controlled substances pursuant to Section 11150
35 or a pharmacist shall be deemed to have complied with paragraph
36 (1) if the licensed health care practitioner or pharmacist has been
37 approved to access the CURES database through the process
38 developed pursuant to subdivision (a) of Section 209 of the
39 Business and Professions Code.

1 (b) A request for, or release of, a controlled substance history
2 pursuant to this section shall be made in accordance with guidelines
3 developed by the department.

4 (c) In order to prevent the inappropriate, improper, or illegal
5 use of Schedule II, Schedule III, Schedule IV, or Schedule V
6 controlled substances, the department may initiate the referral of
7 the history of controlled substances dispensed to an individual
8 based on data contained in CURES to licensed health care
9 practitioners, pharmacists, or both, providing care or services to
10 the individual.

11 (d) The history of controlled substances dispensed to an
12 individual based on data contained in CURES that is received by
13 a practitioner or pharmacist from the department pursuant to this
14 section is medical information subject to the provisions of the
15 Confidentiality of Medical Information Act contained in Part 2.6
16 (commencing with Section 56) of Division 1 of the Civil Code.

17 (e) Information concerning a patient's controlled substance
18 history provided to a practitioner or pharmacist pursuant to this
19 section shall include prescriptions for controlled substances listed
20 in Sections 1308.12, 1308.13, 1308.14, and 1308.15 of Title 21 of
21 the Code of Federal Regulations.

22 (f) A health care practitioner, pharmacist, or a person acting on
23 behalf of a health care practitioner or pharmacist, when acting with
24 reasonable care and in good faith, is not subject to civil or
25 administrative liability arising from false, incomplete, inaccurate,
26 or misattributed information submitted to, reported by, or relied
27 upon in the CURES database or for a resulting failure of the
28 CURES database to accurately or timely report that information.

29 (g) For purposes of this section, the following terms have the
30 following meanings:

31 (1) "Automated basis" means using predefined criteria to trigger
32 an automated query to the CURES database, which can be
33 attributed to a specific health care practitioner or pharmacist.

34 (2) "Department" means the Department of Justice.

35 (3) "Entity" means an organization that operates, or provides
36 or makes available, a health information technology system to a
37 health care practitioner or pharmacist.

38 (4) "Health information technology system" means an
39 information processing application using hardware and software
40 for the storage, retrieval, sharing of or use of patient data for

1 communication, decisionmaking, coordination of care, or the
2 quality, safety, or efficiency of the practice of medicine or delivery
3 of health care services, including, but not limited to, electronic
4 medical record applications, health information exchange systems,
5 or other interoperable clinical or health care information system.

6 (h) (1) This section shall become operative on July 1, 2021, or
7 upon the date the department promulgates regulations to implement
8 this section and posts those regulations on its internet website,
9 whichever date is earlier.

10 (2) This section shall become inoperative on April 1, 2023, and,
11 as of January 1, 2024, is repealed.

12 SEC. 10. Section 11165.1 is added to the Health and Safety
13 Code, to read:

14 11165.1. (a) (1) (A) (i) A health care practitioner authorized
15 to prescribe, order, administer, furnish, or dispense Schedule II,
16 Schedule III, Schedule IV, or Schedule V controlled substances
17 pursuant to Section 11150 shall, upon receipt of a federal Drug
18 Enforcement Administration (DEA) registration, submit an
19 application developed by the ~~department~~ *board* to obtain approval
20 to electronically access information regarding the controlled
21 substance history of a patient that is maintained by the ~~department~~
22 *board*. Upon approval, the ~~department~~ *board* shall release to the
23 practitioner or their delegate the electronic history of controlled
24 substances dispensed to an individual under the practitioner's care
25 based on data contained in the CURES Prescription Drug
26 Monitoring Program (PDMP or CURES database).

27 (ii) A pharmacist shall, upon licensure, submit an application
28 developed by the ~~department~~ *board* to obtain approval to
29 electronically access information regarding the controlled substance
30 history of a patient that is maintained by the ~~department~~ *board*.
31 Upon approval, the ~~department~~ *board* shall release to the
32 pharmacist or their delegate the electronic history of controlled
33 substances dispensed to an individual under the pharmacist's care
34 based on data contained in the CURES PDMP.

35 (iii) A licensed physician and surgeon who does not hold a DEA
36 registration may submit an application developed by the ~~department~~
37 *board* to obtain approval to electronically access information
38 regarding the controlled substance history of the patient that is
39 maintained by the ~~department~~ *board*. Upon approval, the
40 ~~department~~ *board* shall release to the physician and surgeon or

1 their delegate the electronic history of controlled substances
2 dispensed to a patient under their care based on data contained in
3 the CURES PDMP.

4 (iv) The ~~department~~ *board* shall implement its duties described
5 in clauses (i), (ii), and (iii) upon completion of any technological
6 changes to the CURES database necessary to support clauses (i),
7 (ii), and (iii).

8 (B) The ~~department~~ *board* may deny an application or suspend
9 a subscriber, for reasons that include, but are not limited to, the
10 following:

11 (i) Materially falsifying an application to access information
12 contained in the CURES database.

13 (ii) Failing to maintain effective controls for access to the patient
14 activity report.

15 (iii) Having their federal DEA registration suspended or revoked.

16 (iv) Violating a law governing controlled substances or another
17 law for which the possession or use of a controlled substance is
18 an element of the crime.

19 (v) Accessing information for a reason other than to diagnose
20 or treat a patient, or to document compliance with the law.

21 (C) An authorized subscriber shall notify the ~~department~~ *board*
22 within 30 days of a change to the subscriber account.

23 (D) An approved health care practitioner, pharmacist, or a person
24 acting on behalf of a health care practitioner or pharmacist pursuant
25 to subdivision (b) of Section 209 of the Business and Professions
26 Code may use the ~~department's~~ *board's* online portal or a health
27 information technology system that meets the criteria required in
28 subparagraph (E) to access information in the CURES database
29 pursuant to this section. A subscriber who uses a health information
30 technology system that meets the criteria required in subparagraph
31 (E) to access the CURES database may submit automated queries
32 to the CURES database that are triggered by predetermined criteria.

33 (E) An approved health care practitioner or pharmacist may
34 submit queries to the CURES database through a health information
35 technology system if the entity that operates the health information
36 technology system certifies all of the following:

37 (i) The entity will not use or disclose data received from the
38 CURES database for a purpose other than delivering the data to
39 an approved health care practitioner or pharmacist or performing
40 data processing activities that may be necessary to enable the

1 delivery unless authorized by, and pursuant to, state and federal
2 privacy and security laws and regulations.

3 (ii) The health information technology system will authenticate
4 the identity of an authorized health care practitioner or pharmacist
5 initiating queries to the CURES database and, at the time of the
6 query, the health information technology system submits the
7 following data regarding the query to CURES:

8 (I) The date of the query.

9 (II) The time of the query.

10 (III) The first and last name of the patient queried.

11 (IV) The date of birth of the patient queried.

12 (V) The identification of the CURES user for whom the system
13 is making the query.

14 (iii) The health information technology system meets applicable
15 patient privacy and information security requirements of state and
16 federal law.

17 (iv) The entity has entered into a memorandum of understanding
18 with the ~~department~~ *board* that solely addresses the technical
19 specifications of the health information technology system to
20 ensure the security of the data in the CURES database and the
21 secure transfer of data from the CURES database. The technical
22 specifications shall be universal for all health information
23 technology systems that establish a method of system integration
24 to retrieve information from the CURES database. The
25 memorandum of understanding shall not govern, or in any way
26 impact or restrict, the use of data received from the CURES
27 database or impose any additional burdens on covered entities in
28 compliance with the regulations promulgated pursuant to the
29 federal Health Insurance Portability and Accountability Act of
30 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal
31 Regulations.

32 (F) The ~~department~~ *board* shall develop a programming interface
33 or other method of system integration to allow health information
34 technology systems that meet the requirements in subparagraph
35 (E) to retrieve information in the CURES database on behalf of
36 an authorized health care practitioner or pharmacist.

37 (G) The ~~department~~ *board* shall not access patient-identifiable
38 information in an entity's health information technology system.

39 (H) An entity that operates a health information technology
40 system that is requesting to establish an integration with the

1 CURES database shall pay a reasonable fee to cover the cost of
2 establishing and maintaining integration with the CURES database.

3 (I) The ~~department~~ *board* may prohibit integration or terminate
4 a health information technology system's ability to retrieve
5 information in the CURES database if the health information
6 technology system fails to meet the requirements of subparagraph
7 (E), or the entity operating the health information technology
8 system does not fulfill its obligation under subparagraph (H).

9 (2) A health care practitioner authorized to prescribe, order,
10 administer, furnish, or dispense Schedule II, Schedule III, Schedule
11 IV, or Schedule V controlled substances pursuant to Section 11150
12 or a pharmacist shall be deemed to have complied with paragraph
13 (1) if the licensed health care practitioner or pharmacist has been
14 approved to access the CURES database through the process
15 developed pursuant to subdivision (a) of Section 209 of the
16 Business and Professions Code.

17 (b) A request for, or release of, a controlled substance history
18 pursuant to this section shall be made in accordance with guidelines
19 developed by the ~~department~~ *board*.

20 (c) In order to prevent the inappropriate, improper, or illegal
21 use of Schedule II, Schedule III, Schedule IV, or Schedule V
22 controlled substances, the ~~department~~ *board* may initiate the
23 referral of the history of controlled substances dispensed to an
24 individual based on data contained in the CURES database to
25 licensed health care practitioners, pharmacists, or both, providing
26 care or services to the individual.

27 (d) The history of controlled substances dispensed to an
28 individual based on data contained in the CURES database that is
29 received by a practitioner or pharmacist from the ~~department~~ *board*
30 pursuant to this section is medical information subject to the
31 provisions of the Confidentiality of Medical Information Act
32 contained in Part 2.6 (commencing with Section 56) of Division
33 1 of the Civil Code.

34 (e) Information concerning a patient's controlled substance
35 history provided to a practitioner or pharmacist pursuant to this
36 section shall include prescriptions for controlled substances listed
37 in Sections 1308.12, 1308.13, 1308.14, and 1308.15 of Title 21 of
38 the Code of Federal Regulations.

39 (f) A health care practitioner, pharmacist, or a person acting on
40 behalf of a health care practitioner or pharmacist, when acting with

1 reasonable care and in good faith, is not subject to civil or
2 administrative liability arising from false, incomplete, inaccurate,
3 or misattributed information submitted to, reported by, or relied
4 upon in the CURES database or for a resulting failure of the
5 CURES database to accurately or timely report that information.

6 (g) For purposes of this section, the following terms have the
7 following meanings:

8 (1) "Automated basis" means using predefined criteria to trigger
9 an automated query to the CURES database, which can be
10 attributed to a specific health care practitioner or pharmacist.

11 ~~(2) "Department" means the department specified by the~~
12 ~~Governor pursuant to Section 11164.8.~~

13 (2) "*Board*" means the California State Board of Pharmacy.

14 (3) "Entity" means an organization that operates, or provides
15 or makes available, a health information technology system to a
16 health care practitioner or pharmacist.

17 (4) "Health information technology system" means an
18 information processing application using hardware and software
19 for the storage, retrieval, sharing of or use of patient data for
20 communication, decisionmaking, coordination of care, or the
21 quality, safety, or efficiency of the practice of medicine or delivery
22 of health care services, including, but not limited to, electronic
23 medical record applications, health information exchange systems,
24 or other interoperable clinical or health care information system.

25 (h) This section shall become operative on April 1, 2023.

26 SEC. 11. Section 11165.2 of the Health and Safety Code is
27 amended to read:

28 11165.2. (a) The Department of Justice may conduct audits
29 of the CURES Prescription Drug Monitoring Program system and
30 its users.

31 (b) The Department of Justice may establish, by regulation, a
32 system for the issuance to a CURES Prescription Drug Monitoring
33 Program subscriber of a citation which may contain an order of
34 abatement, or an order to pay an administrative fine assessed by
35 the Department of Justice if the subscriber is in violation of any
36 provision of this chapter or any regulation adopted by the
37 Department of Justice pursuant to this chapter.

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

39 (1) Citations shall be in writing and shall describe with
40 particularity the nature of the violation, including specific reference

1 to the provision of law or regulation of the department determined
2 to have been violated.

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

6 (3) In no event shall the administrative fine assessed by the
7 department exceed two thousand five hundred dollars (\$2,500) for
8 each violation. In assessing a fine, due consideration shall be given
9 to the appropriateness of the amount of the fine with respect to
10 such factors as the gravity of the violation, the good faith of the
11 subscribers, and the history of previous violations.

12 (4) An order of abatement or a fine assessment issued pursuant
13 to a citation shall inform the subscriber that, if the subscriber
14 desires a hearing to contest the finding of a violation, a hearing
15 shall be requested by written notice to the CURES Prescription
16 Drug Monitoring Program within 30 days of the date of issuance
17 of the citation or assessment. Hearings shall be held pursuant to
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division
19 3 of Title 2 of the Government Code.

20 (5) In addition to requesting a hearing, the subscriber may,
21 within 10 days after service of the citation, request in writing an
22 opportunity for an informal conference with the department
23 regarding the citation. At the conclusion of the informal conference,
24 the department may affirm, modify, or dismiss the citation,
25 including any fine levied or order of abatement issued. The decision
26 shall be deemed to be a final order with regard to the citation
27 issued, including the fine levied or the order of abatement, which
28 could include permanent suspension to the system, a monetary
29 fine, or both, depending on the gravity of the violation. However,
30 the subscriber does not waive its right to request a hearing to
31 contest a citation by requesting an informal conference. If the
32 citation is affirmed, a formal hearing may be requested within 30
33 days of the date the citation was affirmed. If the citation is
34 dismissed after the informal conference, the request for a hearing
35 on the matter of the citation shall be deemed to be withdrawn. If
36 the citation, including any fine levied or order of abatement, is
37 modified, the citation originally issued shall be considered
38 withdrawn and a new citation issued. If a hearing is requested for
39 a subsequent citation, it shall be requested within 30 days of service
40 of that subsequent citation.

1 (6) Failure of a subscriber to pay a fine within 30 days of the
2 date of assessment or comply with an order of abatement within
3 the fixed time, unless the citation is being appealed, may result in
4 disciplinary action taken by the department. If a citation is not
5 contested and a fine is not paid, the subscriber account will be
6 terminated:

7 (A) A citation may be issued without the assessment of an
8 administrative fine.

9 (B) Assessment of administrative fines may be limited to only
10 particular violations of law or department regulations.

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

15 (e) Administrative fines collected pursuant to this section shall
16 be deposited in the CURES Program Special Fund, available upon
17 appropriation by the Legislature. These special funds shall provide
18 support for costs associated with informal and formal hearings,
19 maintenance, and updates to the CURES Prescription Drug
20 Monitoring Program.

21 (f) The sanctions authorized under this section shall be separate
22 from, and in addition to, any other administrative, civil, or criminal
23 remedies; however, a criminal action may not be initiated for a
24 specific offense if a citation has been issued pursuant to this section
25 for that offense, and a citation may not be issued pursuant to this
26 section for a specific offense if a criminal action for that offense
27 has been filed.

28 (g) This section does not prevent the department from serving
29 and prosecuting an accusation to suspend or revoke a subscriber
30 if grounds for that suspension or revocation exist.

31 (h) This section shall become inoperative on April 1, 2023, and,
32 as of January 1, 2024, is repealed.

33 SEC. 12. Section 11165.2 is added to the Health and Safety
34 Code, to read:

35 11165.2. (a) ~~The department specified by the Governor~~
36 ~~pursuant to Section 11164.8~~ *California State Board of Pharmacy*
37 may conduct audits of the CURES Prescription Drug Monitoring
38 Program system and its users.

39 (b) ~~The department~~ *board* may establish, by regulation, a system
40 for citation of a CURES Prescription Drug Monitoring Program

1 subscriber. A citation may contain an order of abatement or an
2 order to pay an administrative fine assessed by the ~~department~~
3 *board* if the subscriber is in violation of this chapter or any
4 regulation adopted pursuant to this chapter.

5 (c) The system shall contain all of the following provisions:

6 (1) Citations shall be in writing and shall describe with
7 particularity the nature of the violation, including specific reference
8 to the provision of law or regulation determined to have been
9 violated.

10 (2) Whenever appropriate, the citation shall contain an order of
11 abatement establishing a reasonable time for abatement of the
12 violation.

13 (3) The administrative fine assessed by the ~~department~~ *board*
14 shall not exceed two thousand five hundred dollars (\$2,500) for
15 each violation. In assessing a fine, due consideration shall be given
16 to the appropriateness of the amount of the fine with respect to
17 factors such as the gravity of the violation, the good faith of the
18 subscribers, and the history of previous violations.

19 (4) An order of abatement or a fine assessment issued pursuant
20 to a citation shall inform the subscriber that if the subscriber desires
21 a hearing to contest the finding of a violation, a hearing shall be
22 requested by written notice to the CURES Prescription Drug
23 Monitoring Program within 30 days of the date of issuance of the
24 citation. Hearings shall be held pursuant to Chapter 5 (commencing
25 with Section 11500) of Part 1 of Division 3 of Title 2 of the
26 Government Code.

27 (5) In addition to requesting a hearing, the subscriber may,
28 within 10 days after service of the citation, request in writing an
29 opportunity for an informal conference with the ~~department~~ *board*
30 regarding the citation. At the conclusion of the informal conference,
31 the ~~department~~ *board* may affirm, modify, or dismiss the citation,
32 including any fine levied or order of abatement issued. The decision
33 shall be deemed to be a final order with regard to the citation
34 issued, including the fine levied or the order of abatement, which
35 could include permanent suspension from the system, a monetary
36 fine, or both, depending on the gravity of the violation. However,
37 the subscriber does not waive the right to request a hearing to
38 contest a citation by requesting an informal conference. If the
39 citation is affirmed, a formal hearing may be requested within 30
40 days of the date the citation was affirmed. If the citation is

1 dismissed after the informal conference, the request for a hearing
2 on the matter of the citation shall be deemed to be withdrawn. If
3 the citation, including any fine levied or order of abatement, is
4 modified, the citation originally issued shall be considered
5 withdrawn and a new citation issued. If a hearing is requested for
6 a subsequent citation, it shall be requested within 30 days of service
7 of the subsequent citation.

8 (6) Failure of a subscriber to pay a fine within 30 days of the
9 date of assessment or to comply with an order of abatement within
10 the fixed time, unless the citation is being appealed, may result in
11 disciplinary action taken by the ~~department~~ *board*. If a citation is
12 not contested and a fine is not paid, the subscriber account shall
13 be terminated.

14 (A) A citation may be issued without the assessment of an
15 administrative fine.

16 (B) Assessment of administrative fines may be limited to only
17 particular violations of statute or regulations.

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

22 (e) Administrative fines collected pursuant to this section shall
23 be deposited in the CURES Program Special Fund, available upon
24 appropriation by the Legislature. These funds shall provide support
25 for costs associated with informal and formal hearings,
26 maintenance, and updates to the CURES Prescription Drug
27 Monitoring Program.

28 (f) The sanctions authorized under this section shall be separate
29 from, and in addition to, any other administrative, civil, or criminal
30 remedies; however, a criminal action may not be initiated for a
31 specific offense if a citation has been issued pursuant to this section
32 for that offense, and a citation may not be issued pursuant to this
33 section for a specific offense if a criminal action for that offense
34 has been filed.

35 (g) This section does not prevent the ~~department~~ *board* from
36 serving and prosecuting an accusation to suspend or revoke a
37 subscriber if grounds for that suspension or revocation exist.

38 (h) This section shall become operative on April 1, 2023.

39 SEC. 13. Section 11165.5 of the Health and Safety Code is
40 amended to read:

1 11165.5. (a) The Department of Justice may seek voluntarily
2 contributed private funds from insurers, health care service plans,
3 qualified manufacturers, and other donors for the purpose of
4 supporting CURES. Insurers, health care service plans, qualified
5 manufacturers, and other donors may contribute by submitting
6 their payment to the Controller for deposit into the CURES Fund
7 established pursuant to subdivision (c) of Section 208 of the
8 Business and Professions Code. The department shall make
9 information about the amount and the source of all private funds
10 it receives for support of CURES available to the public.
11 Contributions to the CURES Fund pursuant to this subdivision
12 shall be nondeductible for state tax purposes.

13 (b) For purposes of this section, the following definitions apply:

14 (1) “Controlled substance” means a drug, substance, or
15 immediate precursor listed in any schedule in Section 11055,
16 11056, or 11057.

17 (2) “Health care service plan” means an entity licensed pursuant
18 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
19 2.2 (commencing with Section 1340) of Division 2 of the Health
20 and Safety Code).

21 (3) “Insurer” means an admitted insurer writing health insurance,
22 as defined in Section 106 of the Insurance Code, and an admitted
23 insurer writing workers’ compensation insurance, as defined in
24 Section 109 of the Insurance Code.

25 (4) “Qualified manufacturer” means a manufacturer of a
26 controlled substance, but does not mean a wholesaler or nonresident
27 wholesaler of dangerous drugs, regulated pursuant to Article 11
28 (commencing with Section 4160) of Chapter 9 of Division 2 of
29 the Business and Professions Code, a veterinary food-animal drug
30 retailer, regulated pursuant to Article 15 (commencing with Section
31 4196) of Chapter 9 of Division 2 of the Business and Professions
32 Code, or an individual regulated by the Medical Board of
33 California, the Dental Board of California, the California State
34 Board of Pharmacy, the Veterinary Medical Board, the Board of
35 Registered Nursing, the Physician Assistant Committee of the
36 Medical Board of California, the Osteopathic Medical Board of
37 California, the State Board of Optometry, or the California Board
38 of Podiatric Medicine.

39 (c) This section shall become inoperative on April 1, 2023, and,
40 as of January 1, 2024, is repealed.

1 SEC. 14. Section 11165.5 is added to the Health and Safety
2 Code, to read:

3 11165.5. (a) ~~The department specified by the Governor~~
4 ~~pursuant to Section 11164.8 California State Board of Pharmacy~~
5 may seek voluntarily contributed private funds from insurers,
6 health care service plans, qualified manufacturers, and other donors
7 for the purpose of supporting CURES. Insurers, health care service
8 plans, qualified manufacturers, and other donors may contribute
9 by submitting their payment to the Controller for deposit into the
10 CURES Fund established pursuant to subdivision (c) of Section
11 208 of the Business and Professions Code. ~~The department~~ *board*
12 shall make information about the amount and the source of all
13 private funds it receives for support of CURES available to the
14 public. Contributions to the CURES Fund pursuant to this
15 subdivision shall be nondeductible for state tax purposes.

16 (b) For purposes of this section, the following definitions apply:

17 (1) “Controlled substance” means a drug, substance, or
18 immediate precursor listed in any schedule in Section 11055,
19 11056, or 11057.

20 (2) “Health care service plan” means an entity licensed pursuant
21 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
22 2.2 (commencing with Section 1340) of Division 2 of the Health
23 and Safety Code).

24 (3) “Insurer” means an admitted insurer writing health insurance,
25 as defined in Section 106 of the Insurance Code, and an admitted
26 insurer writing workers’ compensation insurance, as defined in
27 Section 109 of the Insurance Code.

28 (4) “Qualified manufacturer” means a manufacturer of a
29 controlled substance, but does not mean a wholesaler or nonresident
30 wholesaler of dangerous drugs, regulated pursuant to Article 11
31 (commencing with Section 4160) of Chapter 9 of Division 2 of
32 the Business and Professions Code, a veterinary food-animal drug
33 retailer, regulated pursuant to Article 15 (commencing with Section
34 4196) of Chapter 9 of Division 2 of the Business and Professions
35 Code, or an individual regulated by the Medical Board of
36 California, the Dental Board of California, the California State
37 Board of Pharmacy, the Veterinary Medical Board, the Board of
38 Registered Nursing, the Physician Assistant Committee of the
39 Medical Board of California, the Osteopathic Medical Board of

- 1 California, the State Board of Optometry, or the California Board
- 2 of Podiatric Medicine.
- 3 (c) This section shall become operative on April 1, 2023.

O

ASSEMBLY BILL

No. 2104

Introduced by Assembly Member Flora

February 14, 2022

An act to amend Sections 163 and 163.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2104, as introduced, Flora. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, as defined, within the Department of Consumer Affairs. Existing law generally requires the department and each board in the department to charge a fee of \$2 for the certification of a copy of any record, document, or paper in its custody. Existing law generally requires that the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not less than \$25 nor more than \$150.

This bill would instead authorize the department and each board in the department to charge a fee not to exceed \$2 for the certification of a copy of any record, document, or paper in its custody. The bill would also require the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not to exceed \$150.

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

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

1 SECTION 1. Section 163 of the Business and Professions Code
2 is amended to read:

3 163. Except as otherwise expressly provided by law, the
4 department and each board in the department ~~shall~~ *may* charge a
5 fee ~~of not to exceed~~ two dollars (\$2) for the certification of a copy
6 of any record, document, or paper in its custody or for the
7 certification of any document evidencing the content of any such
8 record, ~~document~~ *document*, or paper.

9 SEC. 2. Section 163.5 of the Business and Professions Code
10 is amended to read:

11 163.5. Except as otherwise provided by law, the delinquency,
12 penalty, or late fee for any licensee within the Department of
13 Consumer Affairs shall be 50 percent of the renewal fee for ~~such~~
14 *that* license in effect on the date of the renewal of the license, ~~but~~
15 ~~not less than twenty-five dollars (\$25) nor more than~~ *but shall not*
16 *exceed* one hundred fifty dollars (\$150).

17 A delinquency, penalty, or late fee shall not be assessed until 30
18 days have elapsed from the date that the licensing agency mailed
19 a notice of renewal to the licensee at the licensee's last known
20 address of record. The notice shall specify the date for timely
21 renewal, and that failure to renew in a timely fashion shall result
22 in the assessment of a delinquency, penalty, or late fee.

23 ~~In the event~~ *If* a reinstatement or like fee is charged for the
24 reinstatement of a license, the reinstatement fee shall be 150 percent
25 of the renewal fee for such license in effect on the date of the
26 reinstatement of the license, but not more than twenty-five dollars
27 (\$25) in excess of the renewal fee, except that in the event that
28 such a fee is fixed by statute at less than 150 percent of the renewal
29 fee and less than the renewal fee plus twenty-five dollars (\$25),
30 the fee so fixed shall be charged.

O

AMENDED IN ASSEMBLY MARCH 16, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2145

Introduced by Assembly Member Davies

February 15, 2022

An act to amend Section 1315 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2145, as amended, Davies. Dental services: skilled nursing facilities and intermediate care facilities/developmentally disabled.

Existing law generally requires the State Department of Public Health to license, inspect, and regulate health facilities, including skilled nursing facilities and intermediate care facilities/developmentally disabled. Existing law authorizes dental services, as defined under the Dental Practice Act, to be provided in health facilities by persons licensed by the Dental Board of California. The Dental Practice Act provides for the licensing, regulation, and discipline of, among others, registered dental hygienists in alternative practice.

This bill would provide that a registered dental hygienist in alternative practice may render dental services to a patient in a skilled nursing facility or an intermediate care facility/developmentally disabled. The bill would also authorize a registered dental hygienist in alternative practice to provide oral health inservice training to staff in a skilled nursing facility or an intermediate care facility/developmentally disabled.

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

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

1 SECTION 1. Section 1315 of the Health and Safety Code is
2 amended to read:

3 1315. (a) Dental services, as defined in the Dental Practice
4 Act, may be provided to a patient in a health facility licensed under
5 this chapter. Those services shall be provided by a person licensed
6 by the State of California pursuant to Section 1611-~~of of, or~~
7 ~~Sections 1926, 1926.01, and 1926.05 of,~~ the Business and
8 Professions Code.

9 (b) (1) Dental services, as defined in the Dental Practice Act,
10 may be provided to a patient in a skilled nursing facility or an
11 intermediate care facility/developmentally disabled licensed under
12 this chapter by a person licensed by the State of California as a
13 registered dental hygienist in alternative practice pursuant to *Article*
14 *9 (commencing with Section 1900) of Chapter 4*~~(commencing with~~
15 ~~Section 1600)~~ of Division 2 of the Business and Professions ~~Code.~~
16 *Code, practicing in accordance with those provisions.*

17 (2) A person licensed as a registered dental hygienist in
18 alternative practice by the State of California pursuant to *Article*
19 *9 (commencing with Section 1900) of Chapter 4*~~(commencing with~~
20 ~~Section 1600)~~ of Division 2 of the Business and Professions ~~Code~~
21 *Code, practicing in accordance with those provisions,* may provide
22 oral health inservice training to staff in a skilled nursing facility
23 or an intermediate care facility/developmentally disabled licensed
24 under this chapter.

25 (c) This section shall not limit or restrict the right of a licensed
26 physician and surgeon to perform any acts authorized under the
27 Medical Practice Act.

O

AMENDED IN ASSEMBLY APRIL 6, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2276

Introduced by Assembly Member Carrillo

February 16, 2022

An act to add Section ~~1750.11~~ 1750.1.5 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2276, as amended, Carrillo. Dental assistants.

Existing law, the Dental Practice Act, establishes a Dental Assisting Council of the Dental Board of California to regulate the examination, licensure, and permitting of dental assistants. Existing law authorizes a dental assistant to perform basic supportive dental procedures, including the application of topical fluoride under the direct supervision of a supervising licensed dentist.

This bill would additionally authorize dental assistants to polish the coronal surfaces of teeth or apply pit and fissure sealants under the direct supervision of a licensed dentist when the dental assistant has completed specified training and provided evidence of the completion of that training to the board. *The bill would require the supervising dentist and dental practice where the procedure is performed to be responsible for determining the competency of the dental assistant. The bill would also require the dentist practice to maintain a record of compliance with the training requirements for a minimum of 2 years after the dental assistant leaves the dental practice.*

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

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

- 1 ~~SECTION 1. Section 1750.11 is added to the Business and~~
 2 ~~Professions Code, to read:~~
 3 ~~1750.11.—~~
 4 *SECTION 1. Section 1750.1.5 is added to the Business and*
 5 *Professions Code, to read:*
 6 *1750.1.5. (a) A dental assistant may polish the coronal surfaces*
 7 *of teeth or apply pit and fissure sealants when the dental assistant*
 8 *has completed each of the following:*
 9 (1) A board-approved, two-hour course in the Dental Practice
 10 Act.
 11 (2) A board-approved, eight-hour course in infection control.
 12 (3) Any board-approved course in the procedure they seek to
 13 perform.
 14 (b) The procedure shall be performed under the direct
 15 supervision of a licensed dentist. *For a pit and fissure sealant*
 16 *performed by a dental assistant, the supervising dentist must review*
 17 *the completed procedure.*
 18 (c) *The supervising dentist and dental practice where the*
 19 *procedure is performed shall be responsible for determining the*
 20 *competency of the dental assistant, consistent with subdivision (y)*
 21 *of Section 1680.*
 22 (d) *The dental practice where the procedure is performed shall*
 23 *maintain a record of compliance with the training requirements*
 24 *under this section.*
 25 (e) *The supervising dentist shall be listed in the record. If there*
 26 *is more than one supervising dentist, each supervising dentist shall*
 27 *be listed in the record.*
 28 (f) *The dental practice shall maintain the record for a minimum*
 29 *of two years after the dental assistant leaves the dental practice.*
 30 ~~(e)~~
 31 (g) The procedure shall be performed only after the dental
 32 assistant has provided evidence to the board they have completed
 33 a board-approved course in the procedure.

O

April 14, 2022

Alan Felsenfeld, MA, DDS
Board President
Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815

Sarah Wallace
Interim Executive Officer
Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815

Re: Assembly Bill 2276

Dear Dr Felsenfeld, Ms Wallace and Dental Board Members:

We are writing on behalf of the dental assisting community to urge you to oppose Assembly Bill 2276.

The California Dental Association is seeking a statutory change to have an unlicensed dental assistant perform the more advanced procedures of coronal polishing and application of pit & fissure sealants. These more advanced procedures are currently performed by a Registered Dental Assistant (RDA), requiring either completion of a 9 to 11-month full-time program offered by a community college or private sector school approved by the Dental Board or completion of 15 months of work experience and three additional short-term courses. In addition, the RDA must complete continuing education, maintain licensure through a renewal process with the Dental Board of California every two years and be under the complete jurisdiction of the DBC and all its regulatory powers.

In contrast, the Dental Assistant (DA) is an entry-level individual that must complete the Infection Control and CA Dental Practice Act courses within 12 months after employment that total 10 hours. While Coronal Polishing and Pit & Fissure certificate courses currently exist, they are available only to students in an RDA program or to those who are eligible to take the RDA exam by on-the-job pathway, which is verification of 15 months of work experience – which gives foundational background, knowledge and experience in the dental office prior to taking the course.

Completion of these courses is not reported to the Dental Board of California and are often not completed for many months or not at all. The DBC has no legal authority over this category of assistant since they are unlicensed. In a tracking process, these individuals are basically non-existent. No tracking, discipline, oversight or continuing education of these unlicensed assistants will be provided for with this bill. Under this bill, the unlicensed dental assistant can literally have been a waitress, hotel worker, or just graduated from high school and be performing these technically advanced procedures within weeks of employment with little oversight. **Moving these duties to an unlicensed dental assistant provides no accountability with the Dental Board or protection to the consumers of California.**

Allowing an unlicensed dental assistant to perform these two duties without any accountability to the dental board is unacceptable. Consider this example (from actual DBC hot sheet): an existing RDA had their license revoked and was quoted as saying “it doesn’t matter, I can just work as a DA”. Direct supervision by the dentist does not mean that dentists will actually oversee the procedure or ensure that the procedures are being done correctly. It only requires that the dentist is physically in the facility.

The stated purpose for this bill is to address the ‘issue with RDA shortages due to the licensure of the registered dental assistants’. We would agree that there is a temporary shortage of RDAs - as well as dental assistants and hygienists - but would assert that it is not licensing that is causing the shortage. In fact, data from the Dental Board shows that the number of RDA’s has remained stable over the past six years and those pursuing their RDA license is showing signs of stability following the pandemic (2051 licensed in 19/20; 1653 in 20/21 and 851 in 6 months of 21/22).

president@cadat.org | president@cdaaweb.org | H2tall@sbcglobal.net | melodi@rda4u.net

There will be “unintended consequences” if this bill passes. This move to deregulate the RDA will only push career-oriented professionals out of the field due to the dilution of their scope of practice by shifting these two important duties to an unlicensed assistant. Dentistry is in competition with other industries that pay as well or better and offer better benefits. Moving sealants and coronal polishing to the unlicensed dental assistant removes incentives for those who are considering becoming an RDA. Moving these duties from the RDA to the DA category will make the shortage WORSE. We have heard from NUMEROUS members of our organizations that are trained and seasoned RDA professionals who will leave dentistry, viewing this as a huge step in the destruction of their career.

The dental assisting community worked very hard many years ago to make dental assisting a career rather than a dead-end job. The career ladder concept provided not only entry-level access in the form of the unlicensed dental assistant but the development of the RDA and the RDAEF licensures. The Orthodontic Assistant and Sedation Assistant permits were added in 2010 as a joint effort between the Dental Assisting Alliance and CDA to accommodate the specific specialties of orthodontic and oral surgery assistants.

This bill is in direct conflict with the very definition of the role of an unlicensed dental assistant. In Business & Professions Code 1750, a dental assistant is one who provides "basic supportive dental procedures . . . that have technically elementary characteristics, are completely reversible . . . ". Neither of these two duties fit into the category of completely reversible, basic, or supportive in nature and they include the use of dental handpieces and the use of acid etch (a 37% concentration of phosphoric acid) on the patient's teeth. The Commission on Dental Accreditation (CODA) considers these duties to be expanded functions and are not included in the Standards for Accreditation for programs nationwide.

This bill, as it is written, would allow a person with no dental knowledge or background to take Infection Control and the CA DPA courses today and tomorrow be taking the Coronal Polishing and Pit & Fissure Sealants courses. They could be treating patients the day after – again with no foundational background, knowledge or experience in the dental office. **This is an unacceptable standard of care.** It also undermines the intent of the original legislation as stated in Business & Professions Code 1740 that provides “the continual advancement of persons to successively higher levels of licensure with additional education and training.”

Here are some questions for your consideration:

- How are coronal polishing and pit & fissure sealants considered basic supportive duties (with technically elementary characteristics, completely reversible or unlikely to precipitate potentially hazardous conditions for the patient)?
- Is there such a strong demand for these duties that licensing should be bypassed?
- How will adding these duties to the unlicensed dental assistant's scope of practice help the dental assisting shortage?
- How does this bill protect the patient from potential harm or provide accountability should harm occur?

What dentistry needs is well-qualified, well-educated personnel with a well-defined scope of practice that protects the dental consumers in California.

Thank you for your consideration as this bill is NOT in the best interest of the consumers of California. We urge you to oppose AB 2276. Should you have any questions, feel free to contact us.

Sincerely,

The California Dental Assisting Alliance

California Association of Dental Assisting Teachers
California Dental Assistants Association
Dental Assisting Educators Group
The RDAEF Association

president@cadat.org | president@cdaaweb.org | H2tall@sbcglobal.net | melodi@rda4u.net

ASSEMBLY BILL

No. 2539

**Introduced by Assembly Member Choi
(Coauthors: Assembly Members Flora, Lackey, Mathis, and Voepel)**

February 17, 2022

An act to add Part 3 (commencing with Section 90) to Division 1 of the Civil Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2539, as introduced, Choi. Public health: COVID-19 vaccination: proof of status.

Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to approve new drugs and products, including vaccines, for introduction into interstate commerce, and authorizes the secretary to authorize vaccines for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined that there is a public health emergency and declared circumstances exist justifying the authorization of emergency use of drugs and biological products. The secretary subsequently authorized the emergency use of 3 vaccines for the prevention of COVID-19, and on August 23, 2021, the secretary approved a vaccine for the prevention of COVID-19.

The California Emergency Services Act authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. On March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic. Pursuant to this authority, the Governor issued several executive orders requiring individuals in specified employment, health

care, school, or other settings to provide proof of COVID-19 vaccination status, unless specified exceptions are met.

This bill would require a public or private entity that requires a member of the public to provide documentation regarding the individual’s vaccination status for any COVID-19 vaccine as a condition of receipt of any service or entrance to any place to accept a written medical record or government-issued digital medical record in satisfaction of the condition, as specified.

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

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

1 SECTION 1. Part 3 (commencing with Section 90) is added
2 to Division 1 of the Civil Code, to read:

3
4 PART 3. COVID-19 VACCINE STATUS FOR SERVICE OR
5 ENTRANCE
6

7 90. A public or private entity that adopts or enforces any order,
8 ordinance, policy, regulation, rule, or similar measure that requires
9 a member of the public to provide documentation regarding the
10 individual’s vaccination status for any COVID-19 vaccine as a
11 condition of receipt of any service or entrance to any place shall
12 accept either of the following in satisfaction of the condition:

13 (a) A written medical record issued to the individual by the
14 individual’s health care provider, a federal, state, or local agency,
15 a foreign government or any agency of that government, or other
16 authorized COVID-19 vaccine provider.

17 (b) A digital medical record issued to the individual by a federal,
18 state, or local agency, or a foreign government or any agency of
19 that government.

O

ASSEMBLY BILL

No. 2948

Introduced by Assembly Member Cooper

February 18, 2022

An act to amend Section 326 of the Business and Professions Code, relating to consumer protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2948, as introduced, Cooper. Consumer protection: Department of Consumer Affairs: complaints.

Existing law, the Consumer Affairs Act, requires the Director of Consumer Affairs to receive complaints from consumers concerning specified issues, including the production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare. Existing law authorizes the director to notify the person against whom the complaint is made of the nature of the complaint and to request appropriate relief for the consumer. Existing law requires the director to advise, if appropriate, the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief.

This bill would instead require the director to advise, within 60 calendar days of the date that the complaint is deemed closed, the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief, unless doing so would be injurious to the public health, safety, or welfare.

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

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

1 SECTION 1. Section 326 of the Business and Professions Code
 2 is amended to read:
 3 326. (a) Upon receipt of any complaint pursuant to Section
 4 325, the director may notify the person against whom the complaint
 5 is made of the nature of the complaint and may request appropriate
 6 relief for the consumer.
 7 (b) (1) The director shall also transmit any valid complaint to
 8 the local, ~~state state~~, or federal agency whose authority provides
 9 the most effective means to secure the relief.
 10 ~~The~~
 11 (2) ~~The director shall, if appropriate, advise shall advise, within~~
 12 ~~60 calendar days of the date that the complaint is deemed closed,~~
 13 ~~the consumer of the action taken on the complaint and of any other~~
 14 ~~means which may be available to the consumer to secure relief.~~
 15 ~~relief, unless doing so would be injurious to the public health,~~
 16 ~~safety, or welfare.~~
 17 (c) If the director receives a complaint or receives information
 18 from any source indicating a probable violation of any law, rule,
 19 or order of any regulatory agency of the state, or if a pattern of
 20 complaints from consumers develops, the director shall transmit
 21 any complaint ~~he or she considers~~ *they consider* to be valid to any
 22 appropriate law enforcement or regulatory agency and any evidence
 23 or information ~~he or she~~ *they* may have concerning the probable
 24 violation or pattern of complaints or request the Attorney General
 25 to undertake appropriate legal action. It shall be the continuing
 26 duty of the director to discern patterns of complaints and to
 27 ascertain the nature and extent of action taken with respect to the
 28 probable violations or pattern of complaints.

O

AMENDED IN SENATE MAY 11, 2021
AMENDED IN SENATE APRIL 29, 2021
AMENDED IN SENATE APRIL 6, 2021
AMENDED IN SENATE MARCH 8, 2021
AMENDED IN SENATE FEBRUARY 1, 2021

SENATE BILL

No. 49

Introduced by Senator Umberg
(Principal coauthor: Assembly Member Daly)
(Coauthors: Senators Min, Newman, and Ochoa Bogh)

December 7, 2020

An act to add and repeal Sections 17053.70 and 23670 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as amended, Umberg. Income taxes: credits: California Fair Fees Tax Credit.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, ~~2022~~, 2021, and before January 1, ~~2027~~, 2026, to a taxpayer that meets certain criteria, including that the taxpayer temporarily ceased business operations for at least 30 consecutive days during the taxable year in response to an emergency order, as defined. The amount of credit would vary based on the number of consecutive days the qualified taxpayer has ceased business operations during the taxable year, with a maximum amount of \$6,000

if the qualified taxpayer has temporarily ceased business operations for at least 180 consecutive days, as provided. *For taxable years beginning on or after January 1, 2021, and before January 1, 2022, only, if a qualified taxpayer temporarily ceased business operations during the 2020 calendar year, the bill would provide for an additional credit amount.* The bill would designate the credit allowed under its provisions as the California Fair Fees Tax Credit. The bill would require a taxpayer claiming this credit to declare, under penalty of perjury, that it has complied with all applicable emergency orders.

Existing law requires that any bill introduced on or after January 1, 2020, that would authorize certain tax expenditures, as defined, or tax exemptions contain, among other things, specific goals, purposes, and objectives that the tax expenditure or exemption will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

By expanding the scope of the crime of perjury, 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.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. Section 17053.70 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.70. (a) For each taxable year beginning on or after
- 4 January 1, ~~2022~~, 2021, and before January 1, ~~2027~~, 2026, there
- 5 shall be allowed as a credit against the “net tax,” as defined in
- 6 Section 17039, to a qualified ~~taxpayer~~ *the taxpayer, as follows:*
- 7 (1) *The amount of credit allowed to a qualified taxpayer shall*
- 8 *be the applicable of the following amounts:*
- 9 (1)
- 10 (A) If the qualified taxpayer has temporarily ceased business
- 11 operations for at least 30 consecutive days, but less than 90

1 consecutive days, during the taxable year, one thousand dollars
2 (\$1,000).

3 ~~(2)~~

4 (B) If the qualified taxpayer has temporarily ceased business
5 operations for at least 90 consecutive days, but less than 180
6 consecutive days, during the taxable year, the sum of the credit
7 amount specified in ~~paragraph (1)~~ subparagraph (A) and two
8 thousand dollars (\$2,000).

9 ~~(3)~~

10 (C) If the qualified taxpayer has temporarily ceased business
11 operations for 180 consecutive days or more during the taxable
12 year, the sum of the credit amounts specified in ~~paragraph (2)~~
13 subparagraph (B) and three thousand dollars (\$3,000).

14 (2) *For taxable years beginning on or after January 1, 2021,*
15 *and before January 1, 2022, only, if a qualified taxpayer*
16 *temporarily ceased business operations during the 2020 calendar*
17 *year, the qualified taxpayer shall be allowed the applicable of the*
18 *following amounts, which shall be in addition to any amount*
19 *allowed under paragraph (1):*

20 (A) *If the qualified taxpayer temporarily ceased business*
21 *operations for at least 30 consecutive days, but less than 90*
22 *consecutive days, during the 2020 calendar year, one thousand*
23 *dollars (\$1,000).*

24 (B) *If the qualified taxpayer temporarily ceased business*
25 *operations for at least 90 consecutive days, but less than 180*
26 *consecutive days, during the 2020 calendar year, the sum of the*
27 *credit amount specified in subparagraph (A) and two thousand*
28 *dollars (\$2,000).*

29 (C) *If the qualified taxpayer has temporarily ceased business*
30 *operations for 180 consecutive days or more during the 2020*
31 *calendar year, the sum of the credit amounts specified in*
32 *subparagraph (B) and three thousand dollars (\$3,000).*

33 (b) For purposes of this section:

34 (1) “Emergency order” means any order issued by the Governor
35 pursuant to the California Emergency Services Act (Chapter 7
36 commencing with Section 8550) of Division 1 of Title 2 of the
37 Government Code), any state agency, or any local government
38 that requires the closure of businesses in response to a state of
39 emergency.

1 (2) “Qualified taxpayer” means a taxpayer for which all of the
2 following apply:

3 (A) The taxpayer is a business that requires substantial in-person
4 contact to conduct its business operations.

5 (B) The taxpayer temporarily ceased business operations for at
6 least 30 consecutive days during the taxable year *or in the 2020*
7 *calendar year* in response to an emergency order.

8 (C) The taxpayer had average gross receipts of ten
9 million dollars (\$10,000,000) or less over the three preceding
10 taxable years.

11 (3) “State of emergency” means a state of emergency proclaimed
12 by the Governor pursuant to Article 13 (commencing with Section
13 8625) of Chapter 7 of Division 1 of Title 2 of the Government
14 Code.

15 (c) A qualified taxpayer claiming a credit allowed by this section
16 shall declare, under penalty of perjury, that the qualified taxpayer
17 has complied with all applicable emergency orders, in the form
18 and manner prescribed by the Franchise Tax Board.

19 (d) In the case where the credit allowed by this section exceeds
20 the “net tax,” the excess may be carried over to reduce the “net
21 tax” in the following taxable year, and the succeeding six years if
22 necessary, until the credit is exhausted.

23 (e) The credit allowed by this section and Section 23670 shall
24 be known, and may be cited, as the California Fair Fees Tax Credit.

25 (f) This section shall remain in effect only until December 1,
26 ~~2027~~, 2026, and as of that date is repealed. However, any unused
27 credit may continue to be carried forward, as provided in
28 subdivision (d), until the credit is exhausted.

29 SEC. 2. Section 23670 is added to the Revenue and Taxation
30 Code, to read:

31 23670. (a) For each taxable year beginning on or after January
32 1, ~~2022~~, 2021, and before January 1, ~~2027~~, 2026, there shall be
33 allowed as a credit against the “tax,” as defined in Section 23036,
34 to a qualified ~~taxpayer~~ *the taxpayer, as follows:*

35 (1) *The amount of credit allowed to a qualified taxpayer shall*
36 *be the* applicable of the following amounts:

37 (1)

38 (A) If the qualified taxpayer has temporarily ceased business
39 operations for at least 30 consecutive days, but less than 90

1 consecutive days, during the taxable year, one thousand dollars
2 (\$1,000).

3 ~~(2)~~

4 (B) If the qualified taxpayer has temporarily ceased business
5 operations for at least 90 consecutive days, but less than 180
6 consecutive days, during the taxable year, the sum of the credit
7 amount specified in ~~paragraph (1)~~ subparagraph (A) and two
8 thousand dollars (\$2,000).

9 ~~(3)~~

10 (C) If the qualified taxpayer has temporarily ceased business
11 operations for 180 consecutive days or more during the taxable
12 year, the sum of the credit amounts specified in ~~paragraph (2)~~
13 subparagraph (B) and three thousand dollars (\$3,000).

14 (2) For taxable years beginning on or after January 1, 2021,
15 and before January 1, 2022, only, if a qualified taxpayer
16 temporarily ceased business operations during the 2020 calendar
17 year, the qualified taxpayer shall be allowed the applicable of the
18 following amounts, which shall be in addition to any amount
19 allowed under paragraph (1):

20 (A) If the qualified taxpayer temporarily ceased business
21 operations for at least 30 consecutive days, but less than 90
22 consecutive days, during the 2020 calendar year, one thousand
23 dollars (\$1,000).

24 (B) If the qualified taxpayer temporarily ceased business
25 operations for at least 90 consecutive days, but less than 180
26 consecutive days, during the 2020 calendar year, the sum of the
27 credit amount specified in subparagraph (A) and two thousand
28 dollars (\$2,000).

29 (C) If the qualified taxpayer has temporarily ceased business
30 operations for 180 consecutive days or more during the 2020
31 calendar year, the sum of the credit amounts specified in
32 subparagraph (B) and three thousand dollars (\$3,000).

33 (b) For purposes of this section:

34 (1) “Emergency order” means any order issued by the Governor
35 pursuant to the California Emergency Services Act (Chapter 7
36 commencing with Section 8550) of Division 1 of Title 2 of the
37 Government Code), any state agency, or any local government
38 that requires the closure of businesses in response to a state of
39 emergency.

1 (2) “Qualified taxpayer” means a taxpayer for which all of the
2 following apply:

3 (A) The taxpayer is a business that requires substantial in-person
4 contact to conduct its business operations.

5 (B) The taxpayer temporarily ceased business operations for at
6 least 30 consecutive days during the taxable year *or the 2020*
7 *calendar year* in response to an emergency order.

8 (C) The taxpayer had average gross receipts of ten
9 million dollars (\$10,000,000) or less over the three preceding
10 taxable years.

11 (3) “State of emergency” means a state of emergency proclaimed
12 by the Governor pursuant to Article 13 (commencing with Section
13 8625) of Chapter 7 of Division 1 of Title 2 of the Government
14 Code.

15 (c) A qualified taxpayer claiming a credit allowed by this section
16 shall declare, under penalty of perjury, that the qualified taxpayer
17 has complied with all applicable emergency orders, in the form
18 and manner prescribed by the Franchise Tax Board.

19 (d) In the case where the credit allowed by this section exceeds
20 the “tax,” the excess may be carried over to reduce the ~~“net tax”~~
21 *“tax”* in the following taxable year, and the succeeding six years
22 if necessary, until the credit is exhausted.

23 (e) The credit allowed by this section and Section 17053.70
24 shall be known, and may be cited, as the California Fair Fees Tax
25 Credit.

26 (f) This section shall remain in effect only until December 1,
27 ~~2027~~, 2026, and as of that date is repealed. However, any unused
28 credit may continue to be carried forward, as provided in
29 subdivision (d), until the credit is exhausted.

30 SEC. 3. For purposes of complying with Section 41 of the
31 Revenue and Taxation Code, the Legislature finds and declares
32 the following with respect to Sections 17053.70 and 23670 of the
33 Revenue and Taxation Code, as added by this act, hereafter referred
34 to as “the tax credit:”

35 (a) The specific goals, purposes, and objectives that the tax
36 credit will achieve are as follows:

37 (1) Ensuring that businesses are compensated for fees paid to
38 local and state government when those local and state governments
39 disallowed their operations due to a proclaimed state of emergency,
40 including, but not limited to, a pandemic, fire, flood, or earthquake.

1 (2) To the extent possible, providing equity for businesses during
2 a state of emergency.

3 (3) To the extent possible, curbing the closure of small
4 businesses and the laying off of employees during a state of
5 emergency.

6 (b) Detailed performance indicators for the Legislature to use
7 in determining whether the tax credit allowed by this act meet
8 those goals, purposes, and objectives are as follows:

9 (1) The number of tax credits claimed by businesses, which is
10 evidence of businesses being charged by governmental entities
11 when governments are also disallowing them to open.

12 (2) To the extent feasible, the number of small business
13 prevented from closing or laying off employees as a result of the
14 tax credit.

15 (c) The Legislative Analyst’s Office shall, on an annual basis
16 beginning January 1, ~~2023~~, 2022, and each January 1 thereafter
17 until January 1, ~~2028~~, 2027, collaborate with the Franchise Tax
18 Board to review the effectiveness of the tax credit. The review
19 shall include, but not be limited to, the metrics described above.

20 (d) The data collection requirements for determining whether
21 the tax credit are meeting, failing to meet, or exceeding those
22 specific goals, purposes, and objectives are as follows:

23 (1) To assist the Legislature in determining whether the tax
24 credit allowed by this act meet the goals, purposes, and objectives
25 specified in subdivision (a), and in carrying out their duties under
26 subdivision (c), the Legislative Analyst’s Office may request
27 information from the Franchise Tax Board.

28 (2) (A) The Franchise Tax Board shall provide any data
29 requested by the Legislative Analyst’s Office pursuant to this
30 subdivision.

31 (B) The disclosure provisions of this paragraph shall be treated
32 as an exception to Section 19542 of the Revenue and Taxation
33 Code under Article 2 (commencing with 19542) of Chapter 7 of
34 Part 10.2 of Division 2 of the Revenue and Taxation Code.

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 SEC. 5. This act provides for a tax levy within the meaning of
5 Article IV of the California Constitution and shall go into
6 immediate effect.

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AMENDED IN SENATE MAY 11, 2021

AMENDED IN SENATE APRIL 12, 2021

SENATE BILL

No. 652

Introduced by Senator Bates

February 19, 2021

An act to ~~amend Sections 1646.1, 1647.2, and 1647.3~~ *amend, repeal, and add Section 1646.1* of the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

SB 652, as amended, Bates. Dentistry: use of sedation: training.

Existing law, the Dental Practice Act, establishes the Dental Board of California within the Department of Consumer Affairs and sets forth its powers and duties relating to the licensure and regulation of dentists. A violation of these provisions is a crime. Existing law, among other things, prescribes requirements for dentists and assisting personnel who administer or order the administration of general anesthesia and deep sedation.

Existing law, commencing on January 1, 2022, requires a dentist to possess either a current license in good standing and a general anesthesia permit issued by the board, or another specified permit and a general anesthesia permit issued by the board, in order to administer or order the administration of deep sedation or general anesthesia on an outpatient basis for dental patients.

Existing law specifies additional requirements if the patient is under 13 years of age, including that the operating dentist and at least 2 additional personnel be present throughout the procedure and that the dentist and one additional personnel maintain current certification in Pediatric Advanced Life Support (PALS) and airway management or

other board-approved training, as specified. Existing law authorizes the board to approve training standards for general anesthesia and deep sedation, in lieu of PALS certification, if the training standard is an equivalent or higher level of training for dental anesthesia-related emergencies as compared to PALS.

~~This bill, beginning on July 1, 2023, would require, if the patient is 13 years of age or older, that the operating dentist and at least 2 additional personnel be present throughout the procedure and that the dentist and one additional personnel maintain current certification in Advanced Cardiac Life Support (ACLS).~~

~~Existing law, commencing on January 1, 2022, authorizes a dentist to administer or order the administration of moderate sedation on an outpatient basis for a dental patient if specified conditions are met. Existing law specifies additional requirements if the patient is under 13 years of age, including that there be at least 2 support personnel in addition to the operating dentist present at all times during the procedure and that the operating dentist and one personnel member maintain current certification in PALS and airway management or other board-approved training.~~

~~This bill would also require, if the patient is 13 years of age or older, that there be at least 2 support personnel in addition to the operating dentist present at all times during the procedure and that the operating dentist and one personnel member maintain current certification in ACLS and airway management.~~

~~Existing law, commencing on January 1, 2022, requires a dentist who desires to administer or to order the administration of moderate sedation to apply to the board for a permit and produce evidence showing that they have successfully completed training in moderate sedation that meets specified requirements.~~

~~This bill would require a permit holder to maintain current and continuous certification in ACLS and airway management.~~

Because a violation of these provisions would be a crime, this bill imposes 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.
State-mandated local program: yes.

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

1 ~~SECTION 1. Section 1646.1 of the Business and Professions~~
2 ~~Code, as added by Section 4 of Chapter 929 of the Statutes of~~
3 ~~2018, is amended to read:~~

4 ~~1646.1. (a) A dentist shall possess either a current license in~~
5 ~~good standing and a general anesthesia permit issued by the board~~
6 ~~or a permit under Section 1638 or 1640 and a general anesthesia~~
7 ~~permit issued by the board in order to administer or order the~~
8 ~~administration of deep sedation or general anesthesia on an~~
9 ~~outpatient basis for dental patients.~~

10 ~~(b) A dentist shall possess a pediatric endorsement of their~~
11 ~~general anesthesia permit to administer or order the administration~~
12 ~~of deep sedation or general anesthesia to patients under seven years~~
13 ~~of age.~~

14 ~~(c) A dentist shall be physically within the dental office at the~~
15 ~~time of ordering, and during the administration of, general~~
16 ~~anesthesia or deep sedation.~~

17 ~~(d) The operating dentist and at least two additional personnel~~
18 ~~shall be present throughout the procedure involving deep sedation~~
19 ~~or general anesthesia.~~

20 ~~(e) If the operating dentist is the permitted anesthesia provider,~~
21 ~~then both of the following shall apply:~~

22 ~~(1) The operating dentist and at least one of the additional~~
23 ~~personnel shall maintain certification in one of the following:~~

24 ~~(A) If the patient is under 13 years of age, certification in~~
25 ~~Pediatric Advanced Life Support (PALS) or other board-approved~~
26 ~~training in pediatric life support and airway management, adopted~~
27 ~~pursuant to Section 1601.8. The additional personnel who is~~
28 ~~certified in Pediatric Advanced Life Support (PALS) and airway~~
29 ~~management or other board-approved training in pediatric life~~
30 ~~support and airway management shall be solely dedicated to~~
31 ~~monitoring the patient and shall be trained to read and respond to~~
32 ~~monitoring equipment including, but not limited to, pulse oximeter,~~
33 ~~cardiac monitor, blood pressure, pulse, capnograph, and respiration~~
34 ~~monitoring devices.~~

35 ~~(B) If the patient is 13 years of age or older, certification in~~
36 ~~Advanced Cardiac Life Support (ACLS). The additional personnel~~
37 ~~who is certified in ACLS and airway management shall be solely~~
38 ~~dedicated to monitoring the patient and shall be trained to read~~

1 and respond to monitoring equipment including, but not limited
2 to, pulse oximeter, cardiac monitor, blood pressure, pulse,
3 capnograph, and respiration monitoring devices.

4 (2) The operating dentist shall be responsible for initiating and
5 administering any necessary emergency response.

6 (f) If a dedicated permitted anesthesia provider is monitoring
7 the patient and administering deep sedation or general anesthesia,
8 both of the following shall apply:

9 (1) The anesthesia provider and the operating dentist, or one
10 other trained personnel, shall be present throughout the procedure
11 and shall maintain current certification in one of the following:

12 (A) If the patient is under 13 years of age, Pediatric Advanced
13 Life Support (PALS) and airway management or other
14 board-approved training in pediatric life support and airway
15 management, adopted pursuant to Section 1601.8.

16 (B) If the patient is 13 years of age or older, Advanced Cardiac
17 Life Support (ACLS).

18 (2) The anesthesia provider shall be responsible for initiating
19 and administering any necessary emergency response and the
20 operating dentist, or other trained and designated personnel, shall
21 assist the anesthesia provider in emergency response.

22 (g) This article does not apply to the administration of local
23 anesthesia, minimal sedation, or moderate sedation.

24 SEC. 2. Section 1647.2 of the Business and Professions Code,
25 as added by Section 6 of Chapter 929 of the Statutes of 2018, is
26 amended to read:

27 1647.2. (a) A dentist may administer or order the
28 administration of moderate sedation on an outpatient basis for a
29 dental patient if one of the following conditions is met:

30 (1) The dentist possesses a current license in good standing and
31 either holds a valid general anesthesia permit or obtains a moderate
32 sedation permit.

33 (2) The dentist possesses a current permit under Section 1638
34 or 1640 and either holds a valid general anesthesia permit or
35 obtains a moderate sedation permit.

36 (b) A dentist shall obtain a pediatric endorsement on the
37 moderate sedation permit prior to administering moderate sedation
38 to a patient under 13 years of age.

1 ~~(e) (1) A dentist who orders the administration of moderate~~
2 ~~sedation shall be physically present in the treatment facility while~~
3 ~~the patient is sedated.~~

4 ~~(2) There shall be at least two support personnel in addition to~~
5 ~~the operating dentist present at all times during the procedure~~
6 ~~involving moderate sedation.~~

7 ~~(3) For patients under 13 years of age, the operating dentist and~~
8 ~~one personnel member shall maintain current certification in~~
9 ~~Pediatric Advanced Life Support (PALS) and airway management~~
10 ~~or other board-approved training in pediatric life support and~~
11 ~~airway management, adopted pursuant to Section 1601.8. The~~
12 ~~personnel member with current certification in Pediatric Advanced~~
13 ~~Life Support (PALS) and airway management or other~~
14 ~~board-approved training in pediatric life support and airway~~
15 ~~management shall be dedicated to monitoring the patient during~~
16 ~~the procedure involving moderate sedation and may assist with~~
17 ~~interruptible patient-related tasks of short duration, such as holding~~
18 ~~an instrument.~~

19 ~~(4) For patients 13 years of age or older, the operating dentist~~
20 ~~and one personnel member shall maintain current certification in~~
21 ~~Advanced Cardiac Life Support (ACLS). The personnel member~~
22 ~~with current certification in ACLS and airway management shall~~
23 ~~be dedicated to monitoring the patient during the procedure~~
24 ~~involving moderate sedation and may assist with interruptible~~
25 ~~patient-related tasks of short duration, such as holding an~~
26 ~~instrument.~~

27 ~~(d) A dentist with a moderate sedation permit or a moderate~~
28 ~~sedation permit with a pediatric endorsement shall possess the~~
29 ~~training, equipment, and supplies to rescue a patient from an~~
30 ~~unintended deeper level of sedation.~~

31 ~~(e) This article shall not apply to the administration of local~~
32 ~~anesthesia, minimal sedation, deep sedation, or general anesthesia.~~

33 ~~SEC. 3. Section 1647.3 of the Business and Professions Code,~~
34 ~~as added by Section 6 of Chapter 929 of the Statutes of 2018, is~~
35 ~~amended to read:~~

36 ~~1647.3. (a) A dentist who desires to administer or to order the~~
37 ~~administration of moderate sedation shall apply to the board on~~
38 ~~an application form prescribed by the board. The dentist shall~~
39 ~~submit an application fee and produce evidence showing that they~~

1 ~~have successfully completed training in moderate sedation that~~
2 ~~meets the requirements of subdivision (c).~~
3 ~~(b) The application for a permit shall include documentation~~
4 ~~that equipment and drugs required by the board are on the premises.~~
5 ~~(c) Training in the administration of moderate sedation shall be~~
6 ~~acceptable if it meets all of the following as approved by the board:~~
7 ~~(1) Consists of at least 60 hours of instruction.~~
8 ~~(2) Requires satisfactory completion of at least 20 cases of~~
9 ~~administration of moderate sedation for a variety of dental~~
10 ~~procedures.~~
11 ~~(3) Complies with the requirements of the Guidelines for~~
12 ~~Teaching Pain Control and Sedation to Dentists and Dental~~
13 ~~Students of the American Dental Association, including, but not~~
14 ~~limited to, certification of competence in rescuing patients from a~~
15 ~~deeper level of sedation than intended, and managing the airway,~~
16 ~~intravascular or intraosseous access, and reversal medications.~~
17 ~~(d) A dentist may apply for a pediatric endorsement for a~~
18 ~~moderate sedation permit by confirming all of the following:~~
19 ~~(1) Successful completion of residency in pediatric dentistry~~
20 ~~accredited by the Commission on Dental Accreditation (CODA)~~
21 ~~or the equivalent training in pediatric moderate sedation, as~~
22 ~~determined by the board.~~
23 ~~(2) Successful completion of at least 20 cases of moderate~~
24 ~~sedation to patients under 13 years of age to establish competency~~
25 ~~in pediatric moderate sedation, both at the time of the initial~~
26 ~~application and at renewal. The applicant or permitholder shall~~
27 ~~maintain and shall provide proof of these cases upon request by~~
28 ~~the board for up to three permit renewal periods.~~
29 ~~(3) In order to provide moderate sedation to children under~~
30 ~~seven years of age, a dentist shall establish and maintain current~~
31 ~~competency for this pediatric population by completing 20 cases~~
32 ~~of moderate sedation for children under seven years of age in the~~
33 ~~24-month period immediately preceding application for the~~
34 ~~pediatric endorsement and for each permit renewal period.~~
35 ~~(4) Current certification in Pediatric Advanced Life Support~~
36 ~~(PALS) and airway management or other board-approved training~~
37 ~~in pediatric life support and airway management, adopted pursuant~~
38 ~~to Section 1601.8.~~
39 ~~(e) A permitholder shall maintain current and continuous~~
40 ~~certification in Pediatric Advanced Life Support (PALS) and~~

1 airway management or other board-approved training in pediatric
2 life support and airway management, adopted pursuant to Section
3 1601.8, for the duration of the permit.

4 ~~(f) A permitholder shall maintain current and continuous~~
5 ~~certification in Advanced Cardiac Life Support (ACLS) and airway~~
6 ~~management for the duration of the permit.~~

7 ~~(g) Applicants for a pediatric endorsement who otherwise qualify~~
8 ~~for the pediatric endorsement but lack sufficient cases of moderate~~
9 ~~sedation to patients under 13 years of age may administer moderate~~
10 ~~sedation to patients under 13 years of age under the direct~~
11 ~~supervision of a general anesthesia or moderate sedation~~
12 ~~permitholder with a pediatric endorsement. The applicant may~~
13 ~~count these cases toward the 20 required in order to qualify for the~~
14 ~~applicant's pediatric endorsement.~~

15 ~~(h) Moderate sedation permit holders with a pediatric~~
16 ~~endorsement seeking to provide moderate sedation to children~~
17 ~~under seven years of age, but who lack sufficient cases of moderate~~
18 ~~sedation to patients under seven years of age pursuant to paragraph~~
19 ~~(3) of subdivision (d), may administer moderate sedation to patients~~
20 ~~under seven years of age under the direct supervision of a~~
21 ~~permitholder who meets those qualifications.~~

22 *SECTION 1. Section 1646.1 of the Business and Professions*
23 *Code, as added by Section 4 of Chapter 929 of the Statutes of 2018,*
24 *is amended to read:*

25 1646.1. (a) A dentist shall possess either a current license in
26 good standing and a general anesthesia permit issued by the board
27 or a permit under Section 1638 or 1640 and a general anesthesia
28 permit issued by the board in order to administer or order the
29 administration of deep sedation or general anesthesia on an
30 outpatient basis for dental patients.

31 (b) A dentist shall possess a pediatric endorsement of their
32 general anesthesia permit to administer or order the administration
33 of deep sedation or general anesthesia to patients under seven years
34 of age.

35 (c) A dentist shall be physically within the dental office at the
36 time of ordering, and during the administration of, general
37 anesthesia or deep sedation.

38 (d) For patients under 13 years of age, all of the following shall
39 apply:

1 (1) The operating dentist and at least two additional personnel
2 shall be present throughout the procedure involving deep sedation
3 or general anesthesia.

4 (2) If the operating dentist is the permitted anesthesia provider,
5 then both of the following shall apply:

6 (A) The operating dentist and at least one of the additional
7 personnel shall maintain current certification in Pediatric Advanced
8 Life Support (PALS) or other board-approved training in pediatric
9 life support and airway management, adopted pursuant to Section
10 1601.8. The additional personnel who is certified in Pediatric
11 Advanced Life Support (PALS) and airway management or other
12 board-approved training in pediatric life support and airway
13 management shall be solely dedicated to monitoring the patient
14 and shall be trained to read and respond to monitoring equipment
15 including, but not limited to, pulse oximeter, cardiac monitor,
16 blood pressure, pulse, capnograph, and respiration monitoring
17 devices.

18 (B) The operating dentist shall be responsible for initiating and
19 administering any necessary emergency response.

20 (3) If a dedicated permitted anesthesia provider is monitoring
21 the patient and administering deep sedation or general anesthesia,
22 both of the following shall apply:

23 (A) The anesthesia provider and the operating dentist, or one
24 other trained personnel, shall be present throughout the procedure
25 and shall maintain current certification in Pediatric Advanced Life
26 Support (PALS) and airway management or other board-approved
27 training in pediatric life support and airway management, adopted
28 pursuant to Section 1601.8.

29 (B) The anesthesia provider shall be responsible for initiating
30 and administering any necessary emergency response and the
31 operating dentist, or other trained and designated personnel, shall
32 assist the anesthesia provider in emergency response.

33 (e) This article does not apply to the administration of local
34 anesthesia, minimal sedation, or moderate sedation.

35 (f) *This section shall remain in effect only until July 1, 2023,*
36 *and as of that date is repealed.*

37 *SEC. 2. Section 1646.1 is added to the Business and Professions*
38 *Code, to read:*

39 *1646.1. (a) A dentist shall possess either a current license in*
40 *good standing and a general anesthesia permit issued by the board*

1 or a permit under Section 1638 or 1640 and a general anesthesia
2 permit issued by the board in order to administer or order the
3 administration of deep sedation or general anesthesia on an
4 outpatient basis for dental patients.

5 (b) A dentist shall possess a pediatric endorsement of their
6 general anesthesia permit to administer or order the administration
7 of deep sedation or general anesthesia to patients under seven
8 years of age.

9 (c) A dentist shall be physically within the dental office at the
10 time of ordering, and during the administration of, general
11 anesthesia or deep sedation.

12 (d) The operating dentist and at least two additional personnel
13 shall be present throughout the procedure involving deep sedation
14 or general anesthesia.

15 (e) If the operating dentist is the permitted anesthesia provider,
16 then both of the following shall apply:

17 (1) The operating dentist and at least one of the additional
18 personnel shall maintain certification in one of the following:

19 (A) If the patient is under 13 years of age, certification in
20 Pediatric Advanced Life Support (PALS) or other board-approved
21 training in pediatric life support and airway management, adopted
22 pursuant to Section 1601.8. The additional personnel who is
23 certified in PALS and airway management or other board-approved
24 training in pediatric life support and airway management shall
25 be solely dedicated to monitoring the patient and shall be trained
26 to read and respond to monitoring equipment including, but not
27 limited to, pulse oximeter, cardiac monitor, blood pressure, pulse,
28 capnograph, and respiration monitoring devices.

29 (B) If the patient is 13 years of age or older, certification in
30 Advanced Cardiac Life Support (ACLS). The additional personnel
31 who is certified in ACLS and airway management shall be solely
32 dedicated to monitoring the patient and shall be trained to read
33 and respond to monitoring equipment including, but not limited
34 to, pulse oximeter, cardiac monitor, blood pressure, pulse,
35 capnograph, and respiration monitoring devices.

36 (2) The operating dentist shall be responsible for initiating and
37 administering any necessary emergency response.

38 (f) If a dedicated permitted anesthesia provider is monitoring
39 the patient and administering deep sedation or general anesthesia,
40 both of the following shall apply:

1 (1) The anesthesia provider and the operating dentist, or one
2 other trained personnel, shall be present throughout the procedure
3 and shall maintain current certification in one of the following:

4 (A) If the patient is under 13 years of age, PALS and airway
5 management or other board-approved training in pediatric life
6 support and airway management, adopted pursuant to Section
7 1601.8.

8 (B) If the patient is 13 years of age or older, ACLS.

9 (2) The anesthesia provider shall be responsible for initiating
10 and administering any necessary emergency response and the
11 operating dentist, or other trained and designated personnel, shall
12 assist the anesthesia provider in emergency response.

13 (g) This article does not apply to the administration of local
14 anesthesia, minimal sedation, or moderate sedation.

15 (h) This section shall become operative on July 1, 2023.

16 ~~SEC. 4.~~

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

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AMENDED IN ASSEMBLY SEPTEMBER 2, 2021

AMENDED IN ASSEMBLY AUGUST 30, 2021

AMENDED IN ASSEMBLY JUNE 23, 2021

AMENDED IN SENATE MAY 20, 2021

AMENDED IN SENATE APRIL 20, 2021

AMENDED IN SENATE APRIL 5, 2021

AMENDED IN SENATE MARCH 3, 2021

SENATE BILL

No. 731

Introduced by Senators Durazo and Bradford
(Coauthors: Senators Becker, Hertzberg, Kamlager, Skinner, and Wiener)

(Coauthors: Assembly Members *Bryan*, Carrillo, Cristina Garcia, Gipson, Kalra, Lee, Medina, and Stone)

February 19, 2021

An act to amend Section 1203.41 of, and to amend, repeal, and add Sections 851.93 and 1203.425 of, the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as amended, Durazo. Criminal records: relief.

Existing law authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence, as specified. Existing law requires the court to dismiss the accusations or information

against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified.

This bill would make this relief available to a defendant who has been convicted of any felony.

Commencing July 1, 2022, existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for specified automatic conviction and records of arrest relief without requiring the filing of a petition or motion. Under existing law, a person is eligible for arrest record relief if they were arrested on or after January 1, 1973, and the arrest was for a misdemeanor and the charge was dismissed or criminal proceedings have not been initiated within one year after the arrest, or the arrest was for a felony punishable in the county jail and criminal proceedings have not been initiated within 3 years after the date of the arrest. Under existing law, a person is eligible for automatic conviction record relief if, on or after January 1, 1973, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met, as specified.

This bill would, commencing July 1, 2023, generally make this arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified. The bill would, commencing July 1, 2023, additionally make this conviction record relief available for a defendant convicted, on or after January 1, 2005, of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole, and a period of four years has elapsed during which the defendant was not convicted of a new offense, except as specified.

This bill would incorporate additional changes to Section 1203.425 of the Penal Code proposed by AB 898 and AB 1281 to be operative only if this bill, AB 898, and AB 1281 are enacted and this bill is enacted last.

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

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

1 SECTION 1. Section 851.93 of the Penal Code is amended to
2 read:

1 851.93. (a) (1) On a monthly basis, the Department of Justice
2 shall review the records in the statewide criminal justice databases,
3 and based on information in the state summary criminal history
4 repository, shall identify persons with records of arrest that meet
5 the criteria set forth in paragraph (2) and are eligible for arrest
6 record relief.

7 (2) A person is eligible for relief pursuant to this section, if the
8 arrest occurred on or after January 1, 1973, and meets any of the
9 following conditions:

10 (A) The arrest was for a misdemeanor offense and the charge
11 was dismissed.

12 (B) The arrest was for a misdemeanor offense, there is no
13 indication that criminal proceedings have been initiated, at least
14 one calendar year has elapsed since the date of the arrest, and no
15 conviction occurred, or the arrestee was acquitted of any charges
16 that arose, from that arrest.

17 (C) The arrest was for an offense that is punishable by
18 imprisonment pursuant to paragraph (1) or (2) of subdivision (h)
19 of Section 1170, there is no indication that criminal proceedings
20 have been initiated, at least three calendar years have elapsed since
21 the date of the arrest, and no conviction occurred, or the arrestee
22 was acquitted of any charges arising, from that arrest.

23 (D) The person successfully completed any of the following,
24 relating to that arrest:

25 (i) A prefiling diversion program, as defined in Section 851.87,
26 administered by a prosecuting attorney in lieu of filing an
27 accusatory pleading.

28 (ii) A drug diversion program administered by a superior court
29 pursuant to Section 1000.5, or a deferred entry of judgment
30 program pursuant to Section 1000 or 1000.8.

31 (iii) A pretrial diversion program, pursuant to Section 1000.4.

32 (iv) A diversion program, pursuant to Section 1001.9.

33 (v) A diversion program described in Chapter 2.8 (commencing
34 with Section 1001.20), Chapter 2.8A (commencing with Section
35 1001.35), Chapter 2.81 (commencing with Section 1001.40),
36 Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A
37 (commencing with Section 1001.60), Chapter 2.9B (commencing
38 with Section 1001.70), Chapter 2.9C (commencing with Section
39 1001.80), Chapter 2.9D (commencing with Section 1001.81), or
40 Chapter 2.92 (commencing with Section 1001.85), of Title 6.

1 (b) (1) The department shall grant relief to a person identified
2 pursuant to subdivision (a), without requiring a petition or motion
3 by a party for that relief if the relevant information is present in
4 the department’s electronic records.

5 (2) The state summary criminal history information shall
6 include, directly next to or below the entry or entries regarding the
7 person’s arrest record, a note stating “arrest relief granted,” listing
8 the date that the department granted relief, and this section. This
9 note shall be included in all statewide criminal databases with a
10 record of the arrest.

11 (3) Except as otherwise provided in subdivision (d), an arrest
12 for which arrest relief has been granted is deemed not to have
13 occurred, and a person who has been granted arrest relief is released
14 from any penalties and disabilities resulting from the arrest, and
15 may answer any question relating to that arrest accordingly.

16 (c) On a monthly basis, the department shall electronically
17 submit a notice to the superior court having jurisdiction over the
18 criminal case, informing the court of all cases for which a
19 complaint was filed in that jurisdiction and for which relief was
20 granted pursuant to this section. Commencing on August 1, 2022,
21 for any record retained by the court pursuant to Section 68152 of
22 the Government Code, except as provided in subdivision (d), the
23 court shall not disclose information concerning an arrest that is
24 granted relief pursuant to this section to any person or entity, in
25 any format, except to the person whose arrest was granted relief
26 or a criminal justice agency, as defined in Section 851.92.

27 (d) Relief granted pursuant to this section is subject to the
28 following conditions:

29 (1) Arrest relief does not relieve a person of the obligation to
30 disclose an arrest in response to a direct question contained in a
31 questionnaire or application for employment as a peace officer, as
32 defined in Section 830.

33 (2) Relief granted pursuant to this section has no effect on the
34 ability of a criminal justice agency, as defined in Section 851.92,
35 to access and use records that are granted relief to the same extent
36 that would have been permitted for a criminal justice agency had
37 relief not been granted.

38 (3) This section does not limit the ability of a district attorney
39 to prosecute, within the applicable statute of limitations, an offense
40 for which arrest relief has been granted pursuant to this section.

1 (4) Relief granted pursuant to this section does not affect a
2 person’s authorization to own, possess, or have in the person’s
3 custody or control a firearm, or the person’s susceptibility to
4 conviction under Chapter 2 (commencing with Section 29800) of
5 Division 9 of Title 4 of Part 6, if the arrest would otherwise affect
6 this authorization or susceptibility.

7 (5) Relief granted pursuant to this section does not affect any
8 prohibition from holding public office that would otherwise apply
9 under law as a result of the arrest.

10 (6) Relief granted pursuant to this section does not affect the
11 authority to receive, or take adverse action based on, criminal
12 history information, including the authority to receive certified
13 court records received or evaluated pursuant to Section 1522,
14 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
15 pursuant to any statutory or regulatory provisions that incorporate
16 the criteria of those sections.

17 (e) This section does not limit petitions, motions, or orders for
18 arrest record relief, as required or authorized by any other law,
19 including, but not limited to, Sections 851.87, 851.90, 851.91,
20 1000.4, and 1001.9.

21 (f) The department shall annually publish statistics for each
22 county regarding the total number of arrests granted relief pursuant
23 to this section and the percentage of arrests for which the state
24 summary criminal history information does not include a
25 disposition, on the OpenJustice Web portal, as defined in Section
26 13010.

27 (g) This section shall be operative commencing July 1, 2022,
28 subject to an appropriation in the annual Budget Act.

29 (h) This section shall remain in effect only until July 1, 2023,
30 and as of that date is repealed.

31 SEC. 2. Section 851.93 is added to the Penal Code, to read:

32 851.93. (a) (1) On a monthly basis, the Department of Justice
33 shall review the records in the statewide criminal justice databases,
34 and based on information in the state summary criminal history
35 repository, shall identify persons with records of arrest that meet
36 the criteria set forth in paragraph (2) and are eligible for arrest
37 record relief.

38 (2) A person is eligible for relief pursuant to this section, if the
39 arrest occurred on or after January 1, 1973, and meets any of the
40 following conditions:

1 (A) The arrest was for a misdemeanor offense and the charge
2 was dismissed.

3 (B) The arrest was for a misdemeanor offense, there is no
4 indication that criminal proceedings have been initiated, at least
5 one calendar year has elapsed since the date of the arrest, and no
6 conviction occurred, or the arrestee was acquitted of any charges
7 that arose, from that arrest.

8 (C) (i) The arrest was for a felony offense not described in
9 clause (ii), there is no indication that criminal proceedings have
10 been initiated, at least three calendar years have elapsed since the
11 date of the arrest, and no conviction occurred, or the arrestee was
12 acquitted of any charges arising, from that arrest.

13 (ii) If the arrest was for an offense punishable by imprisonment
14 in the state prison for eight years or more or by imprisonment
15 pursuant to subdivision (h) of Section 1170 for eight years or more,
16 there is no indication that criminal proceedings have been initiated,
17 at least six years have elapsed since the date of the arrest, and no
18 conviction occurred, or the arrestee was acquitted of any charges
19 arising, from that arrest.

20 (D) The person successfully completed any of the following,
21 relating to that arrest:

22 (i) A prefiling diversion program, as defined in subdivision (d)
23 of Section 851.87, administered by a prosecuting attorney in lieu
24 of filing an accusatory pleading.

25 (ii) A drug diversion program administered by a superior court
26 pursuant to Section 1000.5, or a deferred entry of judgment
27 program pursuant to Section 1000 or 1000.8.

28 (iii) A pretrial diversion program, pursuant to Section 1000.4.

29 (iv) A diversion program, pursuant to Section 1001.9.

30 (v) A diversion program described in Chapter 2.8 (commencing
31 with Section 1001.20), Chapter 2.8A (commencing with Section
32 1001.35), Chapter 2.81 (commencing with Section 1001.40),
33 Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A
34 (commencing with Section 1001.60), Chapter 2.9B (commencing
35 with Section 1001.70), Chapter 2.9C (commencing with Section
36 1001.80), Chapter 2.9D (commencing with Section 1001.81), or
37 Chapter 2.92 (commencing with Section 1001.85), of Title 6.

38 (b) (1) The department shall grant relief to a person identified
39 pursuant to subdivision (a), without requiring a petition or motion

1 by a party for that relief if the relevant information is present in
2 the department’s electronic records.

3 (2) The state summary criminal history information shall
4 include, directly next to or below the entry or entries regarding the
5 person’s arrest record, a note stating “arrest relief granted,” listing
6 the date that the department granted relief, and this section. This
7 note shall be included in all statewide criminal databases with a
8 record of the arrest.

9 (3) Except as otherwise provided in subdivision (d), an arrest
10 for which arrest relief has been granted is deemed not to have
11 occurred, and a person who has been granted arrest relief is released
12 from any penalties and disabilities resulting from the arrest, and
13 may answer any question relating to that arrest accordingly.

14 (c) On a monthly basis, the department shall electronically
15 submit a notice to the superior court having jurisdiction over the
16 criminal case, informing the court of all cases for which a
17 complaint was filed in that jurisdiction and for which relief was
18 granted pursuant to this section. Commencing on August 1, 2022,
19 for any record retained by the court pursuant to Section 68152 of
20 the Government Code, except as provided in subdivision (d), the
21 court shall not disclose information concerning an arrest that is
22 granted relief pursuant to this section to any person or entity, in
23 any format, except to the person whose arrest was granted relief
24 or a criminal justice agency, as defined in Section 851.92.

25 (d) Relief granted pursuant to this section is subject to all of the
26 following conditions:

27 (1) Arrest relief does not relieve a person of the obligation to
28 disclose an arrest in response to a direct question contained in a
29 questionnaire or application for employment as a peace officer, as
30 defined in Section 830.

31 (2) Relief granted pursuant to this section has no effect on the
32 ability of a criminal justice agency, as defined in Section 851.92,
33 to access and use records that are granted relief to the same extent
34 that would have been permitted for a criminal justice agency had
35 relief not been granted.

36 (3) This section does not limit the ability of a district attorney
37 to prosecute, within the applicable statute of limitations, an offense
38 for which arrest relief has been granted pursuant to this section.

39 (4) Relief granted pursuant to this section does not affect a
40 person’s authorization to own, possess, or have in the person’s

1 custody or control a firearm, or the person’s susceptibility to
2 conviction under Chapter 2 (commencing with Section 29800) of
3 Division 9 of Title 4 of Part 6, if the arrest would otherwise affect
4 this authorization or susceptibility.

5 (5) Relief granted pursuant to this section does not affect any
6 prohibition from holding public office that would otherwise apply
7 under law as a result of the arrest.

8 (6) Relief granted pursuant to this section does not affect the
9 authority to receive, or take adverse action based on, criminal
10 history information, including the authority to receive certified
11 court records received or evaluated pursuant to Section 1522,
12 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
13 pursuant to any statutory or regulatory provisions that incorporate
14 the criteria of those sections.

15 (e) This section does not limit petitions, motions, or orders for
16 arrest record relief, as required or authorized by any other law,
17 including, but not limited to, Sections 851.87, 851.90, 851.91,
18 1000.4, and 1001.9.

19 (f) The department shall annually publish on the OpenJustice
20 Web portal, as described under Section 13010, statistics for each
21 county regarding the total number of arrests granted relief pursuant
22 to this section and the percentage of arrests for which the state
23 summary criminal history information does not include a
24 disposition.

25 (g) This section shall be operative commencing July 1, 2023,
26 subject to an appropriation in the annual Budget Act.

27 SEC. 3. Section 1203.41 of the Penal Code is amended to read:
28 1203.41. (a) If a defendant is convicted of a felony, the court,
29 in its discretion and in the interests of justice, may order the
30 following relief, subject to the conditions of subdivision (b):

31 (1) The court may permit the defendant to withdraw their plea
32 of guilty or plea of nolo contendere and enter a plea of not guilty,
33 or, if the defendant has been convicted after a plea of not guilty,
34 the court shall set aside the verdict of guilty, and, in either case,
35 the court shall dismiss the accusations or information against the
36 defendant and the defendant shall thereafter be released from all
37 penalties and disabilities resulting from the offense of which they
38 have been convicted, except as provided in Section 13555 of the
39 Vehicle Code.

1 (2) The relief available under this section may be granted only
2 after the lapse of one year following the defendant's completion
3 of the sentence, if the sentence was imposed pursuant to
4 subparagraph (B) of paragraph (5) of subdivision (h) of Section
5 1170, or after the lapse of two years following the defendant's
6 completion of the sentence, if the sentence was imposed pursuant
7 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
8 1170 or if the defendant was sentenced to the state prison.

9 (3) The relief available under this section may be granted only
10 if the defendant is not on parole or under supervision pursuant to
11 subparagraph (B) of paragraph (5) of subdivision (h) of Section
12 1170, and is not serving a sentence for, on probation for, or charged
13 with the commission of any offense.

14 (4) The defendant shall be informed, either orally or in writing,
15 of the provisions of this section and of their right, if any, to petition
16 for a certificate of rehabilitation and pardon at the time they are
17 sentenced.

18 (5) The defendant may make the application and change of plea
19 in person or by attorney, or by a probation officer authorized in
20 writing.

21 (b) Relief granted pursuant to subdivision (a) is subject to all
22 of the following conditions:

23 (1) In any subsequent prosecution of the defendant for any other
24 offense, the prior conviction may be pleaded and proved and shall
25 have the same effect as if the accusation or information had not
26 been dismissed.

27 (2) The order shall state, and the defendant shall be informed,
28 that the order does not relieve them of the obligation to disclose
29 the conviction in response to any direct question contained in any
30 questionnaire or application for public office, for licensure by any
31 state or local agency or by a federally recognized tribe, or for
32 contracting with the California State Lottery Commission.

33 (3) Dismissal of an accusation or information pursuant to this
34 section does not permit a person to own, possess, or have in their
35 custody or control any firearm or prevent their conviction under
36 Chapter 2 (commencing with Section 29800) of Division 9 of Title
37 4 of Part 6.

38 (4) Dismissal of an accusation or information underlying a
39 conviction pursuant to this section does not permit a person

1 prohibited from holding public office as a result of that conviction
2 to hold public office.

3 (c) This section applies to any conviction specified in
4 subdivision (a) that occurred before, on, or after January 1, 2021.

5 (d) A person who petitions for a change of plea or setting aside
6 of a verdict under this section may be required to reimburse the
7 court for the actual costs of services rendered, whether or not the
8 petition is granted and the records are sealed or expunged, at a rate
9 to be determined by the court not to exceed one hundred fifty
10 dollars (\$150), and to reimburse the county for the actual costs of
11 services rendered, whether or not the petition is granted and the
12 records are sealed or expunged, at a rate to be determined by the
13 county board of supervisors not to exceed one hundred fifty dollars
14 (\$150), and to reimburse any city for the actual costs of services
15 rendered, whether or not the petition is granted and the records are
16 sealed or expunged, at a rate to be determined by the city council
17 not to exceed one hundred fifty dollars (\$150). Ability to make
18 this reimbursement shall be determined by the court using the
19 standards set forth in paragraph (2) of subdivision (g) of Section
20 987.8 and shall not be a prerequisite to a person's eligibility under
21 this section. The court may order reimbursement in any case in
22 which the petitioner appears to have the ability to pay, without
23 undue hardship, all or any portion of the costs for services
24 established pursuant to this subdivision.

25 (e) (1) Relief shall not be granted under this section unless the
26 prosecuting attorney has been given 15 days' notice of the petition
27 for relief. The probation officer shall notify the prosecuting attorney
28 when a petition is filed, pursuant to this section.

29 (2) It shall be presumed that the prosecuting attorney has
30 received notice if proof of service is filed with the court.

31 (f) If, after receiving notice pursuant to subdivision (e), the
32 prosecuting attorney fails to appear and object to a petition for
33 dismissal, the prosecuting attorney shall not move to set aside or
34 otherwise appeal the grant of that petition.

35 (g) Relief granted pursuant to this section does not release the
36 defendant from the terms and conditions of any unexpired criminal
37 protective orders that have been issued by the court pursuant to
38 paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)
39 of Section 273.5, subdivision (l) of Section 368, or subdivision
40 (k) of Section 646.9. These protective orders shall remain in full

1 effect until expiration or until any further order by the court
2 modifying or terminating the order, despite the dismissal of the
3 underlying accusation or information.

4 (h) Relief granted pursuant to this section does not affect the
5 authority to receive, or take adverse action based on, criminal
6 history information, including the authority to receive certified
7 court records received or evaluated pursuant to Section 1522,
8 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
9 pursuant to any statutory or regulatory provisions that incorporate
10 the criteria of those sections. Relief granted pursuant to this section
11 does not make eligible a person who is otherwise ineligible to
12 provide, or receive payment for providing, in-home supportive
13 services pursuant to Article 7 (commencing with Section 12300)
14 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions
15 Code, or pursuant to Section 14132.95, 14132.952, or 14132.956
16 of the Welfare and Institutions Code.

17 SEC. 4. Section 1203.425 of the Penal Code is amended to
18 read:

19 1203.425. (a) (1) (A) Commencing July 1, 2022, and subject
20 to an appropriation in the annual Budget Act, on a monthly basis,
21 the Department of Justice shall review the records in the statewide
22 criminal justice databases, and based on information in the state
23 summary criminal history repository and the Supervised Release
24 File, shall identify persons with convictions that meet the criteria
25 set forth in subparagraph (B) and are eligible for automatic
26 conviction record relief.

27 (B) A person is eligible for automatic conviction relief pursuant
28 to this section if they meet all of the following conditions:

29 (i) The person is not required to register pursuant to the Sex
30 Offender Registration Act.

31 (ii) The person does not have an active record for local, state,
32 or federal supervision in the Supervised Release File.

33 (iii) Based upon the information available in the department's
34 record, including disposition dates and sentencing terms, it does
35 not appear that the person is currently serving a sentence for an
36 offense and there is no indication of pending criminal charges.

37 (iv) Except as otherwise provided in subclause (III) of clause
38 (v), there is no indication that the conviction resulted in a sentence
39 of incarceration in the state prison.

1 (v) The conviction occurred on or after January 1, 1973, and
2 meets either of the following criteria:

3 (I) The defendant was sentenced to probation and, based upon
4 the disposition date and the term of probation specified in the
5 department's records, appears to have completed their term of
6 probation without revocation.

7 (II) The defendant was convicted of an infraction or
8 misdemeanor, was not granted probation, and, based upon the
9 disposition date and the term specified in the department's records,
10 the defendant appears to have completed their sentence, and at
11 least one calendar year has elapsed since the date of judgment.

12 (2) (A) Except as specified in subdivision (b), the department
13 shall grant relief, including dismissal of a conviction, to a person
14 identified pursuant to paragraph (1) without requiring a petition
15 or motion by a party for that relief if the relevant information is
16 present in the department's electronic records.

17 (B) The state summary criminal history information shall
18 include, directly next to or below the entry or entries regarding the
19 person's criminal record, a note stating "relief granted," listing the
20 date that the department granted relief and this section. This note
21 shall be included in all statewide criminal databases with a record
22 of the conviction.

23 (C) Except as otherwise provided in paragraph (4) and in Section
24 13555 of the Vehicle Code, a person granted conviction relief
25 pursuant to this section shall be released from all penalties and
26 disabilities resulting from the offense of which the person has been
27 convicted.

28 (3) Commencing July 1, 2022, and subject to an appropriation
29 in the annual Budget Act, on a monthly basis, the department shall
30 electronically submit a notice to the superior court having
31 jurisdiction over the criminal case, informing the court of all cases
32 for which a complaint was filed in that jurisdiction and for which
33 relief was granted pursuant to this section. Commencing on August
34 1, 2022, for any record retained by the court pursuant to Section
35 68152 of the Government Code, except as provided in paragraph
36 (4), the court shall not disclose information concerning a conviction
37 granted relief pursuant to this section or Section 1203.4, 1203.4a,
38 1203.41, or 1203.42, to any person or entity, in any format, except
39 to the person whose conviction was granted relief or a criminal
40 justice agency, as defined in Section 851.92.

1 (4) Relief granted pursuant to this section is subject to the
2 following conditions:

3 (A) Relief granted pursuant to this section does not relieve a
4 person of the obligation to disclose a criminal conviction in
5 response to a direct question contained in a questionnaire or
6 application for employment as a peace officer, as defined in Section
7 830.

8 (B) Relief granted pursuant to this section does not relieve a
9 person of the obligation to disclose the conviction in response to
10 a direct question contained in a questionnaire or application for
11 public office, or for contracting with the California State Lottery
12 Commission.

13 (C) Relief granted pursuant to this section has no effect on the
14 ability of a criminal justice agency, as defined in Section 851.92,
15 to access and use records that are granted relief to the same extent
16 that would have been permitted for a criminal justice agency had
17 relief not been granted.

18 (D) Relief granted pursuant to this section does not limit the
19 jurisdiction of the court over a subsequently filed motion to amend
20 the record, petition or motion for postconviction relief, or collateral
21 attack on a conviction for which relief has been granted pursuant
22 to this section.

23 (E) Relief granted pursuant to this section does not affect a
24 person's authorization to own, possess, or have in the person's
25 custody or control a firearm, or the person's susceptibility to
26 conviction under Chapter 2 (commencing with Section 29800) of
27 Division 9 of Title 4 of Part 6, if the criminal conviction would
28 otherwise affect this authorization or susceptibility.

29 (F) Relief granted pursuant to this section does not affect a
30 prohibition from holding public office that would otherwise apply
31 under law as a result of the criminal conviction.

32 (G) Relief granted pursuant to this section does not affect the
33 authority to receive, or take adverse action based on, criminal
34 history information, including the authority to receive certified
35 court records received or evaluated pursuant to Section 1522,
36 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
37 pursuant to any statutory or regulatory provisions that incorporate
38 the criteria of those sections.

39 (H) Relief granted pursuant to this section does not make eligible
40 a person who is otherwise ineligible to provide, or receive payment

1 for providing, in-home supportive services pursuant to Article 7
2 (commencing with Section 12300) of Chapter 3 of Part 3 of
3 Division 9 of the Welfare and Institutions Code, or pursuant to
4 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
5 Institutions Code.

6 (I) In a subsequent prosecution of the defendant for any other
7 offense, the prior conviction may be pleaded and proved and shall
8 have the same effect as if the relief had not been granted.

9 (5) This section shall not limit petitions, motions, or orders for
10 relief in a criminal case, as required or authorized by any other
11 law, including, but not limited to, Sections 1203.4 and 1204.4a.

12 (6) Commencing July 1, 2022, and subject to an appropriation
13 in the annual Budget Act, the department shall annually publish
14 statistics for each county regarding the total number of convictions
15 granted relief pursuant to this section and the total number of
16 convictions prohibited from automatic relief pursuant to
17 subdivision (b), on the OpenJustice Web portal, as defined in
18 Section 13010.

19 (b) (1) The prosecuting attorney or probation department may,
20 no later than 90 calendar days before the date of a person's
21 eligibility for relief pursuant to this section, file a petition to
22 prohibit the department from granting automatic relief pursuant
23 to this section, based on a showing that granting that relief would
24 pose a substantial threat to the public safety.

25 (2) The court shall give notice to the defendant and conduct a
26 hearing on the petition within 45 days after the petition is filed.

27 (3) At a hearing on the petition pursuant to this subdivision, the
28 defendant, the probation department, the prosecuting attorney, and
29 the arresting agency, through the prosecuting attorney, may present
30 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
31 the hearing may be heard and determined upon declarations,
32 affidavits, police investigative reports, copies of state summary
33 criminal history information and local summary criminal history
34 information, or any other evidence submitted by the parties that
35 is material, reliable, and relevant.

36 (4) The prosecutor or probation department has the initial burden
37 of proof to show that granting conviction relief would pose a
38 substantial threat to the public safety. In determining whether
39 granting relief would pose a substantial threat to the public safety,

1 the court may consider any relevant factors including, but not
2 limited to, either of the following:

3 (A) Declarations or evidence regarding the offense for which a
4 grant of relief is being contested.

5 (B) The defendant's record of arrests and convictions.

6 (5) If the court finds that the prosecutor or probation department
7 has satisfied the burden of proof, the burden shifts to the defendant
8 to show that the hardship of not obtaining relief outweighs the
9 threat to the public safety of providing relief. In determining
10 whether the defendant's hardship outweighs the threat to the public
11 safety, the court may consider any relevant factors including, but
12 not limited to, either of the following:

13 (A) The hardship to the defendant that has been caused by the
14 conviction and that would be caused if relief is not granted.

15 (B) Declarations or evidence regarding the defendant's good
16 character.

17 (6) If the court grants a petition pursuant to this subdivision,
18 the court shall furnish a disposition report to the Department of
19 Justice pursuant to Section 13151, stating that relief pursuant to
20 this section was denied, and the department shall not grant relief
21 pursuant to this section.

22 (7) A person denied relief pursuant to this section may continue
23 to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If
24 the court subsequently grants relief pursuant to one of those
25 sections, the court shall furnish a disposition report to the
26 Department of Justice pursuant to Section 13151, stating that relief
27 was granted pursuant to the applicable section, and the department
28 shall grant relief pursuant to that section.

29 (c) At the time of sentencing, the court shall advise a defendant,
30 either orally or in writing, of the provisions of this section and of
31 the defendant's right, if any, to petition for a certificate of
32 rehabilitation and pardon.

33 (d) This section shall remain in effect only until July 1, 2023,
34 and as of that date is repealed.

35 *SEC. 4.1. Section 1203.425 of the Penal Code is amended to*
36 *read:*

37 1203.425. (a) (1) (A) Commencing July 1, 2022, and subject
38 to an appropriation in the annual Budget Act, on a monthly basis,
39 the Department of Justice shall review the records in the statewide
40 criminal justice databases, and based on information in the state

1 summary criminal history repository and the Supervised Release
2 File, shall identify persons with convictions that meet the criteria
3 set forth in subparagraph (B) and are eligible for automatic
4 conviction record relief.

5 (B) A person is eligible for automatic conviction relief pursuant
6 to this section if they meet all of the following conditions:

7 (i) The person is not required to register pursuant to the Sex
8 Offender Registration Act.

9 (ii) The person does not have an active record for local, state,
10 or federal supervision in the Supervised Release File.

11 (iii) Based upon the information available in the department's
12 record, including disposition dates and sentencing terms, it does
13 not appear that the person is currently serving a sentence for an
14 offense and there is no indication of pending criminal charges.

15 (iv) Except as otherwise provided in subclause (III) of clause
16 (v), there is no indication that the conviction resulted in a sentence
17 of incarceration in the state prison.

18 (v) The conviction occurred on or after January 1, 1973, and
19 meets either of the following criteria:

20 (I) The defendant was sentenced to probation and, based upon
21 the disposition date and the term of probation specified in the
22 department's records, appears to have completed their term of
23 probation without revocation.

24 (II) The defendant was convicted of an infraction or
25 misdemeanor, was not granted probation, and, based upon the
26 disposition date and the term specified in the department's records,
27 the defendant appears to have completed their sentence, and at
28 least one calendar year has elapsed since the date of judgment.

29 (2) (A) Except as specified in subdivision (b), the department
30 shall grant relief, including dismissal of a conviction, to a person
31 identified pursuant to paragraph (1) without requiring a petition
32 or motion by a party for that relief if the relevant information is
33 present in the department's electronic records.

34 (B) The state summary criminal history information shall
35 include, directly next to or below the entry or entries regarding the
36 person's criminal record, a note stating "relief granted," listing the
37 date that the department granted relief and this section. This note
38 shall be included in all statewide criminal databases with a record
39 of the conviction.

1 (C) Except as otherwise provided in paragraph (4) and in Section
2 13555 of the Vehicle Code, a person granted conviction relief
3 pursuant to this section shall be released from all penalties and
4 disabilities resulting from the offense of which the person has been
5 convicted.

6 (3) (A) Commencing July 1, 2022, and subject to an
7 appropriation in the annual Budget Act, on a monthly basis, the
8 department shall electronically submit a notice to the superior court
9 having jurisdiction over the criminal case, informing the court of
10 all cases for which a complaint was filed in that jurisdiction and
11 for which relief was granted pursuant to this section. Commencing
12 on August 1, 2022, for any record retained by the court pursuant
13 to Section 68152 of the Government Code, except as provided in
14 paragraph (4), the court shall not disclose information concerning
15 a conviction granted relief pursuant to this section or Section
16 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in
17 any format, except to the person whose conviction was granted
18 relief or a criminal justice agency, as defined in Section 851.92.

19 (B) *If probation is transferred pursuant to Section 1203.9, the*
20 *department shall electronically submit a notice as provided in*
21 *subparagraph (A) to both the transferring court and any*
22 *subsequent receiving court. The electronic notice shall be in a*
23 *mutually agreed upon format.*

24 (C) *If a receiving court reduces a felony to a misdemeanor*
25 *pursuant to subdivision (b) of Section 17, or dismisses a conviction*
26 *pursuant to law, including, but not limited to, Section 1203.4,*
27 *1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish*
28 *a disposition report to the department with the original case*
29 *number and CII number from the transferring court. The*
30 *department shall electronically submit a notice to the superior*
31 *court that sentenced the defendant. If probation is transferred*
32 *multiple times, the department shall electronically submit a notice*
33 *to all other involved courts. The electronic notice shall be in a*
34 *mutually agreed upon format.*

35 (D) *If a court receives notification from the department pursuant*
36 *to subparagraph (B), the court shall update its records to reflect*
37 *the reduction or dismissal. If a court receives notification that a*
38 *case was dismissed pursuant to this section or Section 1203.4,*
39 *1203.4a, 1203.41, or 1203.42, the court shall update its records*
40 *to reflect the dismissal and shall not disclose information*

1 *concerning a conviction granted relief to any person or entity, in*
2 *any format, except to the person whose conviction was granted*
3 *relief or a criminal justice agency, as defined in Section 851.92.*

4 (4) Relief granted pursuant to this section is subject to the
5 following conditions:

6 (A) Relief granted pursuant to this section does not relieve a
7 person of the obligation to disclose a criminal conviction in
8 response to a direct question contained in a questionnaire or
9 application for employment as a peace officer, as defined in Section
10 830.

11 (B) Relief granted pursuant to this section does not relieve a
12 person of the obligation to disclose the conviction in response to
13 a direct question contained in a questionnaire or application for
14 public office, or for contracting with the California State Lottery
15 Commission.

16 (C) Relief granted pursuant to this section has no effect on the
17 ability of a criminal justice agency, as defined in Section 851.92,
18 to access and use records that are granted relief to the same extent
19 that would have been permitted for a criminal justice agency had
20 relief not been granted.

21 (D) Relief granted pursuant to this section does not limit the
22 jurisdiction of the court over a subsequently filed motion to amend
23 the record, petition or motion for postconviction relief, or collateral
24 attack on a conviction for which relief has been granted pursuant
25 to this section.

26 (E) Relief granted pursuant to this section does not affect a
27 person's authorization to own, possess, or have in the person's
28 custody or control a firearm, or the person's susceptibility to
29 conviction under Chapter 2 (commencing with Section 29800) of
30 Division 9 of Title 4 of Part 6, if the criminal conviction would
31 otherwise affect this authorization or susceptibility.

32 (F) Relief granted pursuant to this section does not affect a
33 prohibition from holding public office that would otherwise apply
34 under law as a result of the criminal conviction.

35 (G) Relief granted pursuant to this section does not affect the
36 authority to receive, or take adverse action based on, criminal
37 history information, including the authority to receive certified
38 court records received or evaluated pursuant to Section 1522,
39 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or

1 pursuant to any statutory or regulatory provisions that incorporate
2 the criteria of those sections.

3 (H) Relief granted pursuant to this section does not make eligible
4 a person who is otherwise ineligible to provide, or receive payment
5 for providing, in-home supportive services pursuant to Article 7
6 (commencing with Section 12300) of Chapter 3 of Part 3 of
7 Division 9 of the Welfare and Institutions Code, or pursuant to
8 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
9 Institutions Code.

10 (I) In a subsequent prosecution of the defendant for any other
11 offense, the prior conviction may be pleaded and proved and shall
12 have the same effect as if the relief had not been granted.

13 (5) This section shall not limit petitions, motions, or orders for
14 relief in a criminal case, as required or authorized by any other
15 law, including, but not limited to, Sections 1203.4 and 1204.4a.

16 (6) Commencing July 1, 2022, and subject to an appropriation
17 in the annual Budget Act, the department shall annually publish
18 statistics for each county regarding the total number of convictions
19 granted relief pursuant to this section and the total number of
20 convictions prohibited from automatic relief pursuant to
21 subdivision (b), on the OpenJustice Web portal, as defined in
22 Section 13010.

23 (b) (1) The prosecuting attorney or probation department may,
24 no later than 90 calendar days before the date of a person's
25 eligibility for relief pursuant to this section, file a petition to
26 prohibit the department from granting automatic relief pursuant
27 to this section, based on a showing that granting that relief would
28 pose a substantial threat to the public safety. *If probation was*
29 *transferred pursuant to Section 1203.9, the prosecuting attorney*
30 *or probation department in either the receiving county or the*
31 *transferring county shall file the petition in the county of current*
32 *jurisdiction.*

33 (2) The court shall give notice to the defendant and conduct a
34 hearing on the petition within 45 days after the petition is filed.

35 (3) At a hearing on the petition pursuant to this subdivision, the
36 defendant, the probation department, the prosecuting attorney, and
37 the arresting agency, through the prosecuting attorney, may present
38 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
39 the hearing may be heard and determined upon declarations,
40 affidavits, police investigative reports, copies of state summary

1 criminal history information and local summary criminal history
2 information, or any other evidence submitted by the parties that
3 is material, reliable, and relevant.

4 (4) The prosecutor or probation department has the initial burden
5 of proof to show that granting conviction relief would pose a
6 substantial threat to the public safety. In determining whether
7 granting relief would pose a substantial threat to the public safety,
8 the court may consider any relevant factors including, but not
9 limited to, either of the following:

10 (A) Declarations or evidence regarding the offense for which a
11 grant of relief is being contested.

12 (B) The defendant's record of arrests and convictions.

13 (5) If the court finds that the prosecutor or probation department
14 has satisfied the burden of proof, the burden shifts to the defendant
15 to show that the hardship of not obtaining relief outweighs the
16 threat to the public safety of providing relief. In determining
17 whether the defendant's hardship outweighs the threat to the public
18 safety, the court may consider any relevant factors including, but
19 not limited to, either of the following:

20 (A) The hardship to the defendant that has been caused by the
21 conviction and that would be caused if relief is not granted.

22 (B) Declarations or evidence regarding the defendant's good
23 character.

24 (6) If the court grants a petition pursuant to this subdivision,
25 the court shall furnish a disposition report to the Department of
26 Justice pursuant to Section 13151, stating that relief pursuant to
27 this section was denied, and the department shall not grant relief
28 pursuant to this section. *If probation was transferred pursuant to*
29 *Section 1203.9, the department shall electronically submit a notice*
30 *to the transferring court, and, if probation was transferred multiple*
31 *times, to all other involved courts.*

32 (7) A person denied relief pursuant to this section may continue
33 to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If
34 the court subsequently grants relief pursuant to one of those
35 sections, the court shall furnish a disposition report to the
36 Department of Justice pursuant to Section 13151, stating that relief
37 was granted pursuant to the applicable section, and the department
38 shall grant relief pursuant to that section. *If probation was*
39 *transferred pursuant to Section 1203.9, the department shall*
40 *electronically submit a notice that relief was granted pursuant to*

1 *the applicable section to the transferring court and, if probation*
2 *was transferred multiple times, to all other involved courts.*

3 (c) At the time of sentencing, the court shall advise a defendant,
4 either orally or in writing, of the provisions of this section and of
5 the defendant's right, if any, to petition for a certificate of
6 rehabilitation and pardon.

7 (d) *This section shall remain in effect only until July 1, 2023,*
8 *and as of that date is repealed.*

9 *SEC. 4.2. Section 1203.425 of the Penal Code is amended to*
10 *read:*

11 1203.425. (a) (1) (A) Commencing July 1, 2022, and subject
12 to an appropriation in the annual Budget Act, on a monthly basis,
13 the Department of Justice shall review the records in the statewide
14 criminal justice databases, and based on information in the state
15 summary criminal history repository and the Supervised Release
16 File, shall identify persons with convictions that meet the criteria
17 set forth in subparagraph (B) and are eligible for automatic
18 conviction record relief.

19 (B) A person is eligible for automatic conviction relief pursuant
20 to this section if they meet all of the following conditions:

21 (i) The person is not required to register pursuant to the Sex
22 Offender Registration Act.

23 (ii) The person does not have an active record for local, state,
24 or federal supervision in the Supervised Release File.

25 (iii) Based upon the information available in the department's
26 record, including disposition dates and sentencing terms, it does
27 not appear that the person is currently serving a sentence for an
28 offense and there is no indication of pending criminal charges.

29 (iv) Except as otherwise provided in subclause (III) of clause
30 (v), there is no indication that the conviction resulted in a sentence
31 of incarceration in the state prison.

32 (v) The conviction occurred on or after January 1, 1973, and
33 meets either of the following criteria:

34 (I) The defendant was sentenced to probation and, based upon
35 the disposition date and the term of probation specified in the
36 department's records, appears to have completed their term of
37 probation without revocation.

38 (II) The defendant was convicted of an infraction or
39 misdemeanor, was not granted probation, and, based upon the
40 disposition date and the term specified in the department's records,

1 the defendant appears to have completed their sentence, and at
2 least one calendar year has elapsed since the date of judgment.

3 (2) (A) Except as specified in subdivision (b), the department
4 shall grant relief, including dismissal of a conviction, to a person
5 identified pursuant to paragraph (1) without requiring a petition
6 or motion by a party for that relief if the relevant information is
7 present in the department's electronic records.

8 (B) The state summary criminal history information shall
9 include, directly next to or below the entry or entries regarding the
10 person's criminal record, a note stating "relief granted," listing the
11 date that the department granted relief and this section. This note
12 shall be included in all statewide criminal databases with a record
13 of the conviction.

14 (C) Except as otherwise provided in paragraph (4) and in Section
15 13555 of the Vehicle Code, a person granted conviction relief
16 pursuant to this section shall be released from all penalties and
17 disabilities resulting from the offense of which the person has been
18 convicted.

19 (3) Commencing July 1, 2022, and subject to an appropriation
20 in the annual Budget Act, on a monthly basis, the department shall
21 electronically submit a notice to the superior court having
22 jurisdiction over the criminal case, informing the court of all cases
23 for which a complaint was filed in that jurisdiction and for which
24 relief was granted pursuant to this section. Commencing on August
25 1, 2022, for any record retained by the court pursuant to Section
26 68152 of the Government Code, except as provided in paragraph
27 (4), the court shall not disclose information concerning a conviction
28 granted relief pursuant to this section or Section 1203.4, 1203.4a,
29 1203.41, or 1203.42, to any person or entity, in any format, except
30 to the person whose conviction was granted relief or a criminal
31 justice agency, as defined in Section 851.92.

32 (4) Relief granted pursuant to this section is subject to the
33 following conditions:

34 (A) Relief granted pursuant to this section does not relieve a
35 person of the obligation to disclose a criminal conviction in
36 response to a direct question contained in a questionnaire or
37 application for employment as a peace officer, as defined in Section
38 830.

39 (B) Relief granted pursuant to this section does not relieve a
40 person of the obligation to disclose the conviction in response to

1 a direct question contained in a questionnaire or application for
2 public office, or for contracting with the California State Lottery
3 Commission.

4 (C) Relief granted pursuant to this section has no effect on the
5 ability of a criminal justice agency, as defined in Section 851.92,
6 to access and use records that are granted relief to the same extent
7 that would have been permitted for a criminal justice agency had
8 relief not been granted.

9 (D) Relief granted pursuant to this section does not limit the
10 jurisdiction of the court over a subsequently filed motion to amend
11 the record, petition or motion for postconviction relief, or collateral
12 attack on a conviction for which relief has been granted pursuant
13 to this section.

14 (E) Relief granted pursuant to this section does not affect a
15 person's authorization to own, possess, or have in the person's
16 custody or control a firearm, or the person's susceptibility to
17 conviction under Chapter 2 (commencing with Section 29800) of
18 Division 9 of Title 4 of Part 6, if the criminal conviction would
19 otherwise affect this authorization or susceptibility.

20 (F) Relief granted pursuant to this section does not affect a
21 prohibition from holding public office that would otherwise apply
22 under law as a result of the criminal conviction.

23 (G) *Relief granted pursuant to this section does not release a*
24 *person from the terms and conditions of any unexpired criminal*
25 *protective order that has been issued by the court pursuant to*
26 *paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)*
27 *of Section 273.5, subdivision (l) of Section 368, or subdivision (k)*
28 *of Section 646.9. These protective orders shall remain in full effect*
29 *until expiration or until any further order by the court modifying*
30 *or terminating the order, despite the dismissal of the underlying*
31 *conviction.*

32 (~~G~~)

33 (H) Relief granted pursuant to this section does not affect the
34 authority to receive, or take adverse action based on, criminal
35 history information, including the authority to receive certified
36 court records received or evaluated pursuant to Section 1522,
37 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
38 pursuant to any statutory or regulatory provisions that incorporate
39 the criteria of those sections.

40 (~~H~~)

1 (I) Relief granted pursuant to this section does not make eligible
 2 a person who is otherwise ineligible to provide, or receive payment
 3 for providing, in-home supportive services pursuant to Article 7
 4 (commencing with Section 12300) of Chapter 3 of Part 3 of
 5 Division 9 of the Welfare and Institutions Code, or pursuant to
 6 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
 7 Institutions Code.

8 (H)

9 (J) In a subsequent prosecution of the defendant for any other
 10 offense, the prior conviction may be pleaded and proved and shall
 11 have the same effect as if the relief had not been granted.

12 (5) This section shall not limit petitions, motions, or orders for
 13 relief in a criminal case, as required or authorized by any other
 14 law, including, but not limited to, Sections 1203.4 and 1204.4a.

15 (6) Commencing July 1, 2022, and subject to an appropriation
 16 in the annual Budget Act, the department shall annually publish
 17 statistics for each county regarding the total number of convictions
 18 granted relief pursuant to this section and the total number of
 19 convictions prohibited from automatic relief pursuant to
 20 subdivision (b), on the OpenJustice Web portal, as defined in
 21 Section 13010.

22 (b) (1) The prosecuting attorney or probation department may,
 23 no later than 90 calendar days before the date of a person's
 24 eligibility for relief pursuant to this section, file a petition to
 25 prohibit the department from granting automatic relief pursuant
 26 to this section, based on a showing that granting that relief would
 27 pose a substantial threat to the public safety.

28 (2) The court shall give notice to the defendant and conduct a
 29 hearing on the petition within 45 days after the petition is filed.

30 (3) At a hearing on the petition pursuant to this subdivision, the
 31 defendant, the probation department, the prosecuting attorney, and
 32 the arresting agency, through the prosecuting attorney, may present
 33 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
 34 the hearing may be heard and determined upon declarations,
 35 affidavits, police investigative reports, copies of state summary
 36 criminal history information and local summary criminal history
 37 information, or any other evidence submitted by the parties that
 38 is material, reliable, and relevant.

39 (4) The prosecutor or probation department has the initial burden
 40 of proof to show that granting conviction relief would pose a

1 substantial threat to the public safety. In determining whether
2 granting relief would pose a substantial threat to the public safety,
3 the court may consider any relevant factors including, but not
4 limited to, either of the following:

5 (A) Declarations or evidence regarding the offense for which a
6 grant of relief is being contested.

7 (B) The defendant’s record of arrests and convictions.

8 (5) If the court finds that the prosecutor or probation department
9 has satisfied the burden of proof, the burden shifts to the defendant
10 to show that the hardship of not obtaining relief outweighs the
11 threat to the public safety of providing relief. In determining
12 whether the defendant’s hardship outweighs the threat to the public
13 safety, the court may consider any relevant factors including, but
14 not limited to, either of the following:

15 (A) The hardship to the defendant that has been caused by the
16 conviction and that would be caused if relief is not granted.

17 (B) Declarations or evidence regarding the defendant’s good
18 character.

19 (6) If the court grants a petition pursuant to this subdivision,
20 the court shall furnish a disposition report to the Department of
21 Justice pursuant to Section 13151, stating that relief pursuant to
22 this section was denied, and the department shall not grant relief
23 pursuant to this section.

24 (7) A person denied relief pursuant to this section may continue
25 to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If
26 the court subsequently grants relief pursuant to one of those
27 sections, the court shall furnish a disposition report to the
28 Department of Justice pursuant to Section 13151, stating that relief
29 was granted pursuant to the applicable section, and the department
30 shall grant relief pursuant to that section.

31 (c) At the time of sentencing, the court shall advise a defendant,
32 either orally or in writing, of the provisions of this section and of
33 the defendant’s right, if any, to petition for a certificate of
34 rehabilitation and pardon.

35 (d) *This section shall remain in effect only until July 1, 2023,*
36 *and as of that date is repealed.*

37 *SEC. 4.3. Section 1203.425 of the Penal Code is amended to*
38 *read:*

39 1203.425. (a) (1) (A) Commencing July 1, 2022, and subject
40 to an appropriation in the annual Budget Act, on a monthly basis,

1 the Department of Justice shall review the records in the statewide
2 criminal justice databases, and based on information in the state
3 summary criminal history repository and the Supervised Release
4 File, shall identify persons with convictions that meet the criteria
5 set forth in subparagraph (B) and are eligible for automatic
6 conviction record relief.

7 (B) A person is eligible for automatic conviction relief pursuant
8 to this section if they meet all of the following conditions:

9 (i) The person is not required to register pursuant to the Sex
10 Offender Registration Act.

11 (ii) The person does not have an active record for local, state,
12 or federal supervision in the Supervised Release File.

13 (iii) Based upon the information available in the department's
14 record, including disposition dates and sentencing terms, it does
15 not appear that the person is currently serving a sentence for an
16 offense and there is no indication of pending criminal charges.

17 (iv) Except as otherwise provided in subclause (III) of clause
18 (v), there is no indication that the conviction resulted in a sentence
19 of incarceration in the state prison.

20 (v) The conviction occurred on or after January 1, 1973, and
21 meets either of the following criteria:

22 (I) The defendant was sentenced to probation and, based upon
23 the disposition date and the term of probation specified in the
24 department's records, appears to have completed their term of
25 probation without revocation.

26 (II) The defendant was convicted of an infraction or
27 misdemeanor, was not granted probation, and, based upon the
28 disposition date and the term specified in the department's records,
29 the defendant appears to have completed their sentence, and at
30 least one calendar year has elapsed since the date of judgment.

31 (2) (A) Except as specified in subdivision (b), the department
32 shall grant relief, including dismissal of a conviction, to a person
33 identified pursuant to paragraph (1) without requiring a petition
34 or motion by a party for that relief if the relevant information is
35 present in the department's electronic records.

36 (B) The state summary criminal history information shall
37 include, directly next to or below the entry or entries regarding the
38 person's criminal record, a note stating "relief granted," listing the
39 date that the department granted relief and this section. This note

1 shall be included in all statewide criminal databases with a record
2 of the conviction.

3 (C) Except as otherwise provided in paragraph (4) and in Section
4 13555 of the Vehicle Code, a person granted conviction relief
5 pursuant to this section shall be released from all penalties and
6 disabilities resulting from the offense of which the person has been
7 convicted.

8 (3) (A) Commencing July 1, 2022, and subject to an
9 appropriation in the annual Budget Act, on a monthly basis, the
10 department shall electronically submit a notice to the superior court
11 having jurisdiction over the criminal case, informing the court of
12 all cases for which a complaint was filed in that jurisdiction and
13 for which relief was granted pursuant to this section. Commencing
14 on August 1, 2022, for any record retained by the court pursuant
15 to Section 68152 of the Government Code, except as provided in
16 paragraph (4), the court shall not disclose information concerning
17 a conviction granted relief pursuant to this section or Section
18 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in
19 any format, except to the person whose conviction was granted
20 relief or a criminal justice agency, as defined in Section 851.92.

21 (B) *If probation is transferred pursuant to Section 1203.9, the*
22 *department shall electronically submit a notice as provided in*
23 *subparagraph (A) to both the transferring court and any*
24 *subsequent receiving court. The electronic notice shall be in a*
25 *mutually agreed upon format.*

26 (C) *If a receiving court reduces a felony to a misdemeanor*
27 *pursuant to subdivision (b) of Section 17, or dismisses a conviction*
28 *pursuant to law, including, but not limited to, Section 1203.4,*
29 *1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish*
30 *a disposition report to the department with the original case*
31 *number and CII number from the transferring court. The*
32 *department shall electronically submit a notice to the superior*
33 *court that sentenced the defendant. If probation is transferred*
34 *multiple times, the department shall electronically submit a notice*
35 *to all other involved courts. The electronic notice shall be in a*
36 *mutually agreed upon format.*

37 (D) *If a court receives notification from the department pursuant*
38 *to subparagraph (B), the court shall update its records to reflect*
39 *the reduction or dismissal. If a court receives notification that a*
40 *case was dismissed pursuant to this section or Section 1203.4,*

1 1203.4a, 1203.41, or 1203.42, the court shall update its records
2 to reflect the dismissal and shall not disclose information
3 concerning a conviction granted relief to any person or entity, in
4 any format, except to the person whose conviction was granted
5 relief or a criminal justice agency, as defined in Section 851.92.

6 (4) Relief granted pursuant to this section is subject to the
7 following conditions:

8 (A) Relief granted pursuant to this section does not relieve a
9 person of the obligation to disclose a criminal conviction in
10 response to a direct question contained in a questionnaire or
11 application for employment as a peace officer, as defined in Section
12 830.

13 (B) Relief granted pursuant to this section does not relieve a
14 person of the obligation to disclose the conviction in response to
15 a direct question contained in a questionnaire or application for
16 public office, or for contracting with the California State Lottery
17 Commission.

18 (C) Relief granted pursuant to this section has no effect on the
19 ability of a criminal justice agency, as defined in Section 851.92,
20 to access and use records that are granted relief to the same extent
21 that would have been permitted for a criminal justice agency had
22 relief not been granted.

23 (D) Relief granted pursuant to this section does not limit the
24 jurisdiction of the court over a subsequently filed motion to amend
25 the record, petition or motion for postconviction relief, or collateral
26 attack on a conviction for which relief has been granted pursuant
27 to this section.

28 (E) Relief granted pursuant to this section does not affect a
29 person's authorization to own, possess, or have in the person's
30 custody or control a firearm, or the person's susceptibility to
31 conviction under Chapter 2 (commencing with Section 29800) of
32 Division 9 of Title 4 of Part 6, if the criminal conviction would
33 otherwise affect this authorization or susceptibility.

34 (F) Relief granted pursuant to this section does not affect a
35 prohibition from holding public office that would otherwise apply
36 under law as a result of the criminal conviction.

37 (G) *Relief granted pursuant to this section does not release a*
38 *person from the terms and conditions of any unexpired criminal*
39 *protective order that has been issued by the court pursuant to*
40 *paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)*

1 of Section 273.5, subdivision (l) of Section 368, or subdivision (k)
2 of Section 646.9. These protective orders shall remain in full effect
3 until expiration or until any further order by the court modifying
4 or terminating the order, despite the dismissal of the underlying
5 conviction.

6 ~~(G)~~

7 (H) Relief granted pursuant to this section does not affect the
8 authority to receive, or take adverse action based on, criminal
9 history information, including the authority to receive certified
10 court records received or evaluated pursuant to Section 1522,
11 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
12 pursuant to any statutory or regulatory provisions that incorporate
13 the criteria of those sections.

14 ~~(H)~~

15 (I) Relief granted pursuant to this section does not make eligible
16 a person who is otherwise ineligible to provide, or receive payment
17 for providing, in-home supportive services pursuant to Article 7
18 (commencing with Section 12300) of Chapter 3 of Part 3 of
19 Division 9 of the Welfare and Institutions Code, or pursuant to
20 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
21 Institutions Code.

22 ~~(I)~~

23 (J) In a subsequent prosecution of the defendant for any other
24 offense, the prior conviction may be pleaded and proved and shall
25 have the same effect as if the relief had not been granted.

26 (5) This section shall not limit petitions, motions, or orders for
27 relief in a criminal case, as required or authorized by any other
28 law, including, but not limited to, Sections 1203.4 and 1204.4a.

29 (6) Commencing July 1, 2022, and subject to an appropriation
30 in the annual Budget Act, the department shall annually publish
31 statistics for each county regarding the total number of convictions
32 granted relief pursuant to this section and the total number of
33 convictions prohibited from automatic relief pursuant to
34 subdivision (b), on the OpenJustice Web portal, as defined in
35 Section 13010.

36 (b) (1) The prosecuting attorney or probation department may,
37 no later than 90 calendar days before the date of a person's
38 eligibility for relief pursuant to this section, file a petition to
39 prohibit the department from granting automatic relief pursuant
40 to this section, based on a showing that granting that relief would

1 pose a substantial threat to the public safety. *If probation was*
2 *transferred pursuant to Section 1203.9, the prosecuting attorney*
3 *or probation department in either the receiving county or the*
4 *transferring county shall file the petition in the county of current*
5 *jurisdiction.*

6 (2) The court shall give notice to the defendant and conduct a
7 hearing on the petition within 45 days after the petition is filed.

8 (3) At a hearing on the petition pursuant to this subdivision, the
9 defendant, the probation department, the prosecuting attorney, and
10 the arresting agency, through the prosecuting attorney, may present
11 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
12 the hearing may be heard and determined upon declarations,
13 affidavits, police investigative reports, copies of state summary
14 criminal history information and local summary criminal history
15 information, or any other evidence submitted by the parties that
16 is material, reliable, and relevant.

17 (4) The prosecutor or probation department has the initial burden
18 of proof to show that granting conviction relief would pose a
19 substantial threat to the public safety. In determining whether
20 granting relief would pose a substantial threat to the public safety,
21 the court may consider any relevant factors including, but not
22 limited to, either of the following:

23 (A) Declarations or evidence regarding the offense for which a
24 grant of relief is being contested.

25 (B) The defendant's record of arrests and convictions.

26 (5) If the court finds that the prosecutor or probation department
27 has satisfied the burden of proof, the burden shifts to the defendant
28 to show that the hardship of not obtaining relief outweighs the
29 threat to the public safety of providing relief. In determining
30 whether the defendant's hardship outweighs the threat to the public
31 safety, the court may consider any relevant factors including, but
32 not limited to, either of the following:

33 (A) The hardship to the defendant that has been caused by the
34 conviction and that would be caused if relief is not granted.

35 (B) Declarations or evidence regarding the defendant's good
36 character.

37 (6) If the court grants a petition pursuant to this subdivision,
38 the court shall furnish a disposition report to the Department of
39 Justice pursuant to Section 13151, stating that relief pursuant to
40 this section was denied, and the department shall not grant relief

1 pursuant to this section. *If probation was transferred pursuant to*
2 *Section 1203.9, the department shall electronically submit a notice*
3 *to the transferring court, and, if probation was transferred multiple*
4 *times, to all other involved courts.*

5 (7) A person denied relief pursuant to this section may continue
6 to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If
7 the court subsequently grants relief pursuant to one of those
8 sections, the court shall furnish a disposition report to the
9 Department of Justice pursuant to Section 13151, stating that relief
10 was granted pursuant to the applicable section, and the department
11 shall grant relief pursuant to that section. *If probation was*
12 *transferred pursuant to Section 1203.9, the department shall*
13 *electronically submit a notice that relief was granted pursuant to*
14 *the applicable section to the transferring court and, if probation*
15 *was transferred multiple times, to all other involved courts.*

16 (c) At the time of sentencing, the court shall advise a defendant,
17 either orally or in writing, of the provisions of this section and of
18 the defendant's right, if any, to petition for a certificate of
19 rehabilitation and pardon.

20 (d) *This section shall remain in effect only until July 1, 2023,*
21 *and as of that date is repealed.*

22 SEC. 5. Section 1203.425 is added to the Penal Code, to read:

23 1203.425. (a) (1) (A) Commencing July 1, 2023, and subject
24 to an appropriation in the annual Budget Act, on a monthly basis,
25 the Department of Justice shall review the records in the statewide
26 criminal justice databases, and based on information in the state
27 summary criminal history repository and the Supervised Release
28 File, shall identify persons with convictions that meet the criteria
29 set forth in subparagraph (B) and are eligible for automatic
30 conviction record relief.

31 (B) A person is eligible for automatic conviction relief pursuant
32 to this section if they meet all of the following conditions:

33 (i) The person is not required to register pursuant to the Sex
34 Offender Registration Act.

35 (ii) The person does not have an active record for local, state,
36 or federal supervision in the Supervised Release File.

37 (iii) Based upon the information available in the department's
38 record, including disposition dates and sentencing terms, it does
39 not appear that the person is currently serving a sentence for an
40 offense and there is no indication of pending criminal charges.

- 1 (iv) The conviction meets either of the following criteria:
- 2 (I) The conviction occurred on or after January 1, 1973, and
- 3 meets either of the following criteria:
- 4 (ia) The defendant was sentenced to probation and, based upon
- 5 the disposition date and the term of probation specified in the
- 6 department’s records, appears to have completed their term of
- 7 probation without revocation.
- 8 (ib) The defendant was convicted of an infraction or
- 9 misdemeanor, was not granted probation, and, based upon the
- 10 disposition date and the term specified in the department’s records,
- 11 the defendant appears to have completed their sentence, and at
- 12 least one calendar year has elapsed since the date of judgment.
- 13 (II) The conviction occurred on or after January 1, 2005, the
- 14 defendant was convicted of a felony other than one for which the
- 15 defendant completed probation without revocation, and based upon
- 16 the disposition date and the sentence specified in the department’s
- 17 records, appears to have completed all terms of incarceration,
- 18 probation, mandatory supervision, postrelease supervision, and
- 19 parole, and a period of four years has elapsed since the date on
- 20 which the defendant completed probation or supervision for that
- 21 conviction and during which the defendant was not convicted of
- 22 a new felony offense. This subclause does not apply to a conviction
- 23 of a serious felony defined in subdivision (c) of Section 1192.7, a
- 24 violent felony as defined in Section 667.5, or a felony offense
- 25 requiring registration pursuant to Chapter 5.5 (commencing with
- 26 Section 290) of Title 9 of Part 1.
- 27 (2) (A) Except as specified in subdivision (b), the department
- 28 shall grant relief, including dismissal of a conviction, to a person
- 29 identified pursuant to paragraph (1) without requiring a petition
- 30 or motion by a party for that relief if the relevant information is
- 31 present in the department’s electronic records.
- 32 (B) The state summary criminal history information shall
- 33 include, directly next to or below the entry or entries regarding the
- 34 person’s criminal record, a note stating “relief granted,” listing the
- 35 date that the department granted relief and this section. This note
- 36 shall be included in all statewide criminal databases with a record
- 37 of the conviction.
- 38 (C) Except as otherwise provided in paragraph (4) and in Section
- 39 13555 of the Vehicle Code, a person granted conviction relief
- 40 pursuant to this section shall be released from all penalties and

1 disabilities resulting from the offense of which the person has been
2 convicted.

3 (3) Commencing July 1, 2022, and subject to an appropriation
4 in the annual Budget Act, on a monthly basis, the department shall
5 electronically submit a notice to the superior court having
6 jurisdiction over the criminal case, informing the court of all cases
7 for which a complaint was filed in that jurisdiction and for which
8 relief was granted pursuant to this section. Commencing on August
9 1, 2022, for any record retained by the court pursuant to Section
10 68152 of the Government Code, except as provided in paragraph
11 (4), the court shall not disclose information concerning a conviction
12 granted relief pursuant to this section or Section 1203.4, 1203.4a,
13 1203.41, or 1203.42, to any person or entity, in any format, except
14 to the person whose conviction was granted relief or a criminal
15 justice agency, as defined in Section 851.92.

16 (4) Relief granted pursuant to this section is subject to the
17 following conditions:

18 (A) Relief granted pursuant to this section does not relieve a
19 person of the obligation to disclose a criminal conviction in
20 response to a direct question contained in a questionnaire or
21 application for employment as a peace officer, as defined in Section
22 830.

23 (B) Relief granted pursuant to this section does not relieve a
24 person of the obligation to disclose the conviction in response to
25 a direct question contained in a questionnaire or application for
26 public office, or for contracting with the California State Lottery
27 Commission.

28 (C) Relief granted pursuant to this section has no effect on the
29 ability of a criminal justice agency, as defined in Section 851.92,
30 to access and use records that are granted relief to the same extent
31 that would have been permitted for a criminal justice agency had
32 relief not been granted.

33 (D) Relief granted pursuant to this section does not limit the
34 jurisdiction of the court over a subsequently filed motion to amend
35 the record, petition or motion for postconviction relief, or collateral
36 attack on a conviction for which relief has been granted pursuant
37 to this section.

38 (E) Relief granted pursuant to this section does not affect a
39 person's authorization to own, possess, or have in the person's
40 custody or control a firearm, or the person's susceptibility to

1 conviction under Chapter 2 (commencing with Section 29800) of
2 Division 9 of Title 4 of Part 6, if the criminal conviction would
3 otherwise affect this authorization or susceptibility.

4 (F) Relief granted pursuant to this section does not affect a
5 prohibition from holding public office that would otherwise apply
6 under law as a result of the criminal conviction.

7 (G) Relief granted pursuant to this section does not affect the
8 authority to receive, or take adverse action based on, criminal
9 history information, including the authority to receive certified
10 court records received or evaluated pursuant to Section 1522,
11 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
12 pursuant to any statutory or regulatory provisions that incorporate
13 the criteria of those sections.

14 (H) Relief granted pursuant to this section does not make eligible
15 a person who is otherwise ineligible to provide, or receive payment
16 for providing, in-home supportive services pursuant to Article 7
17 (commencing with Section 12300) of Chapter 3 of Part 3 of
18 Division 9 of the Welfare and Institutions Code, or pursuant to
19 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
20 Institutions Code.

21 (I) In a subsequent prosecution of the defendant for any other
22 offense, the prior conviction may be pleaded and proved and shall
23 have the same effect as if the relief had not been granted.

24 (J) Relief granted pursuant to this section does not release the
25 defendant from the terms and conditions of any unexpired criminal
26 protective orders that have been issued by the court pursuant to
27 paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)
28 of Section 273.5, subdivision (l) of Section 368, or subdivision
29 (k) of Section 646.9. These protective orders shall remain in full
30 effect until expiration or until any further order by the court
31 modifying or terminating the order, despite the dismissal of the
32 underlying accusation or information.

33 (5) This section shall not limit petitions, motions, or orders for
34 relief in a criminal case, as required or authorized by any other
35 law, including, but not limited to, Sections 1016.5, 1203.4, 1203.4a,
36 1203.4b, 1203.41, 1203.42, 1203.49 and 1473.7. This section shall
37 not limit petitions for a certificate of rehabilitation or pardon
38 pursuant to Chapter 3.5 of Title 6 of Part 3.

39 (6) Commencing July 1, 2022, and subject to an appropriation
40 in the annual Budget Act, the department shall annually publish

1 statistics for each county regarding the total number of convictions
2 granted relief pursuant to this section and the total number of
3 convictions prohibited from automatic relief pursuant to
4 subdivision (b), on the OpenJustice Web portal, as defined in
5 Section 13010.

6 (b) (1) The prosecuting attorney or probation department may,
7 no later than 90 calendar days before the date of a person's
8 eligibility for relief pursuant to this section, file a petition to
9 prohibit the department from granting automatic relief pursuant
10 to this section, based on a showing that granting that relief would
11 pose a substantial threat to the public safety.

12 (2) The court shall give notice to the defendant and conduct a
13 hearing on the petition within 45 days after the petition is filed.

14 (3) At a hearing on the petition pursuant to this subdivision, the
15 defendant, the probation department, the prosecuting attorney, and
16 the arresting agency, through the prosecuting attorney, may present
17 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
18 the hearing may be heard and determined upon declarations,
19 affidavits, police investigative reports, copies of state summary
20 criminal history information and local summary criminal history
21 information, or any other evidence submitted by the parties that
22 is material, reliable, and relevant.

23 (4) The prosecutor or probation department has the initial burden
24 of proof to show that granting conviction relief would pose a
25 substantial threat to the public safety. In determining whether
26 granting relief would pose a substantial threat to the public safety,
27 the court may consider any relevant factors including, but not
28 limited to, either of the following:

29 (A) Declarations or evidence regarding the offense for which a
30 grant of relief is being contested.

31 (B) The defendant's record of arrests and convictions.

32 (5) If the court finds that the prosecutor or probation department
33 has satisfied the burden of proof, the burden shifts to the defendant
34 to show that the hardship of not obtaining relief outweighs the
35 threat to the public safety of providing relief. In determining
36 whether the defendant's hardship outweighs the threat to the public
37 safety, the court may consider any relevant factors including, but
38 not limited to, either of the following:

39 (A) The hardship to the defendant that has been caused by the
40 conviction and that would be caused if relief is not granted.

1 (B) Declarations or evidence regarding the defendant’s good
2 character.

3 (6) If the court grants a petition pursuant to this subdivision,
4 the court shall furnish a disposition report to the Department of
5 Justice pursuant to Section 13151, stating that relief pursuant to
6 this section was denied, and the department shall not grant relief
7 pursuant to this section.

8 (7) A person denied relief pursuant to this section may continue
9 to be eligible for relief pursuant to law, including, but not limited
10 to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. If the court
11 subsequently grants relief pursuant to one of those sections, the
12 court shall furnish a disposition report to the Department of Justice
13 pursuant to Section 13151, stating that relief was granted pursuant
14 to the applicable section, and the department shall grant relief
15 pursuant to that section.

16 (c) At the time of sentencing, the court shall advise a defendant,
17 either orally or in writing, of the provisions of this section and of
18 the defendant’s right, if any, to petition for a certificate of
19 rehabilitation and pardon.

20 *SEC. 5.1. Section 1203.425 is added to the Penal Code, to*
21 *read:*

22 *1203.425. (a) (1) (A) Commencing July 1, 2023, and subject*
23 *to an appropriation in the annual Budget Act, on a monthly basis,*
24 *the Department of Justice shall review the records in the statewide*
25 *criminal justice databases, and based on information in the state*
26 *summary criminal history repository and the Supervised Release*
27 *File, shall identify persons with convictions that meet the criteria*
28 *set forth in subparagraph (B) and are eligible for automatic*
29 *conviction record relief.*

30 *(B) A person is eligible for automatic conviction relief pursuant*
31 *to this section if they meet all of the following conditions:*

32 *(i) The person is not required to register pursuant to the Sex*
33 *Offender Registration Act.*

34 *(ii) The person does not have an active record for local, state,*
35 *or federal supervision in the Supervised Release File.*

36 *(iii) Based upon the information available in the department’s*
37 *record, including disposition dates and sentencing terms, it does*
38 *not appear that the person is currently serving a sentence for an*
39 *offense and there is no indication of pending criminal charges.*

40 *(iv) The conviction meets either of the following criteria:*

1 (I) The conviction occurred on or after January 1, 1973, and
2 meets either of the following criteria:

3 (ia) The defendant was sentenced to probation and, based upon
4 the disposition date and the term of probation specified in the
5 department's records, appears to have completed their term of
6 probation without revocation.

7 (ib) The defendant was convicted of an infraction or
8 misdemeanor, was not granted probation, and, based upon the
9 disposition date and the term specified in the department's records,
10 the defendant appears to have completed their sentence, and at
11 least one calendar year has elapsed since the date of judgment.

12 (II) The conviction occurred on or after January 1, 2005, the
13 defendant was convicted of a felony other than one for which the
14 defendant completed probation without revocation, and based
15 upon the disposition date and the sentence specified in the
16 department's records, appears to have completed all terms of
17 incarceration, probation, mandatory supervision, postrelease
18 supervision, and parole, and a period of four years has elapsed
19 since the date on which the defendant completed probation or
20 supervision for that conviction and during which the defendant
21 was not convicted of a new felony offense. This subclause does not
22 apply to a conviction of a serious felony defined in subdivision (c)
23 of Section 1192.7, a violent felony as defined in Section 667.5, or
24 a felony offense requiring registration pursuant to Chapter 5.5
25 (commencing with Section 290) of Title 9 of Part 1.

26 (2) (A) Except as specified in subdivision (b), the department
27 shall grant relief, including dismissal of a conviction, to a person
28 identified pursuant to paragraph (1) without requiring a petition
29 or motion by a party for that relief if the relevant information is
30 present in the department's electronic records.

31 (B) The state summary criminal history information shall
32 include, directly next to or below the entry or entries regarding
33 the person's criminal record, a note stating "relief granted,"
34 listing the date that the department granted relief and this section.
35 This note shall be included in all statewide criminal databases
36 with a record of the conviction.

37 (C) Except as otherwise provided in paragraph (4) and in
38 Section 13555 of the Vehicle Code, a person granted conviction
39 relief pursuant to this section shall be released from all penalties

1 *and disabilities resulting from the offense of which the person has*
2 *been convicted.*

3 (3) (A) *Commencing July 1, 2022, and subject to an*
4 *appropriation in the annual Budget Act, on a monthly basis, the*
5 *department shall electronically submit a notice to the superior*
6 *court having jurisdiction over the criminal case, informing the*
7 *court of all cases for which a complaint was filed in that*
8 *jurisdiction and for which relief was granted pursuant to this*
9 *section. Commencing on August 1, 2022, for any record retained*
10 *by the court pursuant to Section 68152 of the Government Code,*
11 *except as provided in paragraph (4), the court shall not disclose*
12 *information concerning a conviction granted relief pursuant to*
13 *this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to*
14 *any person or entity, in any format, except to the person whose*
15 *conviction was granted relief or a criminal justice agency, as*
16 *defined in Section 851.92.*

17 (B) *If probation is transferred pursuant to Section 1203.9, the*
18 *department shall electronically submit a notice as provided in*
19 *subparagraph (A) to both the transferring court and any*
20 *subsequent receiving court. The electronic notice shall be in a*
21 *mutually agreed upon format.*

22 (C) *If a receiving court reduces a felony to a misdemeanor*
23 *pursuant to subdivision (b) of Section 17, or dismisses a conviction*
24 *pursuant to law, including, but not limited to, Section 1203.4,*
25 *1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish*
26 *a disposition report to the department with the original case*
27 *number and CII number from the transferring court. The*
28 *department shall electronically submit a notice to the superior*
29 *court that sentenced the defendant. If probation is transferred*
30 *multiple times, the department shall electronically submit a notice*
31 *to all other involved courts. The electronic notice shall be in a*
32 *mutually agreed upon format.*

33 (D) *If a court receives notification from the department pursuant*
34 *to subparagraph (B), the court shall update its records to reflect*
35 *the reduction or dismissal. If a court receives notification that a*
36 *case was dismissed pursuant to this section or Section 1203.4,*
37 *1203.4a, 1203.41, or 1203.42, the court shall update its records*
38 *to reflect the dismissal and shall not disclose information*
39 *concerning a conviction granted relief to any person or entity, in*

1 any format, except to the person whose conviction was granted
2 relief or a criminal justice agency, as defined in Section 851.92.

3 (4) Relief granted pursuant to this section is subject to the
4 following conditions:

5 (A) Relief granted pursuant to this section does not relieve a
6 person of the obligation to disclose a criminal conviction in
7 response to a direct question contained in a questionnaire or
8 application for employment as a peace officer, as defined in Section
9 830.

10 (B) Relief granted pursuant to this section does not relieve a
11 person of the obligation to disclose the conviction in response to
12 a direct question contained in a questionnaire or application for
13 public office, or for contracting with the California State Lottery
14 Commission.

15 (C) Relief granted pursuant to this section has no effect on the
16 ability of a criminal justice agency, as defined in Section 851.92,
17 to access and use records that are granted relief to the same extent
18 that would have been permitted for a criminal justice agency had
19 relief not been granted.

20 (D) Relief granted pursuant to this section does not limit the
21 jurisdiction of the court over a subsequently filed motion to amend
22 the record, petition or motion for postconviction relief, or collateral
23 attack on a conviction for which relief has been granted pursuant
24 to this section.

25 (E) Relief granted pursuant to this section does not affect a
26 person's authorization to own, possess, or have in the person's
27 custody or control a firearm, or the person's susceptibility to
28 conviction under Chapter 2 (commencing with Section 29800) of
29 Division 9 of Title 4 of Part 6, if the criminal conviction would
30 otherwise affect this authorization or susceptibility.

31 (F) Relief granted pursuant to this section does not affect a
32 prohibition from holding public office that would otherwise apply
33 under law as a result of the criminal conviction.

34 (G) Relief granted pursuant to this section does not affect the
35 authority to receive, or take adverse action based on, criminal
36 history information, including the authority to receive certified
37 court records received or evaluated pursuant to Section 1522,
38 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
39 pursuant to any statutory or regulatory provisions that incorporate
40 the criteria of those sections.

1 (H) Relief granted pursuant to this section does not make eligible
2 a person who is otherwise ineligible to provide, or receive payment
3 for providing, in-home supportive services pursuant to Article 7
4 (commencing with Section 12300) of Chapter 3 of Part 3 of
5 Division 9 of the Welfare and Institutions Code, or pursuant to
6 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
7 Institutions Code.

8 (I) In a subsequent prosecution of the defendant for any other
9 offense, the prior conviction may be pleaded and proved and shall
10 have the same effect as if the relief had not been granted.

11 (J) Relief granted pursuant to this section does not release the
12 defendant from the terms and conditions of any unexpired criminal
13 protective orders that have been issued by the court pursuant to
14 paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)
15 of Section 273.5, subdivision (l) of Section 368, or subdivision (k)
16 of Section 646.9. These protective orders shall remain in full effect
17 until expiration or until any further order by the court modifying
18 or terminating the order, despite the dismissal of the underlying
19 accusation or information.

20 (5) This section shall not limit petitions, motions, or orders for
21 relief in a criminal case, as required or authorized by any other
22 law, including, but not limited to, Sections 1016.5, 1203.4, 1203.4a,
23 1203.4b, 1203.41, 1203.42, 1203.49 and 1473.7. This section shall
24 not limit petitions for a certificate of rehabilitation or pardon
25 pursuant to Chapter 3.5 of Title 6 of Part 3.

26 (6) Commencing July 1, 2022, and subject to an appropriation
27 in the annual Budget Act, the department shall annually publish
28 statistics for each county regarding the total number of convictions
29 granted relief pursuant to this section and the total number of
30 convictions prohibited from automatic relief pursuant to
31 subdivision (b), on the OpenJustice Web portal, as defined in
32 Section 13010.

33 (b) (1) The prosecuting attorney or probation department may,
34 no later than 90 calendar days before the date of a person's
35 eligibility for relief pursuant to this section, file a petition to
36 prohibit the department from granting automatic relief pursuant
37 to this section, based on a showing that granting that relief would
38 pose a substantial threat to the public safety. If probation was
39 transferred pursuant to Section 1203.9, the prosecuting attorney
40 or probation department in either the receiving county or the

1 transferring county shall file the petition in the county of current
2 jurisdiction.

3 (2) The court shall give notice to the defendant and conduct a
4 hearing on the petition within 45 days after the petition is filed.

5 (3) At a hearing on the petition pursuant to this subdivision, the
6 defendant, the probation department, the prosecuting attorney,
7 and the arresting agency, through the prosecuting attorney, may
8 present evidence to the court. Notwithstanding Sections 1538.5
9 and 1539, the hearing may be heard and determined upon
10 declarations, affidavits, police investigative reports, copies of state
11 summary criminal history information and local summary criminal
12 history information, or any other evidence submitted by the parties
13 that is material, reliable, and relevant.

14 (4) The prosecutor or probation department has the initial
15 burden of proof to show that granting conviction relief would pose
16 a substantial threat to the public safety. In determining whether
17 granting relief would pose a substantial threat to the public safety,
18 the court may consider any relevant factors including, but not
19 limited to, either of the following:

20 (A) Declarations or evidence regarding the offense for which
21 a grant of relief is being contested.

22 (B) The defendant's record of arrests and convictions.

23 (5) If the court finds that the prosecutor or probation department
24 has satisfied the burden of proof, the burden shifts to the defendant
25 to show that the hardship of not obtaining relief outweighs the
26 threat to the public safety of providing relief. In determining
27 whether the defendant's hardship outweighs the threat to the public
28 safety, the court may consider any relevant factors including, but
29 not limited to, either of the following:

30 (A) The hardship to the defendant that has been caused by the
31 conviction and that would be caused if relief is not granted.

32 (B) Declarations or evidence regarding the defendant's good
33 character.

34 (6) If the court grants a petition pursuant to this subdivision,
35 the court shall furnish a disposition report to the Department of
36 Justice pursuant to Section 13151, stating that relief pursuant to
37 this section was denied, and the department shall not grant relief
38 pursuant to this section. If probation was transferred pursuant to
39 Section 1203.9, the department shall electronically submit a notice

1 to the transferring court, and, if probation was transferred multiple
2 times, to all other involved courts.

3 (7) A person denied relief pursuant to this section may continue
4 to be eligible for relief pursuant to law, including, but not limited
5 to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. If the court
6 subsequently grants relief pursuant to one of those sections, the
7 court shall furnish a disposition report to the Department of Justice
8 pursuant to Section 13151, stating that relief was granted pursuant
9 to the applicable section, and the department shall grant relief
10 pursuant to that section. If probation was transferred pursuant to
11 Section 1203.9, the department shall electronically submit a notice
12 that relief was granted pursuant to the applicable section to the
13 transferring court and, if probation was transferred multiple times,
14 to all other involved courts.

15 (c) At the time of sentencing, the court shall advise a defendant,
16 either orally or in writing, of the provisions of this section and of
17 the defendant's right, if any, to petition for a certificate of
18 rehabilitation and pardon.

19 SEC. 6. (a) Section 4.1 of this bill incorporates amendments
20 to Section 1203.425 of the Penal Code proposed by both this bill
21 and Assembly Bill 898. That section of this bill shall only become
22 operative if (1) both bills are enacted and become effective on or
23 before January 1, 2022, (2) each bill amends Section 1203.425 of
24 the Penal Code, and (3) Assembly Bill 1281 is not enacted or as
25 enacted does not amend that section, and (4) this bill is enacted
26 after Assembly Bill 898, in which case Sections 4, 4.2, and 4.3 of
27 this bill shall not become operative.

28 (b) Section 4.2 of this bill incorporates amendments to Section
29 1203.425 of the Penal Code proposed by both this bill and
30 Assembly Bill 1281. That section of this bill shall only become
31 operative if (1) both bills are enacted and become effective on or
32 before January 1, 2022, (2) each bill amends Section 1203.425 of
33 the Penal Code, (3) Assembly Bill 898 is not enacted or as enacted
34 does not amend that section, and (4) this bill is enacted after
35 Assembly Bill 1281 in which case Sections 4, 4.1, and 4.3 of this
36 bill shall not become operative.

37 (c) Section 4.3 of this bill incorporates amendments to Section
38 1203.425 of the Penal Code proposed by this bill, Assembly Bill
39 898, and Assembly Bill 1281. That section of this bill shall only
40 become operative if (1) all three bills are enacted and become

1 effective on or before January 1, 2022, (2) all three bills amend
2 Section 1203.425 of the Penal Code, and (3) this bill is enacted
3 after Assembly Bill 898 and Assembly Bill 1281, in which case
4 Sections 4, 4.1, and 4.2 of this bill shall not become operative.

5 SEC. 7. (a) Section 5.1 of this bill incorporates amendments
6 to Section 1203.425 of the Penal Code proposed by this bill and
7 Assembly Bill 898. That section of this bill shall become operative
8 if (1) both bills are enacted and become effective on or before
9 January 1, 2022, (2) each bill amends Section 1203.425 of the
10 Penal Code, and (3) Assembly Bill 1281 is not enacted or as
11 enacted does not amend that section, and (4) this bill is enacted
12 after Assembly Bill 898, in which case Section 5 of this bill shall
13 not become operative and subdivision (b) of this section shall not
14 apply.

15 (b) Section 5.1 of this bill incorporates amendments to Section
16 1203.425 of the Penal Code proposed by this bill, Assembly Bill
17 898, and Assembly Bill 1281. That section of this bill shall become
18 operative if (1) all three bills are enacted and become effective on
19 or before January 1, 2022, (2) each bill amends Section 1203.425
20 of the Penal Code, and (3) this bill is enacted after Assembly Bill
21 898 and Assembly Bill 1281, in which case Section 5 of this bill
22 shall not become operative and subdivision (a) of this section shall
23 not apply.

O

Introduced by Senator Ochoa BoghJanuary 31, 2022

An act to amend Section 2827 of, and to add Section 1646.14 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 889, as introduced, Ochoa Bogh. Nurse anesthetists.

Existing law, the Dental Practice Act, establishes the Dental Board of California in the Department of Consumer Affairs for the licensure and regulation of dentists. The act governs, among other things, the use of general anesthesia and deep sedation, as defined, for adult patients and patients under 13 years of age. The act requires a dentist to possess either a current license in good standing and a general anesthesia permit or a general anesthesia permit together with a maxillofacial surgery permit or a special permit to administer general anesthesia or deep sedation on an outpatient basis for dental patients.

Existing law, the Nurse Anesthetists Act, provides for the certification and regulation of nurse anesthetists by the Board of Registered Nursing, which is within the Department of Consumer Affairs. Under existing law, the utilization of a nurse anesthetist to provide anesthesia services is required to be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist, or podiatrist. If a general anesthetic agent is administered in a dental office, existing law requires the dentist to hold a permit authorized by the provisions governing a dentist's use of deep sedation and general anesthesia.

This bill would allow a nurse anesthetist to administer general anesthesia or deep sedation to dental patients if the nurse anesthetist receives a permit from the Dental Board of California. This bill would

require that a nurse anesthetist, in order to administer deep sedation or general anesthesia, apply to the board and provide, among other things, evidence that the nurse anesthetist has met specified educational requirements. This bill would authorize the board to require an onsite inspection and evaluation prior to the issuance or renewal of a permit, and would require that a nurse anesthetist who fails that inspection and evaluation have their permit suspended, as specified. This bill would authorize a nurse anesthetist to apply to the board for an endorsement to perform general anesthesia or deep sedation on a child under 7 years of age.

This bill would also require a nurse anesthetist that is providing general anesthesia or deep sedation in a dental office to do so in accordance with the provisions of the Dental Practice Act that govern the use of general anesthesia or deep sedation in a dental office and in accordance with specified provisions of the Nursing Practice Act. By expanding the scope of existing crimes under the Dental Practice Act and the Nurse Anesthetists Act, 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.
State-mandated local program: yes.

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

1 SECTION 1. Section 2827 of the Business and Professions
2 Code is amended to read:
3 2827. The utilization of a nurse anesthetist to provide anesthesia
4 services in an acute care facility shall be approved by the acute
5 care facility administration and the appropriate committee, and at
6 the discretion of the physician, dentist or podiatrist. ~~If a general
7 anesthetic agent is administered in a dental office, the dentist shall
8 hold a permit authorized by Article 2.7 (commencing with Section
9 1646) of Chapter 4 or, commencing January 1, 2022, Article 2.75
10 (commencing with Section 1646) of Chapter 4. General anesthesia
11 or deep sedation administered in a dental office by a nurse
12 anesthetist shall be in accordance with all of the following:~~

1 (a) Article 2.7 (commencing with Section 1646) of Chapter 4
2 or, commencing January 1, 2022, Article 2.75 (commencing with
3 Section 1646) of Chapter 4.

4 (b) Paragraph (2) of subdivision (b) of Section 2725.

5 SEC. 2. Section 1646.14 is added to the Business and
6 Professions Code, to read:

7 1646.14. (a) Notwithstanding any other law, including, but
8 not limited to, Sections 1646.1 and 1647.2, a certified registered
9 nurse anesthetist licensed pursuant to Article 2 (commencing with
10 Section 2725) of Chapter 6 and certified as a nurse anesthetist
11 pursuant to Article 7 (commencing with Section 2825) of Chapter
12 6 may administer general anesthesia or deep sedation in the office
13 of a licensed dentist to dental patients without regard to whether
14 the dentist possesses a permit issued pursuant to this article, if all
15 of the following are met:

16 (1) The nurse anesthetist holds a valid general anesthesia permit
17 issued by the Dental Board of California pursuant to subdivision

18 (b).

19 (2) The nurse anesthetist meets the requirements of subdivision
20 (d) of Section 1646.1

21 (b) A nurse anesthetist who desires to administer general
22 anesthesia or deep sedation as set forth in subdivision (a) shall
23 apply to the board on an application form prescribed by the board
24 and shall submit all of the following:

25 (1) The payment of an application fee prescribed by this article.

26 (2) Evidence satisfactory to the board and the Board of
27 Registered Nursing showing that the applicant has successfully
28 completed an accredited program pursuant to subdivision (b) of
29 Section 2826.

30 (3) Documentation demonstrating that all equipment and drugs
31 required by the board are on the premises for use in any dental
32 office in which the nurse anesthetist administers general anesthesia
33 or deep sedation.

34 (c) Prior to issuance or renewal of a permit pursuant to this
35 section, the board may, at its discretion, require an onsite inspection
36 and evaluation of the facility, equipment, and personnel, including,
37 but not limited to, the certified registered nurse anesthetist and
38 procedures utilized. At least one of the people evaluating the
39 procedures utilized by the nurse anesthetist shall be a certified
40 registered nurse anesthetist expert in outpatient general anesthesia

1 or deep sedation who has been authorized or retained under contract
2 by the board for this purpose.

3 (d) A nurse anesthetist who has failed an onsite inspection and
4 evaluation shall have their permit suspended automatically for 30
5 days after the date on which the board notifies the nurse anesthetist
6 of the failure unless within that time period the nurse anesthetist
7 has retaken and passed an onsite inspection and evaluation. A nurse
8 anesthetist who is issued a permit under this article shall be subject
9 to an onsite inspection and evaluation at least once every five years.
10 Refusal to submit to an inspection shall result in automatic denial
11 or revocation of the permit.

12 (e) A nurse anesthetist who additionally meets the requirements
13 of paragraphs (2) and (3) of subdivision (c) of Section 1646.2 may
14 apply to the board for a pediatric endorsement to provide general
15 anesthesia or deep sedation to a child under seven years of age. A
16 nurse anesthetist without sufficient cases to obtain a pediatric
17 endorsement may qualify for the endorsement pursuant to the
18 requirements of subdivision (d) of Section 1646.2.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

O

**Introduced by Senator Ochoa Bogh
(Coauthors: Senators Jones and Nielsen)**

February 15, 2022

An act to amend Sections 701, 703, 1006.5, and 2734 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, as introduced, Ochoa Bogh. Healing arts boards: inactive license fees.

Existing law establishes healing arts boards in the Department of Consumer Affairs to ensure private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law requires each healing arts board to issue inactive licenses to holders of active licenses whose license is not punitively restricted by that board. Existing law prohibits the holder of an inactive license from engaging in any activity for which an active license is required. Existing law requires the renewal fee for an active license to apply to an inactive license, unless the board establishes a lower fee.

This bill would instead require the renewal fee for an inactive license to be $\frac{1}{2}$ of the amount of the fee for a renewal of an active license, unless the board establishes a lower fee. The bill would make conforming and other nonsubstantive changes.

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

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

1 SECTION 1. Section 701 of the Business and Professions Code
2 is amended to read:

3 701. (a) As used in this article, “board” refers to ~~any a~~ healing
4 arts board, division, or examining committee ~~which that~~ licenses
5 or certifies health professionals.

6 (b) Each healing arts board referred to in this division shall
7 issue, upon application and payment of the ~~normal renewal fee,~~
8 *inactive license renewal fee, in an amount determined by the board*
9 *pursuant to Section 703,* an inactive license or certificate to a
10 current holder of an active license or certificate whose license or
11 certificate is not suspended, revoked, or otherwise punitively
12 restricted by that board.

13 SEC. 2. Section 703 of the Business and Professions Code is
14 amended to read:

15 703. (a) An inactive healing arts license or certificate issued
16 pursuant to this article shall be renewed during the same time
17 period at which an active license or certificate is renewed. In order
18 to renew a license or certificate issued pursuant to this article, the
19 holder ~~thereof need not~~ *of the license or certificate is not required*
20 *to* comply with any continuing education requirement for renewal
21 of an active license or certificate.

22 (b) ~~The Notwithstanding any other law, the renewal fee for a~~
23 ~~license or certificate in an active status shall apply also for inactive~~
24 ~~status shall be one-half of the amount of the fee for the renewal of~~
25 ~~a license or certificate in an inactive active status, unless a lower~~
26 ~~fee has been established by the issuing board. the issuing board~~
27 ~~establishes a lower fee.~~

28 SEC. 3. Section 1006.5 of the Business and Professions Code
29 is amended to read:

30 1006.5. Notwithstanding any other law, the amount of
31 regulatory fees necessary to carry out the responsibilities required
32 by the Chiropractic Initiative Act and this chapter are fixed in the
33 following schedule:

34 (a) Fee to apply for a license to practice chiropractic: three
35 hundred seventy-one dollars (\$371).

36 (b) Fee for initial license to practice chiropractic: one hundred
37 eighty-six dollars (\$186).

- 1 (c) Fee to renew an active ~~or inactive~~ license to practice
2 chiropractic: three hundred thirteen dollars (\$313).
- 3 (d) Fee to apply for approval as a continuing education provider:
4 eighty-four dollars (\$84).
- 5 (e) Biennial continuing education provider renewal fee: fifty-six
6 dollars (\$56).
- 7 (f) Fee to apply for approval of a continuing education course:
8 fifty-six dollars (\$56) per course.
- 9 (g) Fee to apply for a satellite office certificate: sixty-two dollars
10 (\$62).
- 11 (h) Fee to renew a satellite office certificate: thirty-one dollars
12 (\$31).
- 13 (i) Fee to apply for a license to practice chiropractic pursuant
14 to Section 9 of the Chiropractic Initiative Act: three hundred
15 seventy-one dollars (\$371).
- 16 (j) Fee to apply for a certificate of registration of a chiropractic
17 corporation: one hundred eighty-six dollars (\$186).
- 18 (k) Fee to renew a certificate of registration of a chiropractic
19 corporation: thirty-one dollars (\$31).
- 20 (l) Fee to file a chiropractic corporation special report: thirty-one
21 dollars (\$31).
- 22 (m) Fee to apply for approval as a referral service: five hundred
23 fifty-seven dollars (\$557).
- 24 (n) Fee for an endorsed verification of licensure: one hundred
25 twenty-four dollars (\$124).
- 26 (o) Fee for replacement of a lost or destroyed license: fifty
27 dollars (\$50).
- 28 (p) Fee for replacement of a satellite office certificate: fifty
29 dollars (\$50).
- 30 (q) Fee for replacement of a certificate of registration of a
31 chiropractic corporation: fifty dollars (\$50).
- 32 (r) Fee to restore a forfeited or canceled license to practice
33 chiropractic: double the annual renewal fee specified in subdivision
34 (c).
- 35 (s) Fee to apply for approval to serve as a preceptor: thirty-one
36 dollars (\$31).
- 37 (t) Fee to petition for reinstatement of a revoked license: three
38 hundred seventy-one dollars (\$371).
- 39 (u) Fee to petition for early termination of probation: three
40 hundred seventy-one dollars (\$371).

1 (v) Fee to petition for reduction of penalty: three hundred
2 seventy-one dollars (\$371).

3 SEC. 4. Section 2734 of the Business and Professions Code is
4 amended to read:

5 2734. Upon application in writing to the board and payment
6 of ~~the biennial renewal fee~~, *a renewal fee, in an amount determined*
7 *by the board pursuant to Section 703*, a licensee may have ~~his~~ *their*
8 license placed in an inactive status for an indefinite period of time.
9 A licensee whose license is in an inactive status ~~may~~ *shall* not
10 practice nursing. However, ~~such a licensee does not have the~~
11 *licensee is not required* to comply with the continuing education
12 standards of Section 2811.5.

O

AMENDED IN SENATE MARCH 30, 2022

SENATE BILL

No. 1237

Introduced by Senator Newman

February 17, 2022

An act to amend Section 114.3 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1237, as amended, Newman. Licenses: military service.

Existing law provides for the regulation of various professions and vocations by boards within the Department of Consumer Affairs and for the licensure or registration of individuals in that regard. Existing law authorizes any licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate the licensee's or registrant's license without examination or penalty if certain requirements are met.

Existing law requires the boards described above, with certain exceptions, 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. Existing law, except as specified, prohibits a licensee or registrant from engaging in any activities requiring a license while a waiver is in effect.

This bill would ~~require the boards to waive the renewal fee 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 the licensee or registrant is stationed outside of California.~~ *define the phrase*

“called to active duty” to include active duty in the United States Armed Forces and on duty in the California National Guard, as specified. This bill would also make nonsubstantive changes to those provisions.

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

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

1 SECTION 1. Section 114.3 of the Business and Professions
2 Code is amended to read:

3 114.3. (a) Notwithstanding any other law, every board, as
4 defined in Section 22, within the department shall waive the
5 renewal fees, continuing education requirements, and other renewal
6 requirements as determined by the board, if any are applicable,
7 for a licensee or registrant called to active duty as a member of
8 the United States Armed Forces or the California National Guard
9 if all of the following requirements are met:

10 (1) The licensee or registrant possessed a current and valid
11 license with the board at the time the licensee or registrant was
12 called to active duty.

13 (2) The renewal requirements are waived only for the period
14 during which the licensee or registrant is on active duty service.

15 (3) Written documentation that substantiates the licensee or
16 registrant’s active duty service is provided to the board.

17 (b) *For purposes of this section, the phrase “called to active
18 duty” shall have the same meaning as “active duty” as defined in
19 Section 101 of Title 10 of the United States Code and shall
20 additionally include individuals who are on active duty in the
21 California National Guard, whether due to proclamation of a state
22 of insurrection pursuant to Section 143 of the Military and Veterans
23 Code or due to a proclamation of a state extreme emergency or
24 when the California National Guard is otherwise on active duty
25 pursuant to Section 146 of the Military and Veterans Code.*

26 ~~(b)~~

27 (c) (1) Except as specified in paragraph (2), the licensee or
28 registrant shall not engage in any activities requiring a license
29 during the period that the waivers provided by this section are in
30 effect.

31 (2) If the licensee or registrant will provide services for which
32 the licensee or registrant is licensed while on active duty, the board

1 shall convert the license status to military active and no private
2 practice of any type shall be permitted.

3 ~~(e)~~

4 (d) In order to engage in any activities for which the licensee
5 or registrant is licensed once discharged from active duty, the
6 licensee or registrant shall meet all necessary renewal requirements
7 as determined by the board within six months from the licensee's
8 or registrant's date of discharge from active duty service.

9 ~~(e)~~

10 (e) After a licensee or registrant receives notice of the licensee
11 or registrant's discharge date, the licensee or registrant shall notify
12 the board of their discharge from active duty within 60 days of
13 receiving their notice of discharge.

14 ~~(e) A board shall waive the renewal fees of a licensee or~~
15 ~~registrant called to active duty as a member of the United States~~
16 ~~Armed Forces or the California National Guard if the licensee or~~
17 ~~registrant is stationed outside of California.~~

18 (f) A board may adopt regulations to carry out the provisions
19 of this section.

20 (g) This section shall not apply to any board that has a similar
21 license renewal waiver process statutorily authorized for that board.

O

Introduced by Senator LeyvaFebruary 18, 2022

An act to amend Section 328 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1310, as introduced, Leyva. Professions and vocations: consumer complaints.

Existing law establishes the Department of Consumer Affairs under the direction of the Director of Consumer Affairs, and requires the director to receive complaints from consumers concerning prescribed matters, including violations of California law governing businesses and professions licensed by any agency of the department, and promulgated regulations. Existing law requires the director, through the Division of Investigation, to implement complaint prioritization guidelines for boards within the department to utilize in prioritizing their respective complaint and investigative workloads. Existing law requires the director to amend the guidelines to include the category of "allegations of serious harm to a minor" under the "urgent" or "highest priority" level on or before July 1, 2019.

This bill would require the director to post these guidelines on the department's internet website and periodically amend this material. The bill would remove the obsolete provision requiring the director to amend the guidelines to include the category described above under the "urgent" or "highest priority" level.

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

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

1 SECTION 1. Section 328 of the Business and Professions Code
2 is amended to read:

3 328. (a) In order to implement the Consumer Protection
4 Enforcement Initiative of 2010, the director, through the Division
5 of Investigation, shall implement “Complaint Prioritization
6 Guidelines” for boards to utilize in prioritizing their respective
7 complaint and investigative workloads. The guidelines shall be
8 used to determine the referral of complaints to the division and
9 those that are retained by the health care boards for investigation.

10 *The director shall post these guidelines on the department’s*
11 *internet website and shall periodically amend this material.*

12 (b) Neither the Medical Board of California nor the Podiatric
13 Medical Board of California shall be required to utilize the
14 guidelines implemented pursuant to subdivision (a).

15 ~~(c) On or before July 1, 2019, the director shall amend the~~
16 ~~guidelines implemented pursuant to subdivision (a) to include the~~
17 ~~category of “allegations of serious harm to a minor” under the~~
18 ~~“urgent” or “highest priority” level.~~

O

Introduced by Senator JonesFebruary 18, 2022

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1365, as introduced, Jones. Licensing boards: procedures.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified.

This bill would require each board within the department to publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees. The bill would require the department to establish a process to assist each board in developing its internet website, as specified.

The bill would also require the department to develop a process for each board to use in verifying applicant information and performing background checks of applicants, and would require that process to require applicants with convictions to provide certified court documents instead of listing convictions on application documents. The bill would further require the board to develop a procedure to provide for an informal appeals process that would occur between an initial license denial and an administrative law hearing.

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

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

1 SECTION 1. Section 114.6 is added to the Business and
2 Professions Code, to read:
3 114.6. (a) Each board within the department shall publicly
4 post on its internet website a list of criteria used to evaluate
5 applicants with criminal convictions so that potential applicants
6 for licensure may be better informed about their possibilities of
7 gaining licensure before investing time and resources into
8 education, training, and application fees.
9 (b) The department shall do all of the following:
10 (1) (A) Establish a process to assist each board in developing
11 its internet website in compliance with subdivision (a).
12 (B) As part of this process, the department shall disseminate
13 materials to, and serve as a clearing house to, boards in order to
14 provide guidance and best practices in assisting applicants with
15 criminal convictions gain employment.
16 (2) (A) Develop a process for each board to use in verifying
17 applicant information and performing background checks of
18 applicants.
19 (B) In developing this process, the board may examine the model
20 used for performing background checks of applicants established
21 by the Department of Insurance. The process developed shall
22 require applicants with convictions to provide certified court
23 documents instead of listing convictions on application documents.
24 This process shall prevent license denials due to unintentional
25 reporting errors. This process shall also include procedures to
26 expedite the fee-waiver process for any low-income applicant
27 requesting a background check.
28 (3) (A) Develop a procedure to provide for an informal appeals
29 process.
30 (B) In developing this informal appeals process, the department
31 may examine the model for informal appeals used by the Bureau
32 of Security and Investigative Services. The informal appeals

- 1 process shall occur between an initial license denial and an
- 2 administrative law hearing.

O

Introduced by Senator RothFebruary 18, 2022

An act to amend Sections 1601.1, 1616.5, 5000, 5015.6, 5510, 5517, 5620, 5621, 5622, 6710, 6714, 6981, 7000.5, 7011, 7511.5, 7573.5, 7576, 7588.8, 7599.80, 7602, 8000, 8005, 9812.5, 9832.5, 9847.5, 9849, 9851, 9853, 9855.9, 9860, 9862.5, 9863, 18602, and 18613 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1443, as introduced, Roth. The Department of Consumer Affairs.

Under existing law, the Department of Consumer Affairs is comprised of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations.

This bill would continue in existence several of these boards, bureaus, and commissions, including the Dental Board of California, the California Board of Accountancy, and the California Architects Board, among others, until January 1, 2025, and make related conforming changes.

Existing law specifies that there is in the Department of Consumer Affairs a Bureau of Household Goods and Services, under the supervision and control of a director. Existing law, the Electronic and Appliance Repair Dealer Registration Law, regulates service dealers, as defined, and applies its provisions, until January 1, 2023, to service contractors. Among other things, existing law, until January 1, 2023, requires the director to gather evidence of specified violations by any service contractor and to conduct spot check investigations of service contractors throughout the state on a continuous basis.

This bill would continue to extend applicability of those provisions to service contractors, and would authorize the continued exercise of specified responsibilities by the director to service contractors until January 1, 2024.

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

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

1 SECTION 1. Section 1601.1 of the Business and Professions
2 Code is amended to read:

3 1601.1. (a) There shall be in the Department of Consumer
4 Affairs the Dental Board of California in which the administration
5 of this chapter is vested. The board shall consist of eight practicing
6 dentists, one registered dental hygienist, one registered dental
7 assistant, and five public members. Of the eight practicing dentists,
8 one shall be a member of a faculty of any California dental college,
9 and one shall be a dentist practicing in a nonprofit community
10 clinic. The appointing powers, described in Section 1603, may
11 appoint to the board a person who was a member of the prior board.
12 The board shall be organized into standing committees dealing
13 with examinations, enforcement, and other subjects as the board
14 deems appropriate.

15 (b) For purposes of this chapter, any reference in this chapter
16 to the Board of Dental Examiners shall be deemed to refer to the
17 Dental Board of California.

18 (c) The board shall have all authority previously vested in the
19 existing board under this chapter. The board may enforce all
20 disciplinary actions undertaken by the previous board.

21 (d) This section shall remain in effect only until ~~January 1, 2024,~~
22 *January 1, 2025*, and as of that date is repealed. Notwithstanding
23 any other law, the repeal of this section renders the board subject
24 to review by the appropriate policy committees of the Legislature.

25 SEC. 2. Section 1616.5 of the Business and Professions Code
26 is amended to read:

27 1616.5. (a) The board, by and with the approval of the director,
28 may appoint a person exempt from civil service who shall be
29 designated as an executive officer and who shall exercise the
30 powers and perform the duties delegated by the board and vested
31 in the executive officer by this chapter.

1 (b) This section shall remain in effect only until ~~January 1, 2024,~~
2 *January 1, 2025*, and as of that date is repealed.

3 SEC. 3. Section 5000 of the Business and Professions Code is
4 amended to read:

5 5000. (a) There is in the Department of Consumer Affairs the
6 California Board of Accountancy, which consists of 15 members,
7 7 of whom shall be licensees, and 8 of whom shall be public
8 members who shall not be licentiates of the board or registered by
9 the board. The board has the powers and duties conferred by this
10 chapter.

11 (b) The Governor shall appoint four of the public members, and
12 the seven licensee members as provided in this section. The Senate
13 Committee on Rules and the Speaker of the Assembly shall each
14 appoint two public members. In appointing the seven licensee
15 members, the Governor shall appoint individuals representing a
16 cross section of the accounting profession.

17 (c) This section shall remain in effect only until ~~January 1, 2024,~~
18 *January 1, 2025*, and as of that date is repealed.

19 (d) Notwithstanding any other law, the repeal of this section
20 renders the board subject to review by the appropriate policy
21 committees of the Legislature. However, the review of the board
22 shall be limited to reports or studies specified in this chapter and
23 those issues identified by the appropriate policy committees of the
24 Legislature and the board regarding the implementation of new
25 licensing requirements.

26 SEC. 4. Section 5015.6 of the Business and Professions Code
27 is amended to read:

28 5015.6. The board may appoint a person exempt from civil
29 service who shall be designated as an executive officer and who
30 shall exercise the powers and perform the duties delegated by the
31 board and vested in the executive officer by this chapter.

32 This section shall remain in effect only until ~~January 1, 2024,~~
33 *January 1, 2025*, and as of that date is repealed.

34 SEC. 5. Section 5510 of the Business and Professions Code is
35 amended to read:

36 5510. There is in the Department of Consumer Affairs a
37 California Architects Board which consists of 10 members.

38 Any reference in law to the California Board of Architectural
39 Examiners shall mean the California Architects Board.

1 This section shall remain in effect only until ~~January 1, 2024,~~
2 *January 1, 2025*, and as of that date is repealed. Notwithstanding
3 any other law, the repeal of this section renders the board subject
4 to review by the appropriate policy committees of the Legislature.

5 SEC. 6. Section 5517 of the Business and Professions Code is
6 amended to read:

7 5517. The board may appoint a person exempt from civil
8 service who shall be designated as an executive officer and who
9 shall exercise the powers and perform the duties delegated by the
10 board and vested in the executive officer by this chapter.

11 This section shall remain in effect only until ~~January 1, 2024,~~
12 *January 1, 2025*, and as of that date is repealed.

13 SEC. 7. Section 5620 of the Business and Professions Code is
14 amended to read:

15 5620. The duties, powers, purposes, responsibilities, and
16 jurisdiction of the California State Board of Landscape Architects
17 that were succeeded to and vested with the Department of
18 Consumer Affairs in accordance with Chapter 908 of the Statutes
19 of 1994 are hereby transferred to the California Architects Board.
20 The Legislature finds that the purpose for the transfer of power is
21 to promote and enhance the efficiency of state government and
22 that assumption of the powers and duties by the California
23 Architects Board shall not be viewed or construed as a precedent
24 for the establishment of state regulation over a profession or
25 vocation that was not previously regulated by a board, as defined
26 in Section 477.

27 (a) There is in the Department of Consumer Affairs a California
28 Architects Board as defined in Article 2 (commencing with Section
29 5510) of Chapter 3 of Division 3.

30 Whenever in this chapter “board” is used, it refers to the
31 California Architects Board.

32 (b) Except as provided herein, the board may delegate its
33 authority under this chapter to the Landscape Architects Technical
34 Committee.

35 (c) After review of proposed regulations, the board may direct
36 the examining committee to notice and conduct hearings to adopt,
37 amend, or repeal regulations pursuant to Section 5630, provided
38 that the board itself shall take final action to adopt, amend, or
39 repeal those regulations.

1 (d) The board shall not delegate its authority to discipline a
2 landscape architect or to take action against a person who has
3 violated this chapter.

4 (e) This section shall remain in effect only until ~~January 1, 2024,~~
5 *January 1, 2025*, and as of that date is repealed.

6 SEC. 8. Section 5621 of the Business and Professions Code is
7 amended to read:

8 5621. (a) There is hereby created within the jurisdiction of the
9 board, a Landscape Architects Technical Committee, hereinafter
10 referred to in this chapter as the landscape architects committee.

11 (b) The landscape architects committee shall consist of five
12 members who shall be licensed to practice landscape architecture
13 in this state. The Governor shall appoint three of the members.
14 The Senate Committee on Rules and the Speaker of the Assembly
15 shall appoint one member each.

16 (c) The initial members to be appointed by the Governor are as
17 follows: one member for a term of one year; one member for a
18 term of two years; and one member for a term of three years. The
19 Senate Committee on Rules and the Speaker of the Assembly shall
20 initially each appoint one member for a term of four years.
21 Thereafter, appointments shall be made for four-year terms,
22 expiring on June 1 of the fourth year and until the appointment
23 and qualification of the member's successor or until one year shall
24 have elapsed, whichever first occurs. Vacancies shall be filled for
25 the unexpired term.

26 (d) No person shall serve as a member of the landscape
27 architects committee for more than two consecutive terms.

28 (e) This section shall remain in effect only until ~~January 1, 2024,~~
29 *January 1, 2025*, and as of that date is repealed.

30 SEC. 9. Section 5622 of the Business and Professions Code is
31 amended to read:

32 5622. (a) The landscape architects committee may assist the
33 board in the examination of candidates for a landscape architect's
34 license and, after investigation, evaluate and make
35 recommendations regarding potential violations of this chapter.

36 (b) The landscape architects committee may investigate, assist,
37 and make recommendations to the board regarding the regulation
38 of landscape architects in this state.

1 (c) The landscape architects committee may perform duties and
2 functions that have been delegated to it by the board pursuant to
3 Section 5620.

4 (d) The landscape architects committee may send a
5 representative to all meetings of the full board to report on the
6 committee’s activities.

7 (e) This section shall remain in effect only until ~~January 1, 2024,~~
8 *January 1, 2025*, and as of that date is repealed.

9 SEC. 10. Section 6710 of the Business and Professions Code
10 is amended to read:

11 6710. (a) There is in the Department of Consumer Affairs a
12 Board for Professional Engineers, Land Surveyors, and Geologists,
13 which consists of 15 members.

14 (b) Any reference in any law or regulation to the Board of
15 Registration for Professional Engineers and Land Surveyors, or
16 the Board for Professional Engineers and Land Surveyors, is
17 deemed to refer to the Board for Professional Engineers, Land
18 Surveyors, and Geologists.

19 (c) This section shall remain in effect only until ~~January 1, 2024,~~
20 *January 1, 2025*, and as of that date is repealed. Notwithstanding
21 any other law, the repeal of this section renders the board subject
22 to review by the appropriate policy committees of the Legislature.

23 SEC. 11. Section 6714 of the Business and Professions Code
24 is amended to read:

25 6714. The board shall appoint an executive officer at a salary
26 to be fixed and determined by the board with the approval of the
27 Director of Finance.

28 This section shall remain in effect only until ~~January 1, 2024,~~
29 *January 1, 2025*, and as of that date is repealed.

30 SEC. 12. Section 6981 of the Business and Professions Code
31 is amended to read:

32 6981. Notwithstanding any other law, the powers and duties
33 of the bureau, as set forth in this chapter, shall be subject to review
34 by the appropriate policy committees of the Legislature. The review
35 shall be performed as if this chapter were scheduled to be repealed
36 as of ~~January 1, 2024.~~ *January 1, 2025.*

37 SEC. 13. Section 7000.5 of the Business and Professions Code
38 is amended to read:

39 7000.5. (a) There is in the Department of Consumer Affairs
40 a Contractors State License Board, which consists of 15 members.

1 (b) Notwithstanding any other provision of law, the repeal of
2 this section renders the board subject to review by the appropriate
3 policy committees of the Legislature.

4 (c) This section shall remain in effect only until ~~January 1, 2024,~~
5 *January 1, 2025*, and as of that date is repealed.

6 SEC. 14. Section 7011 of the Business and Professions Code
7 is amended to read:

8 7011. (a) The board, by and with the approval of the director,
9 shall appoint a registrar of contractors and fix the registrar's
10 compensation.

11 (b) The registrar shall be the executive officer and secretary of
12 the board and shall carry out all of the administrative duties as
13 provided in this chapter and as delegated to the registrar by the
14 board.

15 (c) For the purpose of administration of this chapter, there may
16 be appointed a deputy registrar, a chief reviewing and hearing
17 officer, and, subject to Section 159.5, other assistants and
18 subordinates as may be necessary.

19 (d) Appointments shall be made in accordance with the
20 provisions of civil service laws.

21 (e) This section shall remain in effect only until ~~January 1, 2024,~~
22 *January 1, 2025*, and as of that date is repealed.

23 SEC. 15. Section 7511.5 of the Business and Professions Code
24 is amended to read:

25 7511.5. Notwithstanding any other law, the powers and duties
26 of the bureau, as set forth in this chapter, shall be subject to review
27 by the appropriate policy committees of the Legislature. The review
28 shall be performed as if this chapter were scheduled to be repealed
29 as of ~~January 1, 2024.~~ *January 1, 2025.*

30 SEC. 16. Section 7573.5 of the Business and Professions Code
31 is amended to read:

32 7573.5. Notwithstanding any other law, the powers and duties
33 of the bureau, as set forth in this chapter, shall be subject to review
34 by the appropriate policy committees of the Legislature. The review
35 shall be performed as if this chapter were scheduled to be repealed
36 as of ~~January 1, 2024.~~ *January 1, 2025.*

37 SEC. 17. Section 7576 of the Business and Professions Code
38 is amended to read:

39 7576. Notwithstanding any other law, the powers and duties
40 of the bureau, as set forth in this chapter, shall be subject to review

1 by the appropriate policy committees of the Legislature. The review
2 shall be performed as if this chapter were scheduled to be repealed
3 as of ~~January 1, 2024~~. *January 1, 2025*.

4 SEC. 18. Section 7588.8 of the Business and Professions Code
5 is amended to read:

6 7588.8. Notwithstanding any other law, the powers and duties
7 of the bureau, as set forth in this chapter, shall be subject to review
8 by the appropriate policy committees of the Legislature. The review
9 shall be performed as if this chapter were scheduled to be repealed
10 as of ~~January 1, 2024~~. *January 1, 2025*.

11 SEC. 19. Section 7599.80 of the Business and Professions
12 Code is amended to read:

13 7599.80. Notwithstanding any other law, the powers and duties
14 of the bureau, as set forth in this chapter, shall be subject to review
15 by the appropriate policy committees of the Legislature. The review
16 shall be performed as if this chapter were scheduled to be repealed
17 as of ~~January 1, 2024~~. *January 1, 2025*.

18 SEC. 20. Section 7602 of the Business and Professions Code
19 is amended to read:

20 7602. (a) (1) There is in the department the Cemetery and
21 Funeral Bureau, under the supervision and control of the director.

22 (2) The director may appoint a chief at a salary to be fixed and
23 determined by the director, with the approval of the Director of
24 Finance. The duty of enforcing and administering this chapter is
25 vested in the chief, and the chief is responsible to the director. The
26 chief shall serve at the pleasure of the director.

27 (3) Every power granted or duty imposed upon the director
28 under this chapter may be exercised or performed in the name of
29 the director by a deputy director or by the chief, subject to
30 conditions and limitations the director may prescribe.

31 (b) Notwithstanding any other law, the powers and duties of the
32 bureau, as set forth in this chapter, shall be subject to review by
33 the appropriate policy committees of the Legislature. The review
34 shall be performed as if this chapter is scheduled to be repealed
35 on ~~January 1, 2024~~. *January 1, 2025*.

36 SEC. 21. Section 8000 of the Business and Professions Code
37 is amended to read:

38 8000. (a) There is in the Department of Consumer Affairs a
39 Court Reporters Board of California, which consists of five
40 members, three of whom shall be public members and two of

1 whom shall be holders of certificates issued under this chapter
2 who have been actively engaged as shorthand reporters within this
3 state for at least five years immediately preceding their
4 appointment.

5 (b) This section shall remain in effect only until ~~January 1, 2024,~~
6 *January 1, 2025*, and as of that date is repealed.

7 (c) Notwithstanding any other law, repeal of this section renders
8 the board subject to review by the appropriate policy committees
9 of the Legislature.

10 SEC. 22. Section 8005 of the Business and Professions Code
11 is amended to read:

12 8005. (a) The Court Reporters Board of California is charged
13 with the executive functions necessary for effectuating the purposes
14 of this chapter. It may appoint committees as it deems necessary
15 or proper. The board may appoint, prescribe the duties, and fix the
16 salary of an executive officer. Except as provided by Section 159.5,
17 the board may also employ other employees as may be necessary,
18 subject to civil service and other law.

19 (b) This section shall remain in effect only until ~~January 1, 2024,~~
20 *January 1, 2025*, and as of that date is repealed.

21 SEC. 23. Section 9812.5 of the Business and Professions Code
22 is amended to read:

23 9812.5. The director shall gather evidence of violations of this
24 chapter and of any regulation established hereunder by any service
25 contractor, whether registered or not, and by any employee, partner,
26 officer, or member of any service contractor. The director shall,
27 ~~on his or her~~ *their* own initiative, conduct spot check investigations
28 of service contractors throughout the state on a continuous basis.

29 This section shall remain in effect only until ~~January 1, 2023,~~
30 *January 1, 2024*, and as of that date is repealed.

31 SEC. 24. Section 9832.5 of the Business and Professions Code
32 is amended to read:

33 9832.5. (a) Registrations issued under this chapter shall expire
34 no more than 12 months after the issue date. The expiration date
35 of registrations shall be set by the director in a manner to best
36 distribute renewal procedures throughout the year.

37 (b) To renew an unexpired registration, the service contractor
38 shall, on or before the expiration date of the registration, apply for
39 renewal on a form prescribed by the director, and pay the renewal
40 fee prescribed by this chapter.

1 (c) To renew an expired registration, the service contractor shall
2 apply for renewal on a form prescribed by the director, pay the
3 renewal fee in effect on the last regular renewal date, and pay all
4 accrued and unpaid delinquency and renewal fees.

5 (d) Renewal is effective on the date that the application is filed,
6 the renewal fee is paid, and all delinquency fees are paid.

7 (e) For purposes of implementing the distribution of the renewal
8 of registrations throughout the year, the director may extend, by
9 not more than six months, the date fixed by law for renewal of a
10 registration, except that, in that event, any renewal fee that may
11 be involved shall be prorated in such a manner that no person shall
12 be required to pay a greater or lesser fee than would have been
13 required had the change in renewal dates not occurred.

14 (f) This section shall remain in effect only until ~~January 1, 2023,~~
15 *January 1, 2024*, and as of that date is repealed.

16 SEC. 25. Section 9847.5 of the Business and Professions Code
17 is amended to read:

18 9847.5. (a) Each service contractor shall maintain those records
19 as are required by the regulations adopted to carry out the
20 provisions of this chapter for a period of at least three years. These
21 records shall be open for reasonable inspection by the director or
22 other law enforcement officials.

23 (b) This section shall remain in effect only until ~~January 1, 2023,~~
24 *January 1, 2024*, and as of that date is repealed.

25 SEC. 26. Section 9849 of the Business and Professions Code,
26 as amended by Section 12 of Chapter 578 of the Statutes of 2018,
27 is amended to read:

28 9849. (a) The expiration of a valid registration shall not deprive
29 the director of jurisdiction to proceed with any investigation or
30 hearing on a cease and desist order against a service dealer or
31 service contractor or to render a decision to suspend, revoke, or
32 place on probation a registration.

33 (b) This section shall remain in effect only until ~~January 1, 2023,~~
34 *January 1, 2024*, and as of that date is repealed.

35 SEC. 27. Section 9849 of the Business and Professions Code,
36 as amended by Section 13 of Chapter 578 of the Statutes of 2018,
37 is amended to read:

38 9849. (a) The expiration of a valid registration shall not deprive
39 the director of jurisdiction to proceed with any investigation or
40 hearing on a cease and desist order against a service dealer or to

1 render a decision to suspend, revoke, or place on probation a
2 registration.

3 (b) This section shall become operative on ~~January 1, 2023.~~
4 *January 1, 2024.*

5 SEC. 28. Section 9851 of the Business and Professions Code,
6 as amended by Section 14 of Chapter 578 of the Statutes of 2018,
7 is amended to read:

8 9851. (a) The superior court in and for the county wherein any
9 person carries on, or attempts to carry on, business as a service
10 dealer or service contractor in violation of the provisions of this
11 chapter, or any regulation thereunder, shall, on application of the
12 director, issue an injunction or other appropriate order restraining
13 that conduct.

14 (b) The proceedings under this section shall be governed by
15 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
16 the Code of Civil Procedure, except that the director shall not be
17 required to allege facts necessary to show or tending to show lack
18 of an adequate remedy at law or irreparable injury.

19 (c) This section shall remain in effect only until ~~January 1, 2023,~~
20 *January 1, 2024,* and as of that date is repealed.

21 SEC. 29. Section 9851 of the Business and Professions Code,
22 as amended by Section 15 of Chapter 578 of the Statutes of 2018,
23 is amended to read:

24 9851. (a) The superior court in and for the county wherein any
25 person carries on, or attempts to carry on, business as a service
26 dealer in violation of the provisions of this chapter, or any
27 regulation thereunder, shall, on application of the director, issue
28 an injunction or other appropriate order restraining that conduct.

29 (b) The proceedings under this section shall be governed by
30 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
31 the Code of Civil Procedure, except that the director shall not be
32 required to allege facts necessary to show or tending to show lack
33 of an adequate remedy at law or irreparable injury.

34 (c) This section shall become operative on ~~January 1, 2023.~~
35 *January 1, 2024.*

36 SEC. 30. Section 9853 of the Business and Professions Code,
37 as amended by Section 16 of Chapter 578 of the Statutes of 2018,
38 is amended to read:

39 9853. (a) A plea or verdict of guilty or a conviction following
40 a plea of nolo contendere made to a charge substantially related

1 to the qualifications, functions, and duties of a service dealer or
 2 service contractor is deemed to be a conviction within the meaning
 3 of this article. The director may suspend, revoke, or place on
 4 probation a registration, or may deny registration, when the time
 5 for appeal has elapsed, or the judgment of conviction has been
 6 affirmed on appeal or when an order granting probation is made
 7 suspending the imposition of sentence, irrespective of a subsequent
 8 order under Section 1203.4 of the Penal Code, allowing that person
 9 to withdraw ~~his or her~~ *their* plea of guilty and to enter a plea of
 10 not guilty, or setting aside the verdict of guilty, or dismissing the
 11 accusation, information, or indictment.

12 (b) This section shall remain in effect only until ~~January 1, 2023,~~
 13 *January 1, 2024*, and as of that date is repealed.

14 SEC. 31. Section 9853 of the Business and Professions Code,
 15 as amended by Section 17 of Chapter 578 of the Statutes of 2018,
 16 is amended to read:

17 9853. (a) A plea or verdict of guilty or a conviction following
 18 a plea of nolo contendere made to a charge substantially related
 19 to the qualifications, functions, and duties of a service dealer is
 20 deemed to be a conviction within the meaning of this article. The
 21 director may suspend, revoke, or place on probation a registration,
 22 or may deny registration, when the time for appeal has elapsed, or
 23 the judgment of conviction has been affirmed on appeal or when
 24 an order granting probation is made suspending the imposition of
 25 sentence, irrespective of a subsequent order under Section 1203.4
 26 of the Penal Code allowing that person to withdraw ~~his or her~~ *their*
 27 plea of guilty and to enter a plea of not guilty, or setting aside the
 28 verdict of guilty, or dismissing the accusation, information, or
 29 indictment.

30 (b) This section shall become operative ~~on January 1, 2023.~~
 31 *January 1, 2024*.

32 SEC. 32. Section 9855.9 of the Business and Professions Code
 33 is amended to read:

34 9855.9. This article shall remain in effect only until ~~January~~
 35 ~~1, 2023,~~ *January 1, 2024*, and as of that date is repealed.

36 SEC. 33. Section 9860 of the Business and Professions Code,
 37 as amended by Section 22 of Chapter 578 of the Statutes of 2018,
 38 is amended to read:

1 9860. (a) The director shall establish procedures for accepting
2 complaints from the public against any service dealer or service
3 contractor.

4 (b) This section shall remain in effect only until ~~January 1, 2023,~~
5 *January 1, 2024*, and as of that date is repealed.

6 SEC. 34. Section 9860 of the Business and Professions Code,
7 as amended by Section 23 of Chapter 578 of the Statutes of 2018,
8 is amended to read:

9 9860. (a) The director shall establish procedures for accepting
10 complaints from the public against any service dealer.

11 (b) This section shall become operative on ~~January 1, 2023.~~
12 *January 1, 2024.*

13 SEC. 35. Section 9862.5 of the Business and Professions Code
14 is amended to read:

15 9862.5. (a) If a complaint indicates a possible violation of this
16 chapter or of the regulations adopted pursuant to this chapter, the
17 director may advise the service contractor of the contents of the
18 complaint and, if the service contractor is so advised, the director
19 shall make a summary investigation of the facts after the service
20 contractor has had reasonable opportunity to reply thereto.

21 (b) This section shall remain in effect only until ~~January 1, 2023,~~
22 *January 1, 2024*, and as of that date is repealed.

23 SEC. 36. Section 9863 of the Business and Professions Code,
24 as amended by Section 25 of Chapter 578 of the Statutes of 2018,
25 is amended to read:

26 9863. (a) If, upon summary investigation, it appears probable
27 to the director that a violation of this chapter, or the regulations
28 thereunder, has occurred, the director, in ~~his or her~~ *their* discretion,
29 may suggest measures that in the director's judgment would
30 compensate the complainant for the damages ~~he or she has~~ *they*
31 suffered as a result of the alleged violation. If the service dealer
32 or service contractor accepts the director's suggestions and
33 performs accordingly, the director shall give that fact due
34 consideration in any subsequent disciplinary proceeding. If the
35 service dealer or service contractor declines to abide by the
36 suggestions of the director, the director may investigate further
37 and may institute disciplinary proceedings in accordance with the
38 provisions of this chapter.

39 (b) This section shall remain in effect only until ~~January 1, 2023,~~
40 *January 1, 2024*, and as of that date is repealed.

1 SEC. 37. Section 9863 of the Business and Professions Code,
2 as amended by Section 26 of Chapter 578 of the Statutes of 2018,
3 is amended to read:

4 9863. (a) If, upon summary investigation, it appears probable
5 to the director that a violation of this chapter, or the regulations
6 thereunder, has occurred, the director, ~~in his or her~~ *their* discretion,
7 may suggest measures that in the director's judgment would
8 compensate the complainant for the damages ~~he or she has~~ *they*
9 suffered as a result of the alleged violation. If the service dealer
10 accepts the director's suggestions and performs accordingly, the
11 director shall give that fact due consideration in any subsequent
12 disciplinary proceeding. If the service dealer declines to abide by
13 the suggestions of the director, the director may investigate further
14 and may institute disciplinary proceedings in accordance with the
15 provisions of this chapter.

16 (b) This section shall become operative on ~~January 1, 2023.~~
17 *January 1, 2024.*

18 SEC. 38. Section 18602 of the Business and Professions Code
19 is amended to read:

20 18602. (a) Except as provided in this section, there is in the
21 Department of Consumer Affairs the State Athletic Commission,
22 which consists of seven members. Five members shall be appointed
23 by the Governor, one member shall be appointed by the Senate
24 Committee on Rules, and one member shall be appointed by the
25 Speaker of the Assembly.

26 The members of the commission appointed by the Governor are
27 subject to confirmation by the Senate pursuant to Section 1322 of
28 the Government Code.

29 No person who is currently licensed, or who was licensed within
30 the last two years, under this chapter may be appointed or
31 reappointed to, or serve on, the commission.

32 (b) In appointing commissioners under this section, the
33 Governor, the Senate Committee on Rules, and the Speaker of the
34 Assembly shall make every effort to ensure that at least four of
35 the members of the commission shall have experience and
36 demonstrate expertise in one of the following areas:

37 (1) A licensed physician or surgeon having expertise or
38 specializing in neurology, neurosurgery, head trauma, or sports
39 medicine. Sports medicine includes, but is not limited to,
40 physiology, kinesiology, or other aspects of sports medicine.

1 (2) Financial management.

2 (3) Public safety.

3 (4) Past experience in the activity regulated by this chapter,
4 either as a contestant, a referee or official, a promoter, or a venue
5 operator.

6 (c) Each member of the commission shall be appointed for a
7 term of four years. All terms shall end on January 1. Vacancies
8 occurring prior to the expiration of the term shall be filled by
9 appointment for the unexpired term. No commission member may
10 serve more than two consecutive terms.

11 (d) Notwithstanding any other provision of this chapter,
12 members first appointed shall be subject to the following terms:

13 (1) The Governor shall appoint two members for two years, two
14 members for three years, and one member for four years.

15 (2) The Senate Committee on Rules shall appoint one member
16 for four years.

17 (3) The Speaker of the Assembly shall appoint one member for
18 four years.

19 (e) (1) This section shall remain in effect only until ~~January 1,~~
20 ~~2024,~~ *January 1, 2025*, and as of that date is repealed.

21 (2) Notwithstanding any other law, the repeal of this section
22 renders the board subject to review by the appropriate policy
23 committees of the Legislature.

24 SEC. 39. Section 18613 of the Business and Professions Code
25 is amended to read:

26 18613. (a) (1) The commission shall appoint a person exempt
27 from civil service who shall be designated as an executive officer
28 and who shall exercise the powers and perform the duties delegated
29 by the commission and vested in the executive officer by this
30 chapter. The appointment of the executive officer is subject to the
31 approval of the Director of Consumer Affairs.

32 (2) The commission may employ a chief athletic inspector. If
33 the commission employs a chief athletic inspector, the chief athletic
34 inspector shall exercise the powers and perform the duties delegated
35 by the commission and authorized by the executive officer related
36 to the regulation of events under this chapter.

37 (3) The commission may employ an assistant chief athletic
38 inspector. If the commission employs an assistant chief athletic
39 inspector, the assistant chief athletic inspector shall assist the chief
40 athletic inspector in exercising the powers and performing the

- 1 duties delegated by the commission and authorized by the executive
- 2 officer related to the regulation of events under this chapter.
- 3 (4) The commission may employ in accordance with Section
- 4 154 other personnel as may be necessary for the administration of
- 5 this chapter.
- 6 (b) This section shall remain in effect only until ~~January 1, 2024,~~
- 7 *January 1, 2025*, and as of that date is repealed.

O

Introduced by Senator ArchuletaFebruary 18, 2022

An act to amend Section 1636.5 of, and to repeal Section 1636.6 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1471, as introduced, Archuleta. Dentistry: foreign dental schools.

Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists and dental assistants by the Dental Board of California. The act, prior to January 1, 2020, required a foreign dental school seeking approval to submit an application to the board, including, among other things, a finding that the educational program of the foreign dental school is equivalent to that of similar accredited institutions in the United States and adequately prepares its students for the practice of dentistry. The act also required an approved institution to submit a renewal application every 7 years and to pay a specified renewal fee.

The act, beginning on January 1, 2020, prohibits the board from accepting new applications for approval of foreign dental schools, and instead requires foreign dental schools seeking approval to complete the international consultative and accreditation process with the Commission on Dental Accreditation of the American Dental Association (CODA) or a comparable accrediting body approved by the board. The act requires previously approved foreign dental schools to complete the CODA process or comparable accreditation by January 1, 2024, to remain approved, unless the foreign dental school was renewed by the board prior to January 1, 2020, through a date between January 1, 2024, and June 30, 2026, in which case the act provides the foreign dental school's approval is maintained through that date. The also act provides that graduates of a foreign dental school whose

program was approved by the board prior to January 1, 2020, through any date before January 1, 2024, and who enrolled in the program prior to January 1, 2020, are eligible for licensure.

This bill would require previously approved foreign dental schools to complete the CODA process or comparable accreditation by January 1, 2024, to remain approved, unless the foreign dental school was renewed by the board prior to January 1, 2020, through June 30, 2026, in which case the foreign dental school’s approval would be maintained through that date. The bill would repeal the provision providing that a graduate of a foreign dental school whose program was approved by the board prior to January 1, 2020, through any date before January 1, 2024, and who enrolled in the program prior to January 1, 2020, is eligible for licensure.

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

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

- 1 SECTION 1. Section 1636.5 of the Business and Professions
- 2 Code is amended to read:
- 3 1636.5. Notwithstanding Section 1636.4, any foreign dental
- 4 school whose program was renewed by the board prior to January
- 5 1, 2020, through ~~any date between January 1, 2024, and June 30,~~
- 6 ~~2026,~~ shall maintain approval through that date. Upon expiration
- 7 of the approval, the foreign dental school shall be required to
- 8 comply with the provisions of Section 1636.4.
- 9 SEC. 2. Section 1636.6 of the Business and Professions Code
- 10 is repealed.
- 11 ~~1636.6. Notwithstanding Section 1636.4, graduates of a foreign~~
- 12 ~~dental school whose program was approved by the board prior to~~
- 13 ~~January 1, 2020, through any date before January 1, 2024, and~~
- 14 ~~who enrolled in the program prior to January 1, 2020, shall be~~
- 15 ~~eligible for licensure pursuant to Section 1628.~~

O

Introduced by Committee on Business, Professions and Economic Development (Senators Roth (Chair), Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Melendez, Min, Newman, Ochoa Bogh, and Pan)

March 15, 2022

An act to amend Sections 1753.55, 1910.5, 1922, 1926, 1926.01, 1926.05, 1936.1, 2240, 2401, 2435.1, 2516, 2725.4, 2746.55, 2786.3, 3502.4, 3520, 3537.10, 3537.15, 3537.25, 3537.30, 3537.35, 3537.40, 3537.50, 4846.5, 4980.03, 4996.20, 4999.12, 7841.2, 10083.2, 10140.6, 10153.2, 10159.5, 10165, 10166.01, 10166.02, 10166.03, 10166.04, 10166.06, 10166.07, 10166.08, 10166.10, 10166.15, 10166.16, 10166.17, 10235.5, 10236.4, and 12303 of, and to amend and repeal Section 10151 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1495, as introduced, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Chapter 143 of the Statutes of 2021 renamed the Office of Statewide Health Planning and Development as the Department of Health Care Access and Information, and requires any reference to the office to be deemed a reference to the department.

This bill would update the name of the department in provisions relating to healing arts that reference the office.

(2) Existing law, the Dental Practice Act, establishes the Dental Hygiene Board of California within the Department of Consumer Affairs for the licensure and regulation of dental hygienists. Under existing law, a licensee is required, as a condition of license renewal, to submit, and certify under penalty of perjury, assurances satisfactory to the board

that they will, during the succeeding 2-year period, inform themselves of the developments in the practice of dental hygiene occurring since the original issuance of their licenses, as specified.

Under this bill, the assurances required as a condition of license renewal would be that the licensee had, during the preceding 2-year period, informed themselves of those developments, as specified. By changing what assurances a licensee is required to submit to the board, the bill would expand the scope of the crime of perjury, thereby imposing a state-mandated local program.

(3) Existing law, the Physician Assistant Practice Act, establishes the Physician Assistant Board for the licensure and regulation of physician assistants. Existing law creates the Physician Assistant Fund and makes all money in the fund available, upon appropriation of the Legislature, to carry out the provisions of the act. Existing law requires the Medical Board of California to report to the Controller the amount and source of all collections made under the act and to pay all those sums into the State Treasury, where they are required to be credited to the fund. Chapter 649 of the Statutes of 2021 removed the provision that placed the Physician Assistant Board within the jurisdiction of the Medical Board of California.

This bill would remove those reporting and payment requirements from the Medical Board of California, and would, instead, impose them on the Physician Assistant Board.

(4) Existing law, the Veterinary Medicine Practice Act, establishes the Veterinary Medical Board in the Department of Consumer Affairs for the licensure and regulation of veterinarians. Existing law requires a licensee to biennially apply for renewal of their license, and requires the board to issue renewal to those applicants that have completed a minimum of 36 hours of continuing education in the preceding 2 years. Existing law generally requires continuing education hours to be earned by attending courses relevant to veterinary medicine and sponsored or cosponsored by certain entities.

This bill would delete an obsolete provision relating to continuing education hours earned by attending courses sponsored or cosponsored by those entities between January 1, 2000, and January 1, 2001.

(5) Existing law establishes the Board of Behavioral Sciences within the Department of Consumer Affairs, and requires the board to regulate various registrants and licensees under prescribed acts, including the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, the Licensed Professional Clinical Counselor Act, and the

Educational Psychologist Practice Act. Under the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act, applicants for licensure are required to complete a certain amount of supervised experience and direct supervisor contact. Existing law defines “supervisor” for purposes of those acts to mean an individual who meets certain requirements, including, among others, having, for at least 2 years within the 5-year period immediately preceding any supervision, practiced psychotherapy, provided psychological counseling pursuant to a provision of the Educational Psychologist Practice Act, or provided specified direct clinical supervision of psychotherapy.

This bill would correct erroneous cross-references to the provision of the Educational Psychologist Practice Act mentioned above.

(6) Existing law, the Geologist and Geophysicist Act, requires the Board for Professional Engineers, Land Surveyors, and Geologists, which is within the Department of Consumer Affairs, to administer its provision relating to the licensure and regulation of geologists and geophysicists. Existing law requires an applicant for certification as a geologist-in-training to meet certain requirements, including either of 2 education requirements fulfilled at a school or university whose curricula whose curricula meet criteria established by the board.

Under the bill, the board would not be required to verify an applicant’s eligibility for certification as a geologist-in-training except that an applicant for certification as a geologist-in-training would be required to sign or acknowledge a statement of eligibility at the time of submission of the application attesting to the completion of the above-described education requirements and the rules of the board. By requiring an applicant to submit an attestation to the board, the bill would expand the scope of the crime of perjury, thereby imposing a state-mandated local program.

(7) Existing federal law, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“SAFE Act”), encourages states to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, as specified.

Existing state law, the Real Estate Law, governs the licensing and regulation of real estate licensees, as defined, as administered by the Real Estate Commissioner. Existing law, the California Residential Mortgage Lending Act, regulates the business of making residential

mortgage loans and servicing residential mortgage loans, and prohibits a person from engaging in these activities without first obtaining a license from the Commissioner of Financial Protection and Innovation. Existing law, the California Financing Law, provides for the licensure and regulation of finance lenders, brokers, and specified program administrators by the Commissioner of Financial Protection and Innovation.

Existing law requires certain licensees under the Real Estate Law, the California Financing Law, and the California Residential Mortgage Lending Act, including mortgage loan originators, to also be licensed and registered through, and regulated by, the Nationwide Mortgage Licensing System and Registry. Existing law requires the Real Estate Commissioner and the Commissioner of Financial Protection and Innovation to regularly report violations of specified state law provisions implementing the SAFE Act and specified enforcement actions to the Nationwide Mortgage Licensing System and Registry. Existing law authorizes those commissioners to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process certain fees.

This bill would instead refer to the Nationwide Mortgage Licensing System and Registry in the provisions of the Real Estate Law as the “Nationwide Multistate Licensing System and Registry.” The bill would make various nonsubstantive changes to the Real Estate Law, including correcting erroneous cross-references.

Existing law requires an applicant for an original real estate broker license examination to successfully complete courses of study in specified subjects, including real estate practice and legal aspects of real estate. Existing law also requires an applicant for a real estate salesperson license examination or for both the examination and license to successfully complete courses of study in specified subjects, including real estate principles and real estate practice. Existing law, beginning January 1, 2023, revises the real estate practice course for an applicant for a real estate broker or salesperson license to include a component on implicit bias, as specified, and revises the legal aspects of real estate course for that applicant to include a component on state and federal fair housing laws, as specified.

This bill would include the component on state and federal fair housing laws in the real estate practice course instead of the legal aspects

of real estate course, and would further delay the revision to the real estate practice course until January 1, 2024.

(8) Under existing law, the Department of Food and Agriculture has general supervision of the weights and measures and weighing and measuring devices sold or used in the state. Existing law authorizes the department to establish criteria and procedures for certification of laboratories to perform measurement services that are determined by the Secretary of Food and Agriculture to be beyond the existing equipment capabilities of the department, or when warranted by financial or workload considerations.

Existing law requires that the state standards of weights and measures by which all state and county standards of weights and measures are required to be tried, proved, and sealed include, among other specified standards, metrological standards in the possession of laboratories certified to perform measurement services pursuant to the above-described law.

This bill would update the cross-reference to the law governing certification of laboratories to perform measurement services in the above-described provision.

(9) 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.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 1753.55 of the Business and Professions
- 2 Code is amended to read:
- 3 1753.55. (a) A registered dental assistant in extended functions
- 4 is authorized to perform the additional duties as set forth in
- 5 subdivision (b) pursuant to the order, control, and full professional
- 6 responsibility of a supervising dentist, if the licensee meets one of
- 7 the following requirements:
- 8 (1) Is licensed on or after January 1, 2010.
- 9 (2) Is licensed ~~prior to~~ *before* January 1, 2010, and has
- 10 successfully completed a board-approved course in the additional

1 procedures specified in paragraphs (1), (2), (5), and (7) to (11),
2 inclusive, of subdivision (b) of Section 1753.5.

3 (b) (1) Determine which radiographs to perform on a patient
4 who has not received an initial examination by the supervising
5 dentist for the specific purpose of the dentist making a diagnosis
6 and treatment plan for the patient. In these circumstances, the
7 dental assistant in extended functions shall follow protocols
8 established by the supervising dentist. This paragraph only applies
9 in the following settings:

10 (A) In a dental office setting.

11 (B) In public health settings, using telehealth, as defined by
12 Section 2290.5, for the purpose of communication with the
13 supervising dentist, including, but not limited to, schools, head
14 start and preschool programs, and community clinics, under the
15 general supervision of a dentist.

16 (2) Place protective restorations, which for this purpose are
17 identified as interim therapeutic restorations, and defined as a
18 direct provisional restoration placed to stabilize the tooth until a
19 licensed dentist diagnoses the need for further definitive treatment.
20 An interim therapeutic restoration consists of the removal of soft
21 material from the tooth using only hand instrumentation, without
22 the use of rotary instrumentation, and subsequent placement of an
23 adhesive restorative material. Local anesthesia shall not be
24 necessary for interim therapeutic restoration placement. Interim
25 therapeutic restorations shall be placed only in accordance with
26 both of the following:

27 (A) In either of the following settings:

28 (i) In a dental office setting, under the direct or general
29 supervision of a dentist as determined by the dentist.

30 (ii) In public health settings, using telehealth, as defined by
31 Section 2290.5, for the purpose of communication with the
32 supervising dentist, including, but not limited to, schools, head
33 start and preschool programs, and community clinics, under the
34 general supervision of a dentist.

35 (B) After the diagnosis, treatment plan, and instruction to
36 perform the procedure provided by a dentist.

37 (c) The functions described in subdivision (b) may be performed
38 by a registered dental assistant in extended functions only after
39 completion of a program that includes training in performing those

1 functions, or after providing evidence, satisfactory to the board,
2 of having completed a board-approved course in those functions.

3 (d) No later than January 1, 2018, the board shall adopt
4 regulations to establish requirements for courses of instruction for
5 the procedures authorized to be performed by a registered dental
6 assistant in extended functions pursuant to this section using the
7 competency-based training protocols established by the Health
8 Workforce Pilot Project (HWPP) No. 172 through the ~~Office of~~
9 ~~Statewide Health Planning and Development.~~ *Department of Health*
10 *Care Access and Information*. The board shall submit to the
11 committee proposed regulatory language for the curriculum for
12 the Interim Therapeutic Restoration to the committee for the
13 purpose of promulgating regulations for registered dental hygienists
14 and registered dental hygienists in alternative practice as described
15 in Section 1910.5. The language submitted by the board shall
16 mirror the instructional curriculum for the registered dental
17 assistant in extended functions. Any subsequent amendments to
18 the regulations that are promulgated by the board for the Interim
19 Therapeutic Restoration curriculum shall be submitted to the
20 committee.

21 (e) The board may issue a permit to a registered dental assistant
22 in extended functions who files a completed application, including
23 the fee, to provide the duties specified in this section after the board
24 has determined the registered dental assistant in extended functions
25 has completed the coursework required in subdivision (c).

26 (f) This section shall become operative on January 1, 2018.

27 SEC. 2. Section 1910.5 of the Business and Professions Code
28 is amended to read:

29 1910.5. (a) In addition to the duties specified in Section 1910,
30 a registered dental hygienist is authorized to perform the following
31 additional duties, as specified:

32 (1) Determine which radiographs to perform on a patient who
33 has not received an initial examination by the supervising dentist
34 for the specific purpose of the dentist making a diagnosis and
35 treatment plan for the patient. In these circumstances, the dental
36 hygienist shall follow protocols established by the supervising
37 dentist. This paragraph only applies in the following settings:

38 (A) In a dental office setting.

39 (B) In a public health setting, using telehealth, as defined by
40 Section 2290.5, for the purpose of communication with the

1 supervising dentist, including, but not limited to, schools, head
2 start and preschool programs, and community clinics.

3 (2) Place protective restorations, which for this purpose are
4 identified as interim therapeutic restorations, and defined as a
5 direct provisional restoration placed to stabilize the tooth until a
6 licensed dentist diagnoses the need for further definitive treatment.
7 An interim therapeutic restoration consists of the removal of soft
8 material from the tooth using only hand instrumentation, without
9 the use of rotary instrumentation, and subsequent placement of an
10 adhesive restorative material. Local anesthesia shall not be
11 necessary for interim therapeutic restoration placement. Interim
12 therapeutic restorations shall be placed only in accordance with
13 both of the following:

14 (A) In either of the following settings:

15 (i) In a dental office setting.

16 (ii) In a public health setting, using telehealth, as defined by
17 Section 2290.5, for the purpose of communication with the
18 supervising dentist, including, but not limited to, schools, head
19 start and preschool programs, and community clinics.

20 (B) After the diagnosis, treatment plan, and instruction to
21 perform the procedure provided by a dentist.

22 (b) The functions described in subdivision (a) may be performed
23 by a registered dental hygienist only after completion of a program
24 that includes training in performing those functions, or after
25 providing evidence, satisfactory to the dental hygiene board, of
26 having completed a dental hygiene board-approved course in those
27 functions.

28 (c) No later than January 1, 2018, the dental hygiene board shall
29 adopt regulations to establish requirements for courses of
30 instruction for the procedures authorized to be performed by a
31 registered dental hygienist and registered dental hygienist in
32 alternative practice pursuant to Sections 1910.5 and 1926.05, using
33 the competency-based training protocols established by the Health
34 Workforce Pilot Project (HWPP) No. 172 through the ~~Office of~~
35 ~~Statewide Health Planning and Development.~~ *Department of Health*
36 *Care Access and Information.* The dental hygiene board shall use
37 the curriculum submitted by the board pursuant to Section 1753.55
38 to adopt regulatory language for approval of courses of instruction
39 for the interim therapeutic restoration. Any subsequent amendments
40 to the regulations for the interim therapeutic restoration curriculum

1 that are promulgated by the dental hygiene board shall be agreed
2 upon by the board and the dental hygiene board.

3 (d) This section shall become operative on January 1, 2018.

4 SEC. 3. Section 1922 of the Business and Professions Code is
5 amended to read:

6 1922. The dental hygiene board shall license as a registered
7 dental hygienist in alternative practice a person who demonstrates
8 satisfactory performance on an examination in California law and
9 ethics required by the dental hygiene board and who completes an
10 application form and pays all application fees required by the dental
11 hygiene board and meets either of the following requirements:

12 (a) Holds a current California license as a registered dental
13 hygienist and meets the following requirements:

14 (1) Has been engaged in the practice of dental hygiene, as
15 defined in Section 1908, as a registered dental hygienist in any
16 setting, including, but not limited to, educational settings and public
17 health settings, for a minimum of 2,000 hours during the
18 immediately preceding 36 months.

19 (2) Has successfully completed a bachelor's degree or its
20 equivalent, recognized as a minimum of 120 semester credit hours
21 or 180 quarter credit hours in postsecondary education, from a
22 college or institution of higher education that is accredited by a
23 national or regional accrediting agency recognized by the United
24 States Department of Education, and a minimum of 150 hours of
25 additional educational requirements, as prescribed by the dental
26 hygiene board by regulation, that are consistent with good dental
27 and dental hygiene practice, including, but not necessarily limited
28 to, dental hygiene technique and theory including gerontology and
29 medical emergencies, and business administration and practice
30 management.

31 (b) Has received a letter of acceptance into the employment
32 utilization phase of the Health Workforce Pilot Project No. 155
33 established by the ~~Office of Statewide Health Planning and~~
34 ~~Development~~ *Department of Health Care Access and Information*
35 pursuant to Article 1 (commencing with Section 128125) of
36 Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

37 SEC. 4. Section 1926 of the Business and Professions Code is
38 amended to read:

39 1926. In addition to practices authorized in Section 1925, a
40 registered dental hygienist in alternative practice may perform the

1 duties authorized pursuant to subdivision (a) of Section 1907,
2 subdivision (a) of Section 1908, and subdivisions (a) and (b) of
3 Section 1910 in the following settings:

- 4 (a) Residences of the homebound.
- 5 (b) Schools.
- 6 (c) Residential facilities and other institutions and medical
7 settings that a residential facility patient has been transferred to
8 for outpatient services.
- 9 (d) Dental health professional shortage areas, as certified by the
10 ~~Office of Statewide Health Planning and Development~~ *Department*
11 *of Health Care Access and Information* in accordance with existing
12 office guidelines.
- 13 (e) Dental offices.

14 SEC. 5. Section 1926.01 of the Business and Professions Code
15 is amended to read:

16 1926.01. (a) In addition to practices authorized in Section
17 1925, a registered dental hygienist in alternative practice may
18 perform the duties authorized pursuant to subdivisions (a) and (b)
19 of Section 1909 with documented consultation with a collaborating
20 dentist in the following settings:

- 21 (1) Residences of the homebound.
- 22 (2) Residential facilities and other institutions and medical
23 settings that a residential facility patient has been transferred to
24 for outpatient services.
- 25 (3) Dental health professional shortage areas, as certified by the
26 ~~Office of Statewide Health Planning and Development~~ *Department*
27 *of Health Care Access and Information* in accordance with existing
28 office guidelines.
- 29 (4) Dental offices.

30 (b) The registered dental hygienist in alternative practice shall
31 have all of the following immediately available when services
32 authorized in this section are being performed:

- 33 (1) One additional individual trained in basic life support
34 qualified to administer cardiopulmonary resuscitation during an
35 emergency.
- 36 (2) Equipment and supplies for emergency response, including
37 oxygen.

38 SEC. 6. Section 1926.05 of the Business and Professions Code
39 is amended to read:

1 1926.05. (a) In addition to the duties specified in Section 1926,
2 a registered dental hygienist in alternative practice is authorized
3 to perform the duties pursuant to Section 1910.5, in the following
4 settings:

- 5 (1) Residences of the homebound.
- 6 (2) Schools.
- 7 (3) Residential facilities and other institutions.
- 8 (4) Dental or medical settings.
- 9 (5) Dental health professional shortage areas, as certified by the
10 ~~Office of Statewide Health Planning and Development~~ *Department*
11 *of Health Care Access and Information* in accordance with existing
12 office guidelines.

13 (b) A registered dental hygienist in alternative practice is
14 authorized to perform the duties pursuant to paragraph (2) of
15 subdivision (a) of Section 1910.5 in the settings specified in this
16 section after there has been a diagnosis, treatment plan, and
17 instruction to perform the procedure provided by a dentist.

18 SEC. 7. Section 1936.1 of the Business and Professions Code
19 is amended to read:

20 1936.1. (a) The dental hygiene board shall require, as a
21 condition of license renewal, that licensees submit assurances
22 satisfactory to the dental hygiene board that they ~~will, had,~~ during
23 ~~the succeeding preceding~~ two-year period, ~~inform~~ *informed*
24 themselves of the developments in the practice of dental hygiene
25 occurring since the original issuance of their licenses by pursuing
26 one or more courses of study satisfactory to the dental hygiene
27 board, or by other means deemed equivalent by the dental hygiene
28 board. The dental hygiene board shall adopt, amend, and revoke
29 regulations providing for the suspension of the licenses at the end
30 of the two-year period until compliance with the assurances
31 provided for in this section is accomplished. The dental hygiene
32 board shall conduct random audits of at least 5 percent of the
33 licensee population each year to ensure compliance of the
34 continuing education requirement.

35 (b) The dental hygiene board shall also, as a condition of license
36 renewal, require licensees to successfully complete a portion of
37 the required continuing education hours in specific areas adopted
38 in regulations by the dental hygiene board. The dental hygiene
39 board may prescribe this mandatory coursework within the general
40 areas of patient care, health and safety, and law and ethics. The

1 mandatory coursework prescribed by the dental hygiene board
 2 shall not exceed seven and one-half hours per renewal period. Any
 3 mandatory coursework required by the dental hygiene board shall
 4 be credited toward the continuing education requirements
 5 established by the dental hygiene board pursuant to subdivision
 6 (a).

7 (c) The providers of courses referred to in this section shall be
 8 approved by the dental hygiene board. Providers approved by the
 9 dental board shall be deemed approved by the dental hygiene board.

10 SEC. 8. Section 2240 of the Business and Professions Code is
 11 amended to read:

12 2240. (a) A physician and surgeon who performs a medical
 13 procedure outside of a general acute care hospital, as defined in
 14 subdivision (a) of Section 1250 of the Health and Safety Code,
 15 that results in the death of any patient on whom that medical
 16 treatment was performed by the physician and surgeon, or by a
 17 person acting under the physician and surgeon’s orders or
 18 supervision, shall report, in writing on a form prescribed by the
 19 board, that occurrence to the board within 15 days after the
 20 occurrence.

21 (b) A physician and surgeon who performs a scheduled medical
 22 procedure outside of a general acute care hospital, as defined in
 23 subdivision (a) of Section 1250 of the Health and Safety Code,
 24 that results in the transfer to a hospital or emergency center for
 25 medical treatment for a period exceeding 24 hours, of any patient
 26 on whom that medical treatment was performed by the physician
 27 and surgeon, or by a person acting under the physician and
 28 surgeon’s orders or supervision, shall report, in writing, on a form
 29 prescribed by the board that occurrence, within 15 days after the
 30 occurrence. The form shall contain all of the following information:

- 31 (1) Name of the patient’s physician in the outpatient setting.
- 32 (2) Name of the physician with hospital privileges.
- 33 (3) Name of the patient and patient identifying information.
- 34 (4) Name of the hospital or emergency center where the patient
 35 was transferred.
- 36 (5) Type of outpatient procedures being performed.
- 37 (6) Events triggering the transfer.
- 38 (7) Duration of the hospital stay.
- 39 (8) Final disposition or status, if not released from the hospital,
 40 of the patient.

1 (9) Physician's practice specialty and ABMS certification, if
2 applicable.

3 (c) The form described in subdivision (b) shall be constructed
4 in a format to enable the physician and surgeon to transmit the
5 information in paragraphs (5) to (9), inclusive, to the board in a
6 manner that the physician and surgeon and the patient are
7 anonymous and their identifying information is not transmitted to
8 the board. The entire form containing information described in
9 paragraphs (1) to (9), inclusive, shall be placed in the patient's
10 medical record.

11 (d) The board shall aggregate the data and publish an annual
12 report on the information collected pursuant to subdivisions (a)
13 and (b).

14 (e) On and after January 1, 2002, the data required in subdivision
15 (b) shall be sent to the ~~Office of Statewide Health Planning and~~
16 ~~Development (OSHPD)~~ *Department of Health Care Access and*
17 *Information* instead of the board. ~~OSHPD~~ *The Department of*
18 *Health Care Access and Information* may revise the reporting
19 requirements to fit state and national standards, as applicable. The
20 board shall work with ~~OSHPD~~ *the Department of Health Care*
21 *Access and Information* in developing the reporting mechanism
22 to satisfy the data collection requirements of this section.

23 (f) The failure to comply with this section constitutes
24 unprofessional conduct.

25 SEC. 9. Section 2401 of the Business and Professions Code is
26 amended to read:

27 2401. (a) Notwithstanding Section 2400, a clinic operated
28 primarily for the purpose of medical education by a public or
29 private nonprofit university medical school, which is approved by
30 the board or the Osteopathic Medical Board of California, may
31 charge for professional services rendered to teaching patients by
32 licensees who hold academic appointments on the faculty of the
33 university, if the charges are approved by the physician and surgeon
34 in whose name the charges are made.

35 (b) Notwithstanding Section 2400, a clinic operated under
36 subdivision (p) of Section 1206 of the Health and Safety Code
37 may employ licensees and charge for professional services rendered
38 by those licensees. However, the clinic shall not interfere with,
39 control, or otherwise direct the professional judgment of a

1 physician and surgeon in a manner prohibited by Section 2400 or
2 any other law.

3 (c) Notwithstanding Section 2400, a narcotic treatment program
4 operated under Section 11876 of the Health and Safety Code and
5 regulated by the State Department of Health Care Services, may
6 employ licensees and charge for professional services rendered by
7 those licensees. However, the narcotic treatment program shall
8 not interfere with, control, or otherwise direct the professional
9 judgment of a physician and surgeon in a manner prohibited by
10 Section 2400 or any other law.

11 (d) Notwithstanding Section 2400, a hospital that is owned and
12 operated by a licensed charitable organization, that offers only
13 pediatric subspecialty care, that, ~~prior to~~ *before* January 1, 2013,
14 employed licensees on a salary basis, and that has not charged for
15 professional services rendered to patients may, commencing
16 January 1, 2013, charge for professional services rendered to
17 patients, provided the following conditions are met:

18 (1) The hospital does not increase the number of salaried
19 licensees by more than five licensees each year.

20 (2) The hospital does not expand its scope of services beyond
21 pediatric subspecialty care.

22 (3) The hospital accepts each patient needing its scope of
23 services regardless of ~~his or her~~ *the patient's* ability to pay,
24 including whether the patient has any form of health care coverage.

25 (4) The medical staff concur by an affirmative vote that the
26 licensee's employment is in the best interest of the communities
27 served by the hospital.

28 (5) The hospital does not interfere with, control, or otherwise
29 direct a physician and surgeon's professional judgment in a manner
30 prohibited by Section 2400 or any other law.

31 (e) (1) Notwithstanding Section 2400, until January 1, 2024, a
32 federally certified critical access hospital may employ licensees
33 and charge for professional services rendered by those licensees
34 to patients, provided both of the following conditions are met:

35 (A) The medical staff concur by an affirmative vote that the
36 licensee's employment is in the best interest of the communities
37 served by the hospital.

38 (B) The hospital does not interfere with, control, or otherwise
39 direct a physician and surgeon's professional judgment in a manner
40 prohibited by Section 2400 or any other law.

1 (2) (A) On or before July 1, 2023, the ~~Office of Statewide~~
2 ~~Health Planning and Development~~ *Department of Health Care*
3 *Access and Information* shall provide a report to the Legislature
4 containing data about the impact of paragraph (1) on federally
5 certified critical access hospitals and their ability to recruit and
6 retain physicians and surgeons between January 1, 2017, and
7 January 1, 2023, inclusive. This report shall be submitted in
8 compliance with Section 9795 of the Government Code. The
9 requirement for submitting a report imposed under this
10 subparagraph is inoperative on July 1, 2027.

11 (B) The ~~office~~ *Department of Health Care Access and*
12 *Information* shall determine the format of the report, as well as the
13 methods and data elements to be utilized in the development of
14 the report.

15 (C) On and after July 1, 2017, a federally certified critical access
16 hospital that is employing licensees and charging for professional
17 services rendered by those licensees to patients under this section
18 shall submit to the office, on or before July 1 of each year, a report
19 for any year in which that hospital has employed or is employing
20 licensees and charging for professional services rendered by those
21 licensees to patients. The report shall include data elements as
22 required by the office and shall be submitted in a format as required
23 by the ~~office~~. *Department of Health Care Access and Information*.
24 The requirement for submitting reports imposed under this
25 subparagraph shall be inoperative on July 1, 2023.

26 SEC. 10. Section 2435.1 of the Business and Professions Code
27 is amended to read:

28 2435.1. (a) In addition to the fees charged for the initial
29 issuance or biennial renewal of a physician and surgeon's certificate
30 pursuant to Section 2435, and at the time those fees are charged,
31 the board shall charge each applicant or renewing licensee an
32 additional twenty-five dollar (\$25) fee for the purposes of this
33 section.

34 (b) Payment of this twenty-five dollar (\$25) fee shall be
35 voluntary, paid at the time of application for initial licensure or
36 biennial renewal, and due and payable along with the fee for the
37 initial certificate or biennial renewal.

38 (c) The board shall transfer all funds collected pursuant to this
39 section, on a monthly basis, to the ~~Office of Statewide Health~~
40 ~~Planning and Development~~ *Department of Health Care Access*

1 *and Information* to augment the local assistance line item of the
2 annual Budget Act in support of the Song-Brown Family Physician
3 Training Act (Article 1 (commencing with Section 128200) of
4 Chapter 4 of Part 3 of Division 107 of the Health and Safety Code).

5 SEC. 11. Section 2516 of the Business and Professions Code
6 is amended to read:

7 2516. (a) Each licensed midwife who assists, or supervises a
8 student midwife in assisting, in childbirth that occurs in an
9 out-of-hospital setting shall annually report to the ~~Office of~~
10 ~~Statewide Health Planning and Development.~~ *Department of Health*
11 *Care Access and Information*. The report shall be submitted no
12 later than March 30, for the prior calendar year, in a form specified
13 by the board and shall contain all of the following:

14 (1) The midwife's name and license number.

15 (2) The calendar year being reported.

16 (3) The following information with regard to cases in California
17 in which the midwife, or the student midwife supervised by the
18 midwife, assisted during the previous year when the intended place
19 of birth at the onset of care was an out-of-hospital setting:

20 (A) The total number of clients served as primary caregiver at
21 the onset of care.

22 (B) The number by county of live births attended as primary
23 caregiver.

24 (C) The number, by county, of cases of fetal demise, infant
25 deaths, and maternal deaths attended as primary caregiver at the
26 discovery of the demise or death.

27 (D) The number of women whose primary care was transferred
28 to another health care practitioner during the antepartum period,
29 and the reason for each transfer.

30 (E) The number, reason, and outcome for each elective hospital
31 transfer during the intrapartum or postpartum period.

32 (F) The number, reason, and outcome for each urgent or
33 emergency transport of an expectant mother in the antepartum
34 period.

35 (G) The number, reason, and outcome for each urgent or
36 emergency transport of an infant or mother during the intrapartum
37 or immediate postpartum period.

38 (H) The number of planned out-of-hospital births at the onset
39 of labor and the number of births completed in an out-of-hospital
40 setting.

- 1 (I) The number of planned out-of-hospital births completed in
2 an out-of-hospital setting that were any of the following:
- 3 (i) Twin births.
 - 4 (ii) Multiple births other than twin births.
 - 5 (iii) Breech births.
 - 6 (iv) Vaginal births after the performance of a cesarean section.
- 7 (J) A brief description of any complications resulting in the
8 morbidity or mortality of a mother or a neonate.
- 9 (K) Any other information prescribed by the board in
10 regulations.
- 11 ~~The Office of Statewide Health Planning and Development~~
12 *Department of Health Care Access and Information* shall maintain
13 the confidentiality of the information submitted pursuant to this
14 section, and shall not permit any law enforcement or regulatory
15 agency to inspect or have copies made of the contents of any
16 reports submitted pursuant to subdivision (a) for any purpose,
17 including, but not limited to, investigations for licensing,
18 certification, or regulatory purposes.
- 19 ~~The office~~ *Department of Health Care Access and*
20 *Information* shall report to the board, by April 30, those licensees
21 who have met the requirements of subdivision (a) for that year.
- 22 (d) The board shall send a written notice of noncompliance to
23 each licensee who fails to meet the reporting requirement of
24 subdivision (a). Failure to comply with subdivision (a) will result
25 in the midwife being unable to renew ~~his or her~~ *their* license
26 without first submitting the requisite data to the ~~Office of Statewide~~
27 ~~Health Planning and Development~~ *Department of Health Care*
28 *Access and Information* for the year for which that data was
29 missing or incomplete. The board shall not take any other action
30 against the licensee for failure to comply with subdivision (a).
- 31 (e) The board, in consultation with the ~~office~~ *Department of*
32 *Health Care Access and Information* and the Midwifery Advisory
33 Council, shall devise a coding system related to data elements that
34 require coding in order to assist in both effective reporting and the
35 aggregation of data pursuant to subdivision (f). The ~~office~~
36 *Department of Health Care Access and Information* shall utilize
37 this coding system in its processing of information collected for
38 purposes of subdivision (f).
- 39 (f) The ~~office~~ *Department of Health Care Access and*
40 *Information* shall report the aggregate information collected

1 pursuant to this section to the board by July 30 of each year. The
2 board shall include this information in its annual report to the
3 Legislature.

4 (g) The board, with input from the Midwifery Advisory Council,
5 may adjust the data elements required to be reported to better
6 coordinate with other reporting systems, including the reporting
7 system of the Midwives Alliance of North America (MANA),
8 while maintaining the data elements unique to California. To better
9 capture data needed for the report required by this section, the
10 concurrent use of systems, including MANA's, by licensed
11 midwives is encouraged.

12 (h) Notwithstanding any other law, a violation of this section
13 shall not be a crime.

14 SEC. 12. Section 2725.4 of the Business and Professions Code
15 is amended to read:

16 2725.4. Notwithstanding any other provision of this chapter,
17 the following shall apply:

18 (a) In order to perform an abortion by aspiration techniques
19 pursuant to Section 2253, a person with a license or certificate to
20 practice as a nurse practitioner or a certified nurse-midwife shall
21 complete training recognized by the Board of Registered Nursing.
22 Beginning January 1, 2014, and until January 1, 2016, the
23 competency-based training protocols established by Health
24 Workforce Pilot Project (HWPP) No. 171 through the ~~Office of~~
25 ~~Statewide Health Planning and Development~~ *Department of Health*
26 *Care Access and Information* shall be used.

27 (b) In order to perform an abortion by aspiration techniques
28 pursuant to Section 2253, a person with a license or certificate to
29 practice as a nurse practitioner or a certified nurse-midwife shall
30 adhere to standardized procedures developed in compliance with
31 subdivision (c) of Section 2725 that specify all of the following:

32 (1) The extent of supervision by a physician and surgeon with
33 relevant training and expertise.

34 (2) Procedures for transferring patients to the care of the
35 physician and surgeon or a hospital.

36 (3) Procedures for obtaining assistance and consultation from
37 a physician and surgeon.

38 (4) Procedures for providing emergency care until physician
39 assistance and consultation are available.

1 (5) The method of periodic review of the provisions of the
2 standardized procedures.

3 (c) A nurse practitioner or certified nurse-midwife who has
4 completed training and achieved clinical competency through
5 HWPP No. 171 shall be authorized to perform abortions by
6 aspiration techniques pursuant to Section 2253, in adherence to
7 standardized procedures described in subdivision (b).

8 (d) It is unprofessional conduct for any nurse practitioner or
9 certified nurse-midwife to perform an abortion by aspiration
10 techniques pursuant to Section 2253 without prior completion of
11 training and validation of clinical competency.

12 SEC. 13. Section 2746.55 of the Business and Professions
13 Code is amended to read:

14 2746.55. (a) For all maternal or neonatal transfers to the
15 hospital setting during labor or the immediate postpartum period,
16 for which the intended place of birth was an out-of-hospital setting
17 at the onset of labor, or for any maternal, fetal, or neonatal death
18 that occurred in the out-of-hospital setting during labor or the
19 immediate postpartum period, and for which the intended birth
20 care provider is a certified nurse-midwife in the out-of-hospital
21 setting, the department shall collect, and the certified nurse-midwife
22 shall be required to submit, within 90 days of the transfer or death,
23 the following data in the form determined by the department. The
24 data shall include all of the following:

25 (1) Attendant's name, for the certified nurse-midwife who
26 attended the patient at the time of transfer, or who attended the
27 patient at the time of maternal, fetal, or neonatal death.

28 (2) Attendant's license number, for the certified nurse-midwife
29 who attended the patient at the time of transfer, or who attended
30 the patient at the time of maternal, fetal, or neonatal death.

31 (3) The child's date of delivery for births attended by the
32 nurse-midwife.

33 (4) The sex of the child, for births attended by the
34 nurse-midwife.

35 (5) The date of birth of the parent giving birth.

36 (6) The date of birth of the parent not giving birth.

37 (7) The residence ZIP Code of the parent giving birth.

38 (8) The residence county of the parent giving birth.

39 (9) The weight of the parent giving birth (prepregnancy weight
40 and delivery weight of parent giving birth).

- 1 (10) The height of the parent giving birth.
- 2 (11) The race and ethnicity of the genetic parents, unless the
- 3 parent declines to disclose.
- 4 (12) The obstetric estimate of gestation (completed weeks), at
- 5 time of transfer.
- 6 (13) The total number of prior live births.
- 7 (14) The principal source of payment code for delivery.
- 8 (15) Any complications and procedures of pregnancy and
- 9 concurrent illnesses up until time of transfer or death.
- 10 (16) Any complications and procedures of labor and delivery
- 11 up until time of transfer or death.
- 12 (17) Any abnormal conditions and clinical procedures related
- 13 to the newborn up until time of transfer or death.
- 14 (18) Fetal presentation at birth, or up until time of transfer.
- 15 (19) Whether this pregnancy is a multiple pregnancy (more than
- 16 one fetus this pregnancy).
- 17 (20) Whether the patient has had a previous cesarean section.
- 18 (21) If the patient had a previous cesarean, indicate how many.
- 19 (22) The intended place of birth at the onset of labor, including,
- 20 but not limited to, home, freestanding birth center, hospital, clinic,
- 21 doctor's office, or other location.
- 22 (23) Whether there was a maternal death.
- 23 (24) Whether there was a fetal death.
- 24 (25) Whether there was a neonatal death.
- 25 (26) Hospital transfer during the intrapartum or postpartum
- 26 period, including, who was transferred (mother, infant, or both)
- 27 and the complications, abnormal conditions, or other indications
- 28 that resulted in the transfer.
- 29 (27) The name of the transfer hospital, or other hospital
- 30 identification method as required, such as the hospital identification
- 31 number.
- 32 (28) The county of the transfer hospital.
- 33 (29) The ZIP Code of the transfer hospital.
- 34 (30) The date of the transfer.
- 35 (31) Other information as prescribed by the State Department
- 36 of Public Health.
- 37 (b) In the event of a maternal, fetal, or neonatal death that
- 38 occurred in an out-of-hospital setting during labor or the immediate
- 39 postpartum period, a certified nurse-midwife shall submit to the

1 department, within 90 days of the death, all of the following data
2 in addition to the data required in subdivision (a):

3 (1) The date of the maternal, neonatal, or fetal death.

4 (2) The place of delivery, for births attended by the
5 nurse-midwife.

6 (3) The county of the place of delivery, for births attended by
7 the nurse-midwife.

8 (4) The ZIP Code of the place of delivery, for births attended
9 by the nurse-midwife.

10 (5) The APGAR scores, for births attended by the
11 nurse-midwife.

12 (6) The birthweight, for births attended by the nurse-midwife.

13 (7) The method of delivery, for births attended by the
14 nurse-midwife.

15 (c) The data submitted pursuant to subdivisions (a) and (b) shall
16 be in addition to the certificate of live birth information required
17 pursuant to Sections 102425 and 102426 of the Health and Safety
18 Code.

19 (d) For those cases that involve a hospital transfer, the
20 department shall link the data submitted by the certified
21 nurse-midwife, pursuant to subdivision (a), to the live birth data
22 reported by hospitals to the department, pursuant to Sections
23 102425 and 102426 of the Health and Safety Code, and to the
24 patient discharge data that reflects the birth hospitalization and
25 reported by hospitals to the ~~Office of Statewide Health Planning
26 and Development~~, *Department of Health Care Access and
27 Information*, so that additional data reflecting the outcome can be
28 incorporated into the aggregated reports submitted pursuant to
29 subdivision (i).

30 (e) The department may adjust, improve, or expand the data
31 elements required to be reported pursuant to subdivisions (a) and
32 (b) to better coordinate with other data collection and reporting
33 systems, or in order to collect more accurate data, as long as the
34 minimum data elements in subdivisions (a) and (b) are preserved.

35 (f) The department shall treat the information and data gathered
36 pursuant to this section, for the creation of the reports described
37 in subdivision (i), as confidential records, and shall not permit the
38 disclosure of any patient or certified nurse-midwife information
39 to any law enforcement or regulatory agency for any purpose,
40 including, but not limited to, investigations for licensing,

1 certification, or regulatory purposes. This subdivision shall not
2 prevent the department from responding to inquiries from the
3 Board of Registered Nursing as to whether a licensee has reported
4 pursuant to this section.

5 (g) The information collected by the department pursuant to
6 this section, and not otherwise subject to current confidentiality
7 requirements, shall be treated as confidential records and shall
8 only be made available for use consistent with paragraph (1) of,
9 paragraph (4) of, and subparagraph (A) of paragraph (8) of,
10 subdivision (a) of Section 102430 of the Health and Safety Code
11 and pursuant to the application, review, and approval process
12 established by the department pursuant to Section 102465 of the
13 Health Safety Code.

14 (h) At the time of each certified nurse-midwife's license renewal,
15 the Board of Registered Nursing shall send a written notification
16 to the certified nurse-midwife notifying them of the mandated vital
17 records reporting requirements for out-of-hospital births pursuant
18 to subdivisions (a) and (b) and Section 102415 of the Health and
19 Safety Code and that a violation of this section shall subject the
20 certified nurse-midwife to disciplinary or administrative action by
21 the board.

22 (i) (1) The department shall report to the Legislature on the
23 data collected pursuant to this section. The report shall include the
24 aggregate information, including, but not limited to, birth outcomes
25 of patients under the care of a certified nurse-midwife in an
26 out-of-hospital setting at the onset of labor, collected pursuant to
27 this section and Sections 102425 and 102426 of the Health and
28 Safety Code.

29 (2) The first report, to reflect a 12-month period of time, shall
30 be submitted no later than four and one-half years after the State
31 Department of Public Health receives an appropriation as specified
32 in ~~subdivision~~ *subdivision* (m) and each subsequent report reflecting
33 a 12-month reporting period shall be submitted annually to the
34 Legislature every year thereafter.

35 (3) A report required under this subdivision shall be submitted
36 in compliance with Section 9795 of the Government Code.

37 (j) All reports, including those submitted to the Legislature or
38 made publicly available, shall utilize standard public health
39 reporting practices for accurate dissemination of these data
40 elements, specifically in regards to the reporting of small numbers

1 in a way that does not risk a confidentiality or other disclosure
2 breach. No identifying information in regards to the patient or the
3 nurse-midwife shall be disclosed in the reports submitted pursuant
4 to subdivision (i).

5 (k) A violation of this section shall subject the certified
6 nurse-midwife to disciplinary or administrative action by the Board
7 of Registered Nursing.

8 (l) For purposes of this section, “department” means the State
9 Department of Public Health.

10 (m) This section shall become operative only upon the
11 Legislature making an appropriation to implement the provisions
12 of this section.

13 SEC. 14. Section 2786.3 of the Business and Professions Code
14 is amended to read:

15 2786.3. (a) Until the end of the 2021–22 academic year, and
16 whenever the Governor declares a state of emergency for a county
17 in which an agency or facility used by an approved nursing
18 program for direct patient care clinical practice is located and is
19 no longer available due to the conditions giving rise to the state
20 of emergency, the director of the approved nursing program may
21 submit to a board nursing education consultant requests to do any
22 of the following:

23 (1) Utilize a clinical setting during the state of emergency or
24 until the end of the academic term without the following:

25 (A) Approval by the board.

26 (B) Written agreements with the clinical facility.

27 (C) Submitting evidence of compliance with board regulations
28 relating to the utilization of clinical settings, except as necessary
29 for a board nursing education consultant to ensure course objectives
30 and faculty responsibilities will be met.

31 (2) Utilize preceptorships during the state of emergency or until
32 the end of the academic term without having to maintain written
33 policies relating to the following:

34 (A) Identification of criteria used for preceptor selection.

35 (B) Provision for a preceptor orientation program that covers
36 the policies of the preceptorship and preceptor, student, and faculty
37 responsibilities.

38 (C) Identification of preceptor qualifications for both the primary
39 and the relief preceptor.

1 (D) Description of responsibilities of the faculty, preceptor, and
2 student for the learning experiences and evaluation during
3 preceptorship.

4 (E) Maintenance of preceptor records that includes names of
5 all current preceptors, registered nurse licenses, and dates of
6 preceptorships.

7 (F) Plan for an ongoing evaluation regarding the continued use
8 of preceptors.

9 (3) Request that the approved nursing program be allowed to
10 reduce the required number of direct patient care hours to 50
11 percent in geriatrics and medical-surgical and 25 percent in mental
12 health-psychiatric nursing, obstetrics, and pediatrics if all of the
13 following conditions are met:

14 (A) No alternative agency or facility has a sufficient number of
15 open placements that are available and accessible within 25 miles
16 of the approved nursing program for direct patient care clinical
17 practice hours in the same subject matter area. An approved nursing
18 program shall submit, and not be required to provide more than,
19 the following:

20 (i) The list of alternative agencies or facilities listed within 25
21 miles of the impacted approved nursing program, campus, or
22 location, as applicable, using the facility finder on the ~~Office of~~
23 ~~Statewide Health Planning and Development's~~ *Department of*
24 *Health Care Access and Information's internet website.*

25 (ii) The list of courses impacted by the loss of clinical
26 placements due to the state of emergency and the academic term
27 the courses are offered.

28 (iii) Whether each of the listed alternative agencies or facilities
29 would meet the course objectives for the courses requiring
30 placements.

31 (iv) Whether the approved nursing program has contacted each
32 of the listed alternative agencies or facilities about the availability
33 of clinical placements. The approved nursing program shall not
34 be required to contact a clinical facility that would not meet course
35 objectives.

36 (v) The date of contact or attempted contact.

37 (vi) The number of open placements at each of the listed
38 alternative agencies or facilities that are available for the academic
39 term for each course. If an alternative agency or facility does not
40 respond within 48 hours, the approved nursing program may list

1 the alternative agency or facility as unavailable. If the alternative
2 agency or facility subsequently responds ~~prior to~~ *before* the
3 submission of the request to a board nursing education consultant,
4 the approved nursing program shall update the list to reflect the
5 response.

6 (vii) Whether the open and available placements are accessible
7 to the students and faculty. An open and available placement is
8 accessible if there are no barriers that otherwise prohibit a student
9 from entering the facility, including, but not limited to, the lack
10 of personal protective equipment or cost-prohibitive infectious
11 disease testing. An individual's personal unwillingness to enter an
12 alternative agency or facility does not make a placement
13 inaccessible.

14 (viii) The total number of open and available placements that
15 are accessible to the students and faculty compared to the total
16 number of placements needed.

17 (B) The substitute clinical practice hours not in direct patient
18 care provide a learning experience, as defined by the board
19 consistent with Section 2708.1, that is at least equivalent to the
20 learning experience provided by the direct patient care clinical
21 practice hours.

22 (C) Once the applicable state of emergency has terminated
23 pursuant to Section 8629 of the Government Code, the temporary
24 reduction provided in paragraph (3) shall cease as soon as
25 practicable or by the end of the academic term, whichever is sooner.

26 (D) The substitute clinical practice hours not in direct patient
27 care that are simulation experiences are based on the best practices
28 published by the International Nursing Association for Clinical
29 Simulation and Learning, the National Council of State Boards of
30 Nursing, the Society for Simulation in Healthcare, or equivalent
31 standards approved by the board.

32 (E) A maximum of 25 percent of the direct patient care hours
33 specified in paragraph (3) in geriatrics and medical-surgical may
34 be completed via telehealth.

35 (4) Request that the approved nursing program allow theory to
36 precede clinical practice if all of the following conditions are met:

37 (A) No alternative agency or facility located within 25 miles of
38 the impacted approved nursing program, campus, or location, as
39 applicable, has a sufficient number of open placements that are
40 available and accessible to the approved nursing program for direct

1 patient care clinical practice hours in the same subject matter area.
2 An approved program shall not be required to submit more than
3 required under subparagraph (A) of paragraph (3).

4 (B) Clinical practice takes place in the academic term
5 immediately following theory.

6 (C) Theory is taught concurrently with clinical practice not in
7 direct patient care if no direct patient care experiences are available.

8 (b) If the conditions in paragraphs (1), (2), (3), or (4) of
9 subdivision (a), as applicable to the request, are met, a board
10 nursing education consultant shall approve the request. If an
11 approved nursing program fails to submit information satisfactory
12 to the board nursing education consultant, or fails to meet the
13 conditions specified, the board nursing education consultant shall
14 deny the request. If the request is not approved or denied on or
15 before 5:00 p.m. on the date seven business days after receipt of
16 the request, the request shall be deemed approved.

17 (c) (1) Within 30 days of the effective date of this section, the
18 board's executive officer shall develop a uniform method for
19 evaluating requests and granting approvals pursuant to this section.

20 (2) The executive officer may revise the uniform method
21 developed pursuant to this subdivision from time to time, as
22 necessary. The development or revision of the uniform method
23 shall be exempt from the requirements of the Administrative
24 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
25 Part 1 of Title 2 of the Government Code).

26 (3) The board's nursing education consultants shall use the
27 uniform method to evaluate requests and grant approvals pursuant
28 to this section.

29 SEC. 15. Section 3502.4 of the Business and Professions Code
30 is amended to read:

31 3502.4. (a) In order to receive authority from ~~his or her~~ *the*
32 *physician assistant's* supervising physician and surgeon to perform
33 an abortion by aspiration techniques pursuant to Section 2253, a
34 physician assistant shall complete training either through training
35 programs approved by the board pursuant to Section 3513 or by
36 training to perform medical services ~~which~~ *that* augment ~~his or~~
37 ~~her~~ *the physician assistant's* current areas of competency pursuant
38 to Section 1399.543 of Title 16 of the California Code of
39 Regulations. Beginning January 1, 2014, and until January 1, 2016,
40 the training and clinical competency protocols established by

1 Health Workforce Pilot Project (HWPP) No. 171 through the ~~Office~~
2 ~~of Statewide Health Planning and Development~~ *Department of*
3 *Health Care Access and Information* shall be used as training and
4 clinical competency guidelines to meet this requirement.

5 (b) In order to receive authority from ~~his or her~~ *the physician*
6 *assistant's* supervising physician and surgeon to perform an
7 abortion by aspiration techniques pursuant to Section 2253, a
8 physician assistant shall comply with protocols developed in
9 compliance with Section 3502 that specify:

10 (1) The extent of supervision by a physician and surgeon with
11 relevant training and expertise.

12 (2) Procedures for transferring patients to the care of the
13 physician and surgeon or a hospital.

14 (3) Procedures for obtaining assistance and consultation from
15 a physician and surgeon.

16 (4) Procedures for providing emergency care until physician
17 assistance and consultation are available.

18 (5) The method of periodic review of the provisions of the
19 protocols.

20 (c) The training protocols established by HWPP No. 171 shall
21 be deemed to meet the standards of the board. A physician assistant
22 who has completed training and achieved clinical competency
23 through HWPP No. 171 shall be authorized to perform abortions
24 by aspiration techniques pursuant to Section 2253, in adherence
25 to protocols described in subdivision (b).

26 (d) It is unprofessional conduct for any physician assistant to
27 perform an abortion by aspiration techniques pursuant to Section
28 2253 without prior completion of training and validation of clinical
29 competency.

30 SEC. 16. Section 3520 of the Business and Professions Code
31 is amended to read:

32 3520. Within 10 days after the beginning of each calendar
33 ~~month the Medical Board of California~~ *month, the board* shall
34 report to the Controller the amount and source of all collections
35 made under this chapter and at the same time pay all those sums
36 into the State Treasury, where they shall be credited to the
37 Physician Assistant Fund, which fund is hereby created. All money
38 in the fund shall be available, upon appropriation of the Legislature,
39 to carry out the purpose of this chapter.

1 SEC. 17. Section 3537.10 of the Business and Professions
2 Code is amended to read:

3 3537.10. (a) Subject to the other provisions of this article, the
4 ~~Office of Statewide Health Planning and Development~~, *Department*
5 *of Health Care Access and Information*, hereafter in this article
6 referred to as the ~~office~~, *department*, shall coordinate the
7 establishment of an international medical graduate physician
8 assistant training program, to be conducted at an appropriate
9 educational institution or institutions. The goal of the program
10 shall be to place as many international medical graduate physician
11 assistants in medically underserved areas as possible in order to
12 provide greater access to care for the growing population of
13 medically indigent and underserved. The method for accomplishing
14 this goal shall be to train foreign medical graduates to become
15 licensed as physician assistants at no cost to the participants in
16 return for a commitment from the participants to serve full time
17 in underserved areas for a four-year period.

18 (b) By February 1, 1994, or one month after federal funds to
19 implement this article become available, whichever occurs later,
20 the ~~office~~ *department* shall establish a training program advisory
21 task force. The task force shall be comprised of representatives
22 from all of the following groups:

- 23 (1) Physician assistant program directors.
- 24 (2) Foreign medical graduates.
- 25 (3) The California Academy of Physician Assistants.
- 26 (4) Nonprofit community health center directors.
- 27 (5) Physicians.
- 28 (6) The board, at the board's option.

29 The ~~office~~ *department* may, instead, serve solely as a consultant
30 to the task force.

31 (c) The task force shall do all of the following:

32 (1) Develop a recommended curriculum for the training program
33 that shall be from 12 to 15 months in duration and shall, at a
34 minimum, meet curriculum standards consistent with the board's
35 regulations. The program shall be subject to the board's approval.
36 By April 1, 1994, or three months after federal funds to implement
37 this article become available, whichever occurs later, the
38 curriculum shall be presented by the ~~office~~ *department* to the
39 Committee on Allied Health Education and Accreditation of the

1 American Medical Association, or its successor organization, for
2 approval.

3 (2) Develop recommended admission criteria for participation
4 in the pilot and ongoing program.

5 (3) Assist in development of linkages with academic institutions
6 for the purpose of monitoring and evaluating the pilot program.

7 SEC. 18. Section 3537.15 of the Business and Professions
8 Code is amended to read:

9 3537.15. (a) ~~Prior to establishment of~~ *Before establishing* an
10 ongoing international medical graduate physician assistant training
11 program, the ~~Office of Statewide Health Planning and Development~~
12 *Department of Health Care Access and Information* shall
13 coordinate the establishment of a pilot program commencing
14 September 1, 1994, or eight months after federal funds to
15 implement this article become available, whichever occurs later,
16 to test the validity and effectiveness of the recommended training
17 curriculum developed by the task force. The task force shall, with
18 the advice and assistance of the academic institutions offering the
19 pilot program curriculum, and subject to their approval, select
20 international medical graduates to participate in the pilot program.

21 (b) After two classes have graduated from the pilot program,
22 the task force, with the advice and assistance of the academic
23 institutions, shall evaluate the results of the pilot program, to
24 determine whether a permanent program should be established.
25 The ~~office department~~ may modify curriculum as needed and make
26 appropriate revisions in order to ensure program integrity and
27 compliance with established standards. Any permanent
28 international medical graduate physician assistant training program
29 shall commence at the beginning of the year following the
30 completion of the evaluation.

31 SEC. 19. Section 3537.25 of the Business and Professions
32 Code is amended to read:

33 3537.25. Both the pilot and the ongoing training program shall
34 provide training at no cost to the participants in return for a written,
35 enforceable agreement by the participants to, upon obtaining
36 licensure under this article, serve a minimum of four years as a
37 full-time physician assistant in an area of California designated
38 by the ~~Office of Statewide Health Planning and Development~~
39 *Department of Health Care Access and Information* as a medically
40 underserved area pursuant to Section 3537.35.

1 SEC. 20. Section 3537.30 of the Business and Professions
2 Code is amended to read:

3 3537.30. (a) The Legislature recognizes that the goal of this
4 program would be compromised if participants do not observe
5 their commitments under this program to provide the required
6 service in a medically underserved area. The goal of this program
7 would not be met if all that it accomplished was merely to license
8 physician assistants that served populations that are not medically
9 underserved.

10 (b) Since damages would be difficult or impossible to ascertain
11 in the event of default by the participant, this section shall set forth
12 the extent of liquidated damages that shall be recoverable by the
13 program in the case of default.

14 (c) In the case of default by a participant who has successfully
15 completed the program and has obtained licensure under this
16 article, the program shall collect the following damages from the
17 participant:

18 (1) The total cost expended by the program for the training of
19 the applicant, and interest thereon from the date of default.

20 (2) The total amount needed for the program to seek cover as
21 set forth in subdivision (b) of Section 3537.35.

22 (3) The costs of enforcement, including, but not limited to, the
23 costs of collecting the liquidated damages, the costs of litigation,
24 and attorney’s fees.

25 (d) The Attorney General may represent the ~~office, department,~~
26 or the board, or both in any litigation necessitated by this article,
27 or, if the Attorney General declines, the ~~office, department,~~ or the
28 board, or both may hire other counsel for this purpose.

29 (e) Funds collected pursuant to subdivision (c) shall be allocated
30 as follows:

31 (1) Costs of training recovered pursuant to paragraph (1) of
32 subdivision (c) shall be allocated to the ~~office department~~ to be
33 used upon appropriation for the continuing training program
34 pursuant to this article.

35 (2) Costs of seeking cover recovered pursuant to paragraph (2)
36 of subdivision (c) shall be deposited in the Physician Assistant
37 Training Fund established pursuant to Section 3537.40 for the
38 purposes of providing grants pursuant to subdivision (c) of Section
39 3537.35.

1 (3) Costs of enforcement recovered pursuant to paragraph (3)
2 of subdivision (c) shall be allocated between the ~~office,~~ *department*,
3 and the Attorney General, or other counsel, according to actual
4 costs.

5 SEC. 21. Section 3537.35 of the Business and Professions
6 Code is amended to read:

7 ~~3537.35. The Office of Statewide Health Planning and~~
8 ~~Development~~ *Department of Health Care Access and Information*
9 shall, in addition to other duties described in this article, do all of
10 the following:

11 (a) Determine those areas of the state that are medically
12 underserved in that they have a higher percentage of medically
13 underserved and indigent persons and would benefit from the
14 services of additional persons licensed as physician assistants.

15 (b) Determine the total cost of seeking cover as specified in
16 paragraph (2) of subdivision (c) of Section 3537.30. To determine
17 the cost, the ~~office~~ *department* shall study the market forces that
18 are at work creating the scarcity of these physician assistants in
19 these medically underserved areas, and determine the annual level
20 of additional funding that would be required by a health facility,
21 clinic, or other health care provider in those areas to motivate a
22 physician assistant to serve full-time in those underserved areas.
23 This amount shall be calculated so that when added to the
24 prevailing rate for these services in the underserved area, would
25 make these positions so attractive that physician assistants would
26 be motivated to serve in those areas. This amount, which shall
27 equal the cost to the ~~office~~ *department* to place a qualified
28 physician assistant in the underserved area, times four years shall
29 be the total cost of seeking cover.

30 (c) Provide grants, as funds become available in the Physician
31 Assistant Training Fund, to applicant health care providers that
32 provide services in medically underserved areas for the purpose
33 of funding additional full-time physician assistant positions in
34 those areas to provide services in lieu of defaulting physician
35 assistants. Participating providers shall use these grants to attract
36 physician assistants that are from outside the area and shall
37 demonstrate that the grant actually increases the number of
38 physician assistants serving the underserved population. The
39 grantee shall demonstrate that the grant did not merely shift a
40 physician assistant from one medically underserved area to another,

1 but rather, resulted in a net increase in the number of physician
2 assistants serving the underserved population as a whole. Licensees
3 under this article shall not directly or indirectly receive grants
4 under this section.

5 SEC. 22. Section 3537.40 of the Business and Professions
6 Code is amended to read:

7 3537.40. The Physician Assistant Training Fund is hereby
8 created in the State Treasury for the purpose of receipt of funds
9 collected pursuant to paragraph (2) of subdivision (c) of Section
10 3537.30. The Physician Assistant Training Fund shall be available
11 to the ~~Office of Statewide Health Planning and Development~~
12 *Department of Health Care Access and Information* for the purpose
13 of providing grants pursuant to subdivision (c) of Section 3537.35,
14 upon appropriation by the Legislature.

15 SEC. 23. Section 3537.50 of the Business and Professions
16 Code is amended to read:

17 3537.50. No General Fund revenues shall be expended to carry
18 out this article. The implementation of the pilot program and, if
19 applicable, the permanent program established by this article shall
20 be contingent upon the availability of federal funds, which do not
21 divert or detract from funds currently utilized to underwrite existing
22 physician assistant training programs or to fund existing functions
23 of the board. The new funding shall be sufficient to cover the full
24 additional cost to the educational institution or institutions that
25 establish the program or programs, the cost of tuition and
26 attendance for the students in the program or programs, and any
27 additional costs, including enforcement costs, that the ~~office~~
28 *department* or the board incurs as a result of implementing this
29 article. ~~Nothing in this article shall be construed as imposing~~ *This*
30 *article does not impose* any obligations upon the ~~office,~~
31 *department,* the board, or any physician assistant training program
32 in the absence of adequate funding as described in this section.
33 ~~Nothing in this article shall be construed either as precluding~~ *This*
34 *article does not preclude* applicants for the program established
35 by this article from seeking state or federal scholarship funds, or
36 state and federal loan repayment funds available to physician
37 assistant students, or ~~as requiring that~~ *require* any applicants be
38 granted preference in the award of those funds. ~~Nothing in this~~
39 *article shall be construed as impairing* *This article does not impair*

1 the autonomy of any institution that offers a physician assistant
2 training program.

3 SEC. 24. Section 4846.5 of the Business and Professions Code
4 is amended to read:

5 4846.5. (a) Except as provided in this section, the board shall
6 issue renewal licenses only to those applicants that have completed
7 a minimum of 36 hours of continuing education in the preceding
8 two years.

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

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

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

16 (C) The American Veterinary Medical Association.

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

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

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

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

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

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

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

35 (2) Notwithstanding paragraph (1), a total of six hours or less
36 of the required 36 hours of continuing education may be earned
37 by doing either of the following, or a combination thereof:

38 (A) Up to six hours may be earned by taking self-study courses,
39 which may include, but are not limited to, reading journals, viewing
40 video recordings, or listening to audio recordings.

1 (B) Up to four hours may be earned by providing pro bono
2 spaying or neutering services under the supervision of a public
3 animal control agency or shelter, society for the prevention of
4 cruelty to animals shelter, humane society shelter, or rescue group.
5 The services shall be administered at a facility that is appropriately
6 equipped and staffed to provide those services. The service shall
7 be provided to a household with a demonstrated financial need for
8 reduced-cost services.

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

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

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

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

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

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

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

36 (e) The board shall have the right to audit the records of all
37 applicants to verify the completion of the continuing education
38 requirement. Applicants shall maintain records of completion of
39 required continuing education coursework for a period of four
40 years and shall make these records available to the board for

1 auditing purposes upon request. If the board, during this audit,
2 questions whether any course reported by the veterinarian satisfies
3 the continuing education requirement, the veterinarian shall provide
4 information to the board concerning the content of the course; the
5 name of its sponsor and cosponsor, if any; and specify the specific
6 curricula that was of benefit to the veterinarian.

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

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

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

24 (i) The administration of this section may be funded through
25 professional license and continuing education provider fees. The
26 fees related to the administration of this section shall not exceed
27 the costs of administering the corresponding provisions of this
28 section.

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

39 (k) (1) Beginning January 1, 2018, a licensed veterinarian who
40 renews ~~his or her~~ *their* license shall complete a minimum of one

1 credit hour of continuing education on the judicious use of
2 medically important antimicrobial drugs every four years as part
3 of ~~his or her~~ *their* continuing education requirements.

4 (2) For purposes of this subdivision, “medically important
5 antimicrobial drug” means an antimicrobial drug listed in Appendix
6 A of the federal Food and Drug Administration’s Guidance for
7 Industry #152, including critically important, highly important,
8 and important antimicrobial drugs, as that appendix may be
9 amended.

10 SEC. 25. Section 4980.03 of the Business and Professions
11 Code is amended to read:

12 4980.03. (a) “Board,” as used in this chapter, means the Board
13 of Behavioral Sciences.

14 (b) “Associate,” as used in this chapter, means an unlicensed
15 person who has earned a master’s or doctoral degree qualifying
16 the person for licensure and is registered with the board as an
17 associate.

18 (c) “Trainee,” as used in this chapter, means an unlicensed
19 person who is currently enrolled in a master’s or doctoral degree
20 program, as specified in Sections 4980.36 and 4980.37, that is
21 designed to qualify the person for licensure under this chapter, and
22 who has completed no less than 12 semester units or 18 quarter
23 units of coursework in any qualifying degree program.

24 (d) “Applicant for licensure,” as used in this chapter, means an
25 unlicensed person who has completed the required education and
26 required hours of supervised experience for licensure.

27 (e) “Advertise,” as used in this chapter, includes, but is not
28 limited to, any public communication, as defined in subdivision
29 (a) of Section 651, the issuance of any card, sign, or device to any
30 person, or the causing, permitting, or allowing of any sign or
31 marking on, or in, any building or structure, or in any newspaper
32 or magazine or in any directory, or any printed matter whatsoever,
33 with or without any limiting qualification. Signs within religious
34 buildings or notices in church bulletins mailed to a congregation
35 ~~shall not be construed as~~ *are not* advertising within the meaning
36 of this chapter.

37 (f) “Experience,” as used in this chapter, means experience in
38 interpersonal relationships, psychotherapy, marriage and family
39 therapy, direct clinical counseling, and nonclinical practice that

1 satisfies the requirements for licensure as a marriage and family
2 therapist.

3 (g) “Supervisor,” as used in this chapter, means an individual
4 who meets all of the following requirements:

5 (1) Has held an active license for at least two years within the
6 five-year period immediately preceding any supervision as any of
7 the following:

8 (A) A licensed professional clinical counselor, licensed marriage
9 and family therapist, psychologist licensed pursuant to Chapter
10 6.6 (commencing with Section 2900), licensed clinical social
11 worker, licensed educational psychologist, or equivalent
12 out-of-state license. A licensed educational psychologist may only
13 supervise the provision of educationally related mental health
14 services that are consistent with the scope of practice of an
15 educational psychologist, as specified in Section 4989.14.

16 (B) A physician and surgeon who is certified in psychiatry by
17 the American Board of Psychiatry and Neurology or an out-of-state
18 licensed physician and surgeon who is certified in psychiatry by
19 the American Board of Psychiatry and Neurology.

20 (2) For at least two years within the five-year period immediately
21 preceding any supervision, has practiced psychotherapy, provided
22 psychological counseling pursuant to ~~subdivision (b) paragraph~~
23 *(5) of subdivision (a)* of Section 4989.14, or provided direct clinical
24 supervision of psychotherapy performed by marriage and family
25 therapist trainees, associate marriage and family therapists,
26 associate professional clinical counselors, or associate clinical
27 social workers. Supervision of psychotherapy performed by a
28 social work intern or a professional clinical counselor trainee shall
29 be accepted if the supervision provided is substantially equivalent
30 to the supervision required for registrants.

31 (3) Has received training in supervision as specified in this
32 chapter and by regulation.

33 (4) Has not provided therapeutic services to the supervisee.

34 (5) Has and maintains a current and active license that is not
35 under suspension or probation as one of the following:

36 (A) A marriage and family therapist, professional clinical
37 counselor, clinical social worker, or licensed educational
38 psychologist, issued by the board.

39 (B) A psychologist licensed pursuant to Chapter 6.6
40 (commencing with Section 2900).

1 (C) A physician and surgeon who is certified in psychiatry by
2 the American Board of Psychiatry and Neurology.

3 (6) Is not a spouse, domestic partner, or relative of the
4 supervisee.

5 (7) Does not currently have or previously had a personal,
6 professional, or business relationship with the supervisee that
7 undermines the authority or effectiveness of the supervision.

8 (h) “Client centered advocacy,” as used in this chapter, includes,
9 but is not limited to, researching, identifying, and accessing
10 resources, or other activities, related to obtaining or providing
11 services and supports for clients or groups of clients receiving
12 psychotherapy or counseling services.

13 (i) “Accredited,” as used in this chapter, means a school, college,
14 or university accredited by either the Commission on Accreditation
15 for Marriage and Family Therapy Education or a regional or
16 national institutional accrediting agency that is recognized by the
17 United States Department of Education.

18 (j) “Approved,” as used in this chapter, means a school, college,
19 or university that possessed unconditional approval by the Bureau
20 for Private Postsecondary Education at the time of the applicant’s
21 graduation from the school, college, or university.

22 SEC. 26. Section 4996.20 of the Business and Professions
23 Code is amended to read:

24 4996.20. (a) “Supervisor,” as used in this chapter, means an
25 individual who meets all of the following requirements:

26 (1) Has held an active license for at least two years within the
27 five-year period immediately preceding any supervision as either:

28 (A) A licensed professional clinical counselor, licensed marriage
29 and family therapist, psychologist licensed pursuant to Chapter
30 6.6 (commencing with Section 2900), licensed clinical social
31 worker, licensed educational psychologist, or equivalent
32 out-of-state license. A licensed educational psychologist may only
33 supervise the provision of educationally related mental health
34 services that are consistent with the scope of practice of an
35 educational psychologist, as specified in Section 4989.14.

36 (B) A physician and surgeon who is certified in psychiatry by
37 the American Board of Psychiatry and Neurology or an out-of-state
38 licensed physician and surgeon who is certified in psychiatry by
39 the American Board of Psychiatry and Neurology.

1 (2) For at least two years within the five-year period immediately
2 preceding any supervision, has practiced psychotherapy, provided
3 psychological counseling pursuant to ~~subdivision (e)~~ *paragraph*
4 *(5) of subdivision (a)* of Section 4989.14, or provided direct clinical
5 supervision of psychotherapy performed by associate clinical social
6 workers, associate marriage and family therapists or trainees, or
7 associate professional clinical counselors. Supervision of
8 psychotherapy performed by a social work intern or a professional
9 clinical counselor trainee shall be accepted if the supervision
10 provided is substantially equivalent to the supervision required for
11 registrants.

12 (3) Has received training in supervision as specified in this
13 chapter and by regulation.

14 (4) Has not provided therapeutic services to the supervisee.

15 (5) Has and maintains a current and active license that is not
16 under suspension or probation as one of the following:

17 (A) A marriage and family therapist, professional clinical
18 counselor, clinical social worker, or licensed educational
19 psychologist issued by the board.

20 (B) A psychologist licensed pursuant to Chapter 6.6
21 (commencing with Section 2900).

22 (C) A physician and surgeon who is certified in psychiatry by
23 the American Board of Psychiatry and Neurology.

24 (6) Is not a spouse, domestic partner, or relative of the
25 supervisee.

26 (7) Does not currently have or previously had a personal,
27 professional, or business relationship with the supervisee that
28 undermines the authority or effectiveness of the supervision.

29 (b) As used in this chapter, the term “supervision” means
30 responsibility for, and control of, the quality of mental health and
31 related services provided by the supervisee. Consultation or peer
32 discussion shall not be considered supervision and shall not qualify
33 as supervised experience.

34 “Supervision” includes, but is not limited to, all of the following:

35 (1) Ensuring the extent, kind, and quality of counseling
36 performed is consistent with the education, training, and experience
37 of the supervisee.

38 (2) Monitoring and evaluating the supervisee’s assessment,
39 diagnosis, and treatment decisions and providing regular feedback.

1 (3) Monitoring and evaluating the supervisee’s ability to provide
2 services at the site or sites where the supervisee is practicing and
3 to the particular clientele being served.

4 (4) Monitoring and addressing clinical dynamics, including, but
5 not limited to, countertransference-, intrapsychic-, interpersonal-,
6 or trauma-related issues that may affect the supervisory or the
7 practitioner-patient relationship.

8 (5) Ensuring the supervisee’s compliance with laws and
9 regulations governing the practice of clinical social work.

10 (6) Reviewing the supervisee’s progress notes, process notes,
11 and other patient treatment records, as deemed appropriate by the
12 supervisor.

13 (7) With the client’s written consent, providing direct
14 observation or review of audio or video recordings of the
15 supervisee’s counseling or therapy, as deemed appropriate by the
16 supervisor.

17 SEC. 27. Section 4999.12 of the Business and Professions
18 Code is amended to read:

19 4999.12. For purposes of this chapter, the following terms have
20 the following meanings:

21 (a) “Board” means the Board of Behavioral Sciences.

22 (b) “Accredited” means a school, college, or university
23 accredited by a regional or national institutional accrediting agency
24 that is recognized by the United States Department of Education.

25 (c) “Approved” means a school, college, or university that
26 possessed unconditional approval by the Bureau for Private
27 Postsecondary Education at the time of the applicant’s graduation
28 from the school, college, or university.

29 (d) “Applicant for licensure” means an unlicensed person who
30 has completed the required education and required hours of
31 supervised experience for licensure.

32 (e) “Licensed professional clinical counselor” or “LPCC” means
33 a person licensed under this chapter to practice professional clinical
34 counseling, as defined in Section 4999.20.

35 (f) “Associate” means an unlicensed person who meets the
36 requirements of Section 4999.42 and is registered with the board.

37 (g) “Clinical counselor trainee” means an unlicensed person
38 who is currently enrolled in a master’s or doctoral degree program,
39 as specified in Section 4999.32 or 4999.33, that is designed to
40 qualify the person for licensure and who has completed no less

1 than 12 semester units or 18 quarter units of coursework in any
2 qualifying degree program.

3 (h) “Supervisor” means an individual who meets all of the
4 following requirements:

5 (1) Has held an active license for at least two years within the
6 five-year period immediately preceding any supervision as either:

7 (A) A licensed professional clinical counselor, licensed marriage
8 and family therapist, psychologist licensed pursuant to Chapter
9 6.6 (commencing with Section 2900), licensed clinical social
10 worker, licensed educational psychologist, or equivalent
11 out-of-state license. A licensed educational psychologist may only
12 supervise the provision of educationally related mental health
13 services that are consistent with the scope of practice of an
14 educational psychologist, as specified in Section 4989.14.

15 (B) A physician and surgeon who is certified in psychiatry by
16 the American Board of Psychiatry and Neurology, or an out-of-state
17 licensed physician and surgeon who is certified in psychiatry by
18 the American Board of Psychiatry and Neurology.

19 (2) For at least two years within the five-year period immediately
20 preceding any supervision, has practiced psychotherapy, provided
21 psychological counseling pursuant to ~~subdivision (b) paragraph~~
22 *(5) of subdivision (a)* of Section 4989.14, or provided direct clinical
23 supervision of psychotherapy performed by marriage and family
24 therapist trainees, associate marriage and family therapists,
25 associate professional clinical counselors, or associate clinical
26 social workers. Supervision of psychotherapy performed by a
27 social work intern or a professional clinical counselor trainee shall
28 be accepted if the supervision provided is substantially equivalent
29 to the supervision required for registrants.

30 (3) Has received training in supervision as specified in this
31 chapter and by regulation.

32 (4) Has not provided therapeutic services to the supervisee.

33 (5) Has and maintains a current and active license that is not
34 under suspension or probation as one of the following:

35 (A) A marriage and family therapist, professional clinical
36 counselor, clinical social worker, or licensed educational
37 psychologist issued by the board.

38 (B) A psychologist licensed pursuant to Chapter 6.6
39 (commencing with Section 2900).

- 1 (C) A physician and surgeon who is certified in psychiatry by
- 2 the American Board of Psychiatry and Neurology.
- 3 (6) Is not a spouse, domestic partner, or relative of the
- 4 supervisee.
- 5 (7) Does not currently have or previously had a personal,
- 6 professional, or business relationship with the supervisee that
- 7 undermines the authority or effectiveness of the supervision.
- 8 (i) “Client centered advocacy” includes, but is not limited to,
- 9 researching, identifying, and accessing resources, or other activities,
- 10 related to obtaining or providing services and supports for clients
- 11 or groups of clients receiving psychotherapy or counseling services.
- 12 (j) “Advertising” or “advertise” includes, but is not limited to,
- 13 the issuance of any card, sign, or device to any person, or the
- 14 causing, permitting, or allowing of any sign or marking on, or in,
- 15 any building or structure, or in any newspaper or magazine or in
- 16 any directory, or any printed matter whatsoever, with or without
- 17 any limiting qualification. It also includes business solicitations
- 18 communicated by radio or television broadcasting. Signs within
- 19 church buildings or notices in church bulletins mailed to a
- 20 congregation ~~shall not be construed as~~ *are not* advertising within
- 21 the meaning of this chapter.
- 22 (k) “Referral” means evaluating and identifying the needs of a
- 23 client to determine whether it is advisable to refer the client to
- 24 other specialists, informing the client of that judgment, and
- 25 communicating that determination as requested or deemed
- 26 appropriate to referral sources.
- 27 (l) “Research” means a systematic effort to collect, analyze, and
- 28 interpret quantitative and qualitative data that describes how social
- 29 characteristics, behavior, emotion, cognitions, disabilities, mental
- 30 disorders, and interpersonal transactions among individuals and
- 31 organizations interact.
- 32 (m) “Supervision” means responsibility for, and control of, the
- 33 quality of mental health and related services provided by the
- 34 supervisee. Consultation or peer discussion shall not be considered
- 35 supervision and shall not qualify as supervised experience.
- 36 Supervision includes, but is not limited to, all of the following:
- 37 (1) Ensuring the extent, kind, and quality of counseling
- 38 performed is consistent with the education, training, and experience
- 39 of the supervisee.

1 (2) Monitoring and evaluating the supervisee’s assessment,
2 diagnosis, and treatment decisions and providing regular feedback.

3 (3) Monitoring and evaluating the supervisee’s ability to provide
4 services at the site or sites where the supervisee is practicing and
5 to the particular clientele being served.

6 (4) Monitoring and addressing clinical dynamics, including, but
7 not limited to, countertransference-, intrapsychic-, interpersonal-,
8 or trauma-related issues that may affect the supervisory or the
9 practitioner-patient relationship.

10 (5) Ensuring the supervisee’s compliance with laws and
11 regulations governing the practice of licensed professional clinical
12 counseling.

13 (6) Reviewing the supervisee’s progress notes, process notes,
14 and other patient treatment records, as deemed appropriate by the
15 supervisor.

16 (7) With the client’s written consent, providing direct
17 observation or review of audio or video recordings of the
18 supervisee’s counseling or therapy, as deemed appropriate by the
19 supervisor.

20 (n) “Clinical setting” means any setting that meets both of the
21 following requirements:

22 (1) Lawfully and regularly provides mental health counseling
23 or psychotherapy.

24 (2) Provides oversight to ensure that the associate’s work meets
25 the experience and supervision requirements set forth in this
26 chapter and in regulation and is within the scope of practice of the
27 profession.

28 SEC. 28. Section 7841.2 of the Business and Professions Code
29 is amended to read:

30 7841.2. (a) An applicant for certification as a
31 geologist-in-training shall comply with all of the following:

32 (a)

33 (1) Not have committed acts or crimes constituting grounds for
34 denial of certification under Section 480.

35 (b)

36 (2) Successfully pass the Fundamentals of Geology examination.

37 (c)

38 (3) Meet either of the following education requirements fulfilled
39 at a school or university whose curricula meet criteria established
40 by the rules of the board:

1 ~~(1)~~

2 (A) Graduation from a college or university with a major in
3 geological sciences or any other discipline that, in the opinion of
4 the board, is relevant to geology.

5 ~~(2)~~

6 (B) Completion of a combination of at least 30 semester hours,
7 or the equivalent, in courses that, in the opinion of the board, are
8 relevant to geology. At least 24 semester hours, or the equivalent,
9 shall be in upper division or graduate courses.

10 **(b) (1)** *The board shall require an applicant for certification*
11 *as a geologist-in-training to sign or acknowledge a statement of*
12 *eligibility at the time of submission of the application attesting to*
13 *the completion of the education requirements established by this*
14 *section and the rules of the board.*

15 **(2)** *Except as required by paragraph (1), the board is not*
16 *required to verify an applicant's eligibility for certification as a*
17 *geologist-in-training.*

18 SEC. 29. Section 10083.2 of the Business and Professions
19 Code is amended to read:

20 10083.2. (a) (1) The commissioner shall provide information
21 on the internet regarding the status of every license issued by the
22 department in accordance with the California Public Records Act
23 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
24 Title 1 of the Government Code) and the Information Practices
25 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title
26 1.8 of Part 4 of Division 3 of the Civil Code).

27 (2) The public information to be provided on the internet shall
28 include information on suspensions and revocations of licenses
29 issued by the department and accusations filed pursuant to the
30 Administrative Procedure Act (Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code) relative to persons or businesses subject to licensure or
33 regulation by the department.

34 (3) The public information shall not include personal
35 information, including home telephone number, date of birth, or
36 social security number. The commissioner shall disclose a
37 licensee's address of record. However, the commissioner shall
38 allow a licensee to provide a post office box number or other
39 alternate address, instead of the licensee's home address, as the
40 address of record. This section shall not preclude the commissioner

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

7 (4) The public information shall also include whether a licensee
8 is an associate licensee within the meaning of subdivision (a) of
9 Section 2079.13 of the Civil Code and, if the associate licensee is
10 a broker, identify each responsible broker with whom the licensee
11 is contractually associated as described in Section 10032 of this
12 code or Section 2079.13 of the Civil Code.

13 (b) For purposes of this section, "internet" has the meaning set
14 forth in paragraph (6) of subdivision (f) of Section 17538.

15 (c) Upon petition by a licensee accompanied by a fee sufficient
16 to defray costs associated with consideration of a petition, ~~as~~
17 ~~described in Section 10223~~, the commissioner may remove from
18 the posting of discipline described in subdivision (a) an item that
19 has been posted on the department's internet website for no less
20 than 10 years and for which the licensee provides evidence of
21 rehabilitation indicating that the notice is no longer required in
22 order to prevent a credible risk to members of the public utilizing
23 licensed activity of the licensee. In evaluating a petition, the
24 commissioner shall take into consideration other violations that
25 present a credible risk to the members of the public since the
26 posting of discipline requested for removal.

27 (d) The department may develop, through regulations, the
28 amount of the fee and the minimum information to be included in
29 a licensee's petition, including, but not limited to, a written
30 justification and evidence of rehabilitation pursuant to Section
31 482.

32 (e) "Posted" for purposes of this section is defined as the date
33 of disciplinary action taken by the department.

34 (f) The department shall maintain a list of all licensees whose
35 disciplinary records are altered as a result of a petition approved
36 under subdivision (c). The department shall make the list accessible
37 to other licensing bodies. The department shall update and provide
38 the list to other licensing bodies as often as it modifies the records
39 displayed on its internet website in response to petitions approved
40 under subdivision (c).

1 SEC. 30. Section 10140.6 of the Business and Professions
2 Code is amended to read:

3 10140.6. (a) A real estate licensee shall not publish, circulate,
4 distribute, or cause to be published, circulated, or distributed in
5 any newspaper or periodical, or by mail, any matter pertaining to
6 any activity for which a real estate license is required that does
7 not contain a designation disclosing that the licensee is performing
8 acts for which a real estate license is required.

9 (b) (1) A real estate licensee shall disclose their name, license
10 identification number and unique identifier assigned to that licensee
11 by the Nationwide ~~Mortgage~~ *Multistate* Licensing System and
12 Registry, if that licensee is a mortgage loan originator, and
13 responsible broker’s identity, as defined in Section 10015.4, on
14 all solicitation materials intended to be the first point of contact
15 with consumers and on real property purchase agreements when
16 acting in a manner that requires a real estate license or mortgage
17 loan originator license endorsement in those transactions. The
18 commissioner may adopt regulations identifying the materials in
19 which a licensee must disclose a license identification number and
20 unique identifier assigned to that licensee by the Nationwide
21 ~~Mortgage~~ *Multistate* Licensing System and Registry, and
22 responsible broker’s identity.

23 (2) A real estate licensee who is a natural person and who legally
24 changes the surname in which their license was originally issued
25 may continue to utilize their former surname for the purpose of
26 conducting business associated with their license so long as both
27 names are filed with the department. Use of a former surname shall
28 not constitute a fictitious name for the purposes of Section 10159.5.

29 (3) For purposes of this section, “solicitation materials” include
30 business cards, stationery, advertising flyers, advertisements on
31 television, in print, or electronic media, “for sale,” rent, lease,
32 “open house,” and directional signs, and other materials designed
33 to solicit the creation of a professional relationship between the
34 licensee and a consumer.

35 (4) ~~Nothing in this section shall be construed to~~ *This section*
36 *does not* limit or change the requirement described in Section
37 10236.4 as applicable to real estate brokers.

38 (c) This section shall not apply to “for sale,” rent, lease, “open
39 house,” and directional signs that do either of the following:

1 (1) Display the responsible broker’s identity, as defined in
2 Section 10015.4, without reference to an associate broker or
3 licensee.

4 (2) Display no licensee identification information.

5 (d) “Mortgage loan originator,” “unique identifier,” and
6 “Nationwide Mortgage ~~Multistate~~ Licensing System and Registry”
7 have the meanings set forth in Section 10166.01.

8 SEC. 31. Section 10151 of the Business and Professions Code,
9 as amended by Section 6.1 of Chapter 431 of the Statutes of 2021,
10 is amended to read:

11 10151. (a) Application for the real estate salesperson license
12 examination shall be made in writing to the commissioner. The
13 commissioner may prescribe the format and content of the
14 salesperson examination application. The application for the
15 salesperson examination shall include valid contact information
16 at which the department may contact the applicant and shall be
17 accompanied by the real estate salesperson license examination
18 fee.

19 (b) Persons who have been notified by the commissioner that
20 they passed the real estate salesperson license examination may
21 apply for a real estate salesperson license. A person applying for
22 the salesperson examination may also apply for a real estate
23 salesperson license. However, a license shall not be issued until
24 the applicant passes the real estate salesperson license examination.
25 If there is any change to the information contained in a real estate
26 salesperson license application after the application has been
27 submitted and before the license has been issued, the commissioner
28 may require the applicant to submit a supplement to the application
29 listing the changed information.

30 (c) (1) The commissioner may prescribe the format and content
31 of the real estate salesperson license application. The application
32 for the real estate salesperson license shall include valid contact
33 information at which the department may contact the applicant.

34 (2) An application for the real estate salesperson license
35 examination or for both the examination and license that is received
36 by the commissioner on or after October 1, 2007, shall include
37 evidence or certification, satisfactory to the commissioner, of
38 successful completion at an accredited institution of a
39 three-semester unit course, or the quarter equivalent thereof, or
40 successful completion of an equivalent course of study as defined

1 in Section 10153.5 in real estate principles as well as the successful
2 completion at an accredited institution of a course in real estate
3 practice *as set forth in Section 10153.2*, and one additional course
4 *as set forth in Section 10153.2*, other than real estate principles,
5 real estate practice, advanced legal aspects of real estate, advanced
6 real estate finance, or advanced real estate appraisal. The applicant
7 shall provide this evidence or certification to the commissioner
8 prior to taking the real estate salesperson license examination.

9 (d) The commissioner shall waive the requirements of this
10 section for the following applicants:

11 (1) An applicant who is a member of the State Bar of California.
12 (2) An applicant who has qualified to take the examination for
13 an original real estate broker license by satisfying the requirements
14 of Section 10153.2.

15 (e) Application for endorsement to act as a mortgage loan
16 originator, as defined in Section 10166.01, shall be made either
17 electronically or in writing as directed by the commissioner. The
18 commissioner may prescribe the format and the content of the
19 mortgage loan originator endorsement application, which shall
20 meet the minimum requirements for licensing of a mortgage loan
21 originator, pursuant to the Secure and Fair Enforcement for
22 Mortgage Licensing Act of 2008 (Public Law 110-289).

23 ~~(f) This section shall remain in effect only until January 1, 2023,~~
24 ~~and as of that date is repealed.~~

25 SEC. 32. Section 10151 of the Business and Professions Code,
26 as added by Section 6.2 of Chapter 431 of the Statutes of 2021, is
27 repealed.

28 ~~10151. (a) Application for the real estate salesperson license~~
29 ~~examination shall be made in writing to the commissioner. The~~
30 ~~commissioner may prescribe the format and content of the~~
31 ~~salesperson examination application. The application for the~~
32 ~~salesperson examination shall include valid contact information~~
33 ~~at which the department may contact the applicant and shall be~~
34 ~~accompanied by the real estate salesperson license examination~~
35 ~~fee.~~

36 ~~(b) Persons who have been notified by the commissioner that~~
37 ~~they passed the real estate salesperson license examination may~~
38 ~~apply for a real estate salesperson license. A person applying for~~
39 ~~the salesperson examination may also apply for a real estate~~
40 ~~salesperson license. However, a license shall not be issued until~~

1 the applicant passes the real estate salesperson license examination.
2 If there is any change to the information contained in a real estate
3 salesperson license application after the application has been
4 submitted and before the license has been issued, the commissioner
5 may require the applicant to submit a supplement to the application
6 listing the changed information.

7 (e) (1) The commissioner may prescribe the format and content
8 of the real estate salesperson license application. The application
9 for the real estate salesperson license shall include valid contact
10 information at which the department may contact the applicant.

11 (2) An application for the real estate salesperson license
12 examination or for both the examination and license that is received
13 by the commissioner on or after October 1, 2007, shall include
14 evidence or certification, satisfactory to the commissioner, of
15 successful completion at an accredited institution of a
16 three-semester unit course, or the quarter equivalent thereof, or
17 successful completion of an equivalent course of study as defined
18 in Section 10153.5 in real estate principles as well as the successful
19 completion at an accredited institution of a course in real estate
20 practice, a course in fair housing set forth in Section 10153.2, and
21 one additional course set forth in Section 10153.2, other than real
22 estate principles, real estate practice, advanced legal aspects of
23 real estate, advanced real estate finance, or advanced real estate
24 appraisal. The applicant shall provide this evidence or certification
25 to the commissioner prior to taking the real estate salesperson
26 license examination.

27 (d) The commissioner shall waive the requirements of this
28 section for the following applicants:

29 (1) An applicant who is a member of the State Bar of California.

30 (2) An applicant who has qualified to take the examination for
31 an original real estate broker license by satisfying the requirements
32 of Section 10153.2.

33 (e) Application for endorsement to act as a mortgage loan
34 originator, as defined in Section 10166.01, shall be made either
35 electronically or in writing as directed by the commissioner. The
36 commissioner may prescribe the format and the content of the
37 mortgage loan originator endorsement application, which shall
38 meet the minimum requirements for licensing of a mortgage loan
39 originator, pursuant to the Secure and Fair Enforcement for
40 Mortgage Licensing Act of 2008 (Public Law 110-289).

1 ~~(f) This section shall become operative on January 1, 2023.~~

2 SEC. 33. Section 10153.2 of the Business and Professions
3 Code, as amended by Section 3 of Chapter 361 of the Statutes of
4 2021, is amended to read:

5 10153.2. (a) An applicant to take the examination for an
6 original real estate broker license shall also submit evidence,
7 satisfactory to the commissioner, of successful completion, at an
8 accredited institution, of:

9 (1) A three-unit semester course, or the quarter equivalent
10 thereof, in each of the following:

- 11 (A) Real estate practice.
- 12 (B) Legal aspects of real estate.
- 13 (C) Real estate appraisal.
- 14 (D) Real estate financing.
- 15 (E) Real estate economics or accounting.

16 (2) A three-unit semester course, or the quarter equivalent
17 thereof, in three of the following:

- 18 (A) Advanced legal aspects of real estate.
- 19 (B) Advanced real estate finance.
- 20 (C) Advanced real estate appraisal.
- 21 (D) Business law.
- 22 (E) Escrows.
- 23 (F) Real estate principles.
- 24 (G) Property management.
- 25 (H) Real estate office administration.
- 26 (I) Mortgage loan brokering and lending.
- 27 (J) Computer applications in real estate.

28 (K) On and after July 1, 2004, California law that relates to
29 common interest developments, including, but not limited to, topics
30 addressed in the Davis-Stirling Common Interest Development
31 Act (Part 5 (commencing with Section 4000) of Division 4 of the
32 Civil Code) and in the Commercial and Industrial Common Interest
33 Development Act (Part 5.3 (commencing with Section 6500) of
34 Division 4 of the Civil Code).

35 (b) The commissioner shall waive the requirements of this
36 section for an applicant who is a member of the State Bar of
37 California and shall waive the requirements for which an applicant
38 has successfully completed an equivalent course of study as
39 determined under Section 10153.5.

1 (c) The commissioner shall extend credit under this section for
2 any course completed to satisfy requirements of Section 10153.3
3 or 10153.4.

4 (d) This section shall remain in effect only until January 1, 2023,
5 2024, and as of that date is repealed.

6 SEC. 34. Section 10153.2 of the Business and Professions
7 Code, as added by Section 4 of Chapter 361 of the Statutes of
8 2021, is amended to read:

9 10153.2. (a) An applicant to take the examination for an
10 original real estate broker license shall also submit evidence,
11 satisfactory to the commissioner, of successful completion, at an
12 accredited institution, of:

13 (1) A three-unit semester course, or the quarter equivalent
14 thereof, in each of the following:

15 (A) Real estate practice, which shall include *a both of the*
16 *following*:

17 (i) A component on implicit bias, including education regarding
18 the impact of implicit bias, explicit bias, and systemic bias on
19 consumers, the historical and social impacts of those biases, and
20 actionable steps students can take to recognize and address their
21 own implicit biases.

22 (ii) *A component on federal and state fair housing laws as those*
23 *laws apply to the practice of real estate. The fair housing*
24 *component shall include an interactive participatory component,*
25 *during which the applicant shall roleplay as both a consumer and*
26 *real estate professional.*

27 (B) ~~Legal aspects of real estate, which shall include a component~~
28 ~~on state and federal fair housing laws as they apply to the practice~~
29 ~~of real estate. The fair housing component shall include an~~
30 ~~interactive participatory component, during which the applicant~~
31 ~~shall roleplay as both a consumer and real estate professional.~~
32 ~~estate.~~

33 (C) Real estate appraisal.

34 (D) Real estate financing.

35 (E) Real estate economics or accounting.

36 (2) A three-unit semester course, or the quarter equivalent
37 thereof, in three of the following:

38 (A) Advanced legal aspects of real estate.

39 (B) Advanced real estate finance.

40 (C) Advanced real estate appraisal.

- 1 (D) Business law.
- 2 (E) Escrows.
- 3 (F) Real estate principles.
- 4 (G) Property management.
- 5 (H) Real estate office administration.
- 6 (I) Mortgage loan brokering and lending.
- 7 (J) Computer applications in real estate.
- 8 (K) On and after July 1, 2004, California law that relates to
- 9 common interest developments, including, but not limited to, topics
- 10 addressed in the Davis-Stirling Common Interest Development
- 11 Act (Part 5 (commencing with Section 4000) of Division 4 of the
- 12 Civil Code) and in the Commercial and Industrial Common Interest
- 13 Development Act (Part 5.3 (commencing with Section 6500) of
- 14 Division 4 of the Civil Code).

15 (b) The commissioner shall waive the requirements of this
16 section for an applicant who is a member of the State Bar of
17 California and shall waive the requirements for which an applicant
18 has successfully completed an equivalent course of study as
19 determined under Section 10153.5.

20 (c) The commissioner shall extend credit under this section for
21 any course completed to satisfy requirements of Section 10153.3
22 or 10153.4.

23 (d) This section shall become operative on January 1, ~~2023~~.
24 2024.

25 SEC. 35. Section 10159.5 of the Business and Professions
26 Code is amended to read:

27 10159.5. (a) (1) Every person applying for a license under
28 this chapter who desires to have the license issued under a fictitious
29 business name shall file with the application a certified copy of
30 their fictitious business name statement filed with the county clerk
31 pursuant to Chapter 5 (commencing with Section 17900) of Part
32 3 of Division 7.

33 (2) A responsible broker may, by contract, permit a salesperson
34 to do all of the following:

35 (A) File an application on behalf of a responsible broker with
36 a county clerk to obtain a fictitious business name.

37 (B) Deliver to the department an application, signed by the
38 responsible broker, requesting the department's approval to use a
39 county approved fictitious business name that shall be identified
40 with the responsible broker's license number.

1 (C) Pay for any fees associated with filing an application with
2 a county or the department to obtain or use a fictitious business
3 name.

4 (D) Maintain ownership of a fictitious business name, as defined
5 in paragraph ~~(2)~~ (1) of subdivision (a) of Section 10159.7, that
6 may be used subject to the control of the responsible broker.

7 (b) (1) A salesperson using a fictitious business name authorized
8 by subdivision (a), shall use that name only as permitted by the
9 responsible broker.

10 (2) This section does not change a real estate broker's duties
11 under this division to supervise a salesperson.

12 (c) A person applying to a county for a fictitious business name
13 pursuant to subdivision (a) may file the application in the county
14 or counties where the fictitious business name will be used.

15 (d) Advertising and solicitation materials, including business
16 cards, print or electronic media and "for sale" signage, using a
17 fictitious business name obtained in accordance with paragraph
18 (2) of subdivision (a) shall include the responsible broker's identity,
19 as defined in ~~paragraph (1) of subdivision (a) of Section 10159.7;~~
20 *Section 10015.4*, in a manner equally as prominent as the fictitious
21 business name.

22 (e) Notwithstanding subdivision (b) of Section 10140.6,
23 advertising and solicitation materials, including print or electronic
24 media and "for sale" signage, containing a fictitious business name
25 obtained in accordance with paragraph (2) of subdivision (a) shall
26 include the name and license number of the salesperson who is
27 using the fictitious business name.

28 (f) Notwithstanding Section 10185, a violation of this section
29 is not a misdemeanor.

30 SEC. 36. Section 10165 of the Business and Professions Code
31 is amended to read:

32 10165. For a violation of ~~any of the provisions of Section~~
33 ~~10160~~, *Section 10161.8*, 10162, 10163, or subdivision (b) of
34 Section 10164, the commissioner may temporarily suspend or
35 permanently revoke the license of the real estate licensee in
36 accordance with ~~the provisions of this part relating to hearings.~~

37 SEC. 37. Section 10166.01 of the Business and Professions
38 Code is amended to read:

39 10166.01. For purposes of this article, the following definitions
40 shall apply:

1 (a) “SAFE Act” means the federal Secure and Fair Enforcement
2 for Mortgage Licensing Act of 2008 (Public Law 110-289).

3 (b) (1) “Mortgage loan originator” means an individual who
4 takes a residential mortgage loan application or offers or negotiates
5 terms of a residential mortgage loan for compensation or gain.

6 (2) Mortgage loan originator does not include any of the
7 following:

8 (A) An individual who performs purely administrative or clerical
9 tasks on behalf of a person meeting the definition of a mortgage
10 loan originator, except as otherwise provided in subdivision (c) of
11 Section 10166.03. The term “administrative or clerical tasks”
12 means the receipt, collection, and distribution of information
13 common for the processing or underwriting of a loan in the
14 mortgage industry and communication with a consumer to obtain
15 information necessary for the processing or underwriting of a
16 residential mortgage loan.

17 (B) An individual that only performs real estate brokerage
18 services, as defined in subdivision (a) or (b) of Section 10131,
19 unless that person is compensated by a lender, other mortgage loan
20 originator, or by any agent of any lender or other mortgage loan
21 originator.

22 (C) An individual who solely renegotiates terms for existing
23 mortgage loans held or serviced by ~~his or her~~ *their* employer and
24 who does not otherwise act as a mortgage loan originator, unless
25 the United States Department of Housing and Urban Development
26 or a court of competent jurisdiction determines that the SAFE Act
27 requires such an employee to be licensed as a mortgage loan
28 originator under state laws implementing the SAFE Act.

29 (D) An individual that is solely involved in extensions of credit
30 relating to timeshare plans, as that term is defined in Section
31 101(53D) of Title 11 of the United States Code.

32 (E) An individual licensed or registered as a mortgage loan
33 originator pursuant to ~~the provisions of~~ the Financial Code and the
34 SAFE Act.

35 (c) “~~Nationwide Mortgage~~ *Multistate* Licensing System and
36 Registry” means a mortgage licensing system developed and
37 maintained by the Conference of State Bank Supervisors and the
38 American Association of Residential Mortgage Regulators for the
39 licensing and registration of mortgage loan originators.

1 (d) “Residential mortgage loan” means any loan primarily for
2 personal, family, or household use that is secured by a mortgage,
3 deed of trust, or other equivalent consensual security interest on
4 a dwelling, or residential real estate upon which is constructed or
5 intended to be constructed a dwelling. “Dwelling” means a
6 residential structure that contains one to four units, whether or not
7 that structure is attached to real property. The term includes an
8 individual condominium unit, cooperative unit, mobilehome, or
9 trailer, if it is used as a residence.

10 (e) “Unique identifier” means a number or other identifier
11 assigned by protocols established by the Nationwide Mortgage
12 *Multistate* Licensing System and Registry.

13 (f) “Loan processor or underwriter” means an individual who
14 performs clerical or support duties as an employee at the direction
15 of, and subject to the supervision and instruction of, a mortgage
16 loan originator.

17 SEC. 38. Section 10166.02 of the Business and Professions
18 Code is amended to read:

19 10166.02. (a) A real estate broker who acts pursuant to Section
20 10131.1 or subdivision (d) or (e) of Section 10131, and who makes,
21 arranges, or services loans secured by real property containing one
22 to four residential units, and any salesperson who acts in a similar
23 capacity under the supervision of that broker, shall notify the
24 department by January 31, 2010, or within 30 days of commencing
25 that activity, whichever is later. The notification shall be made in
26 writing, as directed, on a form that is acceptable to the
27 commissioner.

28 (b) No individual may engage in business as a mortgage loan
29 originator under this article without first doing both of the
30 following:

31 (1) Obtaining and maintaining a real estate license pursuant to
32 Article 2 (commencing with Section 10150).

33 (2) Obtaining and maintaining a real estate license endorsement
34 pursuant to this article identifying that individual as a licensed
35 mortgage loan originator.

36 (c) License endorsements shall be valid for a period of one year
37 and shall expire on ~~the 31st of December 31~~ each year.

38 (d) Applicants for a mortgage loan originator license
39 endorsement shall apply in a form prescribed by the commissioner.

1 Each form shall contain content as set forth by rule, regulation,
2 instruction, or procedure of the commissioner.

3 (e) In order to fulfill the purposes of this article, the
4 commissioner may establish relationships or contracts with the
5 ~~Nationwide Mortgage~~ *Multistate* Licensing System and Registry
6 or other entities designated by the ~~Nationwide Mortgage~~ *Multistate*
7 Licensing System and Registry to collect and maintain records
8 and process transaction fees or other fees related to licensees or
9 other persons subject to this article.

10 (f) A real estate broker or salesperson who fails to notify the
11 department pursuant to subdivision (a), or who fails to obtain a
12 license endorsement required pursuant to paragraph (2) of
13 subdivision (b), shall be assessed a penalty of fifty dollars (\$50)
14 per day for each day written notification has not been received or
15 a license endorsement has not been obtained, up to and including
16 the 30th day after the first day of the assessment penalty. On and
17 after the 31st day, the penalty is one hundred dollars (\$100) per
18 day, not to exceed a total penalty of ten thousand dollars (\$10,000),
19 regardless of the number of days, until the department receives
20 the written notification or the licensee obtains the license
21 endorsement. Penalties for violations of subdivisions (a) and (b)
22 shall be additive.

23 (g) The commissioner may suspend or revoke the license of a
24 real estate broker or salesperson who fails to pay a penalty imposed
25 pursuant to this section. In addition, the commissioner may bring
26 an action in an appropriate court of this state to collect payment
27 of that penalty.

28 (h) All penalties paid or collected under this section shall be
29 deposited into the Consumer Recovery Account of the Real Estate
30 Fund and shall, upon appropriation by the Legislature, be available
31 for expenditure for the purposes specified in Chapter 6.5
32 (commencing with Section 10470).

33 SEC. 39. Section 10166.03 of the Business and Professions
34 Code is amended to read:

35 10166.03. (a) A loan processor or underwriter who does not
36 represent to the public, through advertising or other means of
37 communicating or providing information, including the use of
38 business cards, stationery, brochures, signs, rate lists, or other
39 promotional items, that the individual can or will perform any of

1 the activities of a mortgage loan originator shall not be required
2 to obtain a license endorsement as a mortgage loan originator.

3 (b) An individual engaging solely in loan processor or
4 underwriter activities shall not represent to the public, through
5 advertising or other means of communicating or providing
6 information including the use of business cards, stationery,
7 brochures, signs, rate lists, or other promotional items, that the
8 individual can or will perform any of the activities of a mortgage
9 loan originator.

10 (c) An independent contractor who is employed by a mortgage
11 loan originator may not engage in the activities of a loan processor
12 or underwriter for a residential mortgage loan unless the
13 independent contractor loan processor or underwriter obtains and
14 maintains an endorsement as a mortgage loan originator under this
15 article. Each independent contractor loan processor or underwriter
16 who obtains and maintains an endorsement as a mortgage loan
17 originator under this article shall have and maintain a valid unique
18 identifier issued by the Nationwide ~~Mortgage~~ *Multistate* Licensing
19 System and Registry.

20 SEC. 40. Section 10166.04 of the Business and Professions
21 Code is amended to read:

22 10166.04. (a) In connection with an application to the
23 commissioner for a license endorsement as a mortgage loan
24 originator, every applicant shall furnish to the Nationwide
25 ~~Mortgage~~ *Multistate* Licensing System and Registry information
26 concerning the applicant's identity, including the following:

27 (1) Fingerprint images and related information, for purposes of
28 performing a federal, or both a state and federal, criminal history
29 background check.

30 (2) Personal history and experience in a form prescribed by the
31 Nationwide ~~Mortgage~~ *Multistate* Licensing System and Registry,
32 including the submission of authorization for the Nationwide
33 ~~Mortgage~~ *Multistate* Licensing System and Registry and the
34 commissioner to obtain both of the following:

35 (A) An independent credit report from a consumer reporting
36 agency.

37 (B) Information related to any administrative, civil, or criminal
38 findings by any governmental jurisdiction.

39 (b) The commissioner may ask the Nationwide ~~Mortgage~~
40 *Multistate* Licensing System and Registry to obtain state criminal

1 history background check information on applicants described in
2 subdivision (a) using the procedures set forth in subdivisions (c)
3 and (d).

4 (c) If the Nationwide ~~Mortgage~~ *Multistate* Licensing System
5 and Registry electronically submits fingerprint images and related
6 information, as required by the Department of Justice, for an
7 applicant for a mortgage loan originator license endorsement, to
8 the Department of Justice for the purposes of obtaining information
9 as to the existence and content of a record of state convictions and
10 state arrests, and as to the existence and content of a record of state
11 arrests for which the Department of Justice establishes that the
12 person is free on bail or on ~~his or her~~ *their* recognizance pending
13 trial or appeal, the Department of Justice shall provide an electronic
14 response to the Nationwide ~~Mortgage~~ *Multistate* Licensing System
15 and Registry pursuant to paragraph (1) of subdivision (p) of Section
16 11105 of the Penal Code, and shall provide the same electronic
17 response to the department.

18 (d) The Nationwide ~~Mortgage~~ *Multistate* Licensing System and
19 Registry may request from the Department of Justice subsequent
20 arrest notification service, as provided pursuant to Section 11105.2
21 of the Penal Code, for persons described in subdivision (a). The
22 Department of Justice shall provide the same electronic response
23 to the department.

24 (e) The Department of Justice shall charge a fee sufficient to
25 cover the cost of processing the requests described in this section.

26 SEC. 41. Section 10166.06 of the Business and Professions
27 Code is amended to read:

28 10166.06. (a) In addition to the requirements of Section 10153,
29 an applicant for a license endorsement as a mortgage loan
30 originator shall complete at least 20 hours of education courses,
31 which shall include at least the following:

32 (1) Three hours of federal law and regulations.

33 (2) Three hours of ethics, which shall include instruction on
34 fraud, consumer protection, and fair lending issues.

35 (3) Two hours of training related to lending standards for the
36 nontraditional mortgage product marketplace.

37 (b) For purposes of this section, education courses are only
38 acceptable if they have been reviewed and approved, or otherwise
39 deemed acceptable, by the Nationwide ~~Mortgage~~ *Multistate*
40 Licensing System and Registry, in accordance with the SAFE Act.

1 Education may be offered in a classroom, online, or by any other
2 means approved by the Nationwide ~~Mortgage~~ *Multistate* Licensing
3 System and Registry, in accordance with the SAFE Act.

4 (c) A person who successfully completes the education
5 requirements approved by the Nationwide ~~Mortgage~~ *Multistate*
6 Licensing System and Registry in any state other than California
7 shall be granted credit by the commissioner toward completion of
8 the education requirements of this section.

9 (d) Before being issued a license endorsement to act as a
10 mortgage loan originator, an individual shall pass a qualified
11 written test developed or otherwise deemed acceptable by the
12 Nationwide ~~Mortgage~~ *Multistate* Licensing System and Registry
13 and administered by a test provider approved or otherwise deemed
14 acceptable by the Nationwide ~~Mortgage~~ *Multistate* Licensing
15 System and Registry.

16 (e) A written test shall not be treated as a qualified written test
17 for purposes of this section, unless the test adequately measures
18 the applicant's knowledge and comprehension in the following
19 subject areas: ethics, federal law and regulation pertaining to
20 mortgage origination, state law and regulation pertaining to
21 mortgage origination, and federal and state law and regulation
22 relating to fraud, consumer protection, the nontraditional mortgage
23 marketplace, and fair lending issues.

24 (f) ~~Nothing in this section shall prohibit~~ *This section does not*
25 *prohibit* a test provider approved by the Nationwide ~~Mortgage~~
26 *Multistate* Licensing System and Registry from providing a test
27 at the location of the employer of the applicant or any subsidiary
28 or affiliate of the employer of the applicant, or any entity with
29 which the applicant holds an exclusive arrangement to conduct
30 the business of a mortgage loan originator.

31 (g) An individual shall not be considered to have passed a
32 qualified written test administered pursuant to this section unless
33 the individual achieves a test score of not less than 75 percent
34 correct answers to questions.

35 (h) An individual who fails the qualified written test may retake
36 the test, although at least 30 days must pass between each retesting,
37 except as provided in subdivision (i).

38 (i) An applicant who fails three consecutive tests shall wait at
39 least six months before retesting.

1 (j) A mortgage loan originator who fails to maintain a valid
2 license endorsement for a period of five years or longer or who
3 fails to register as a mortgage loan originator shall retake the
4 qualified written test.

5 SEC. 42. Section 10166.07 of the Business and Professions
6 Code is amended to read:

7 10166.07. (a) A real estate broker who acts pursuant to Section
8 10131.1 or subdivision (d) or (e) of Section 10131, and who makes,
9 arranges, or services one or more loans in a calendar year that are
10 secured by real property containing one to four residential units,
11 shall annually file a business activities report, within 90 days after
12 the end of the broker's fiscal year or within any additional time as
13 the commissioner may allow for filing for good cause. The report
14 shall contain within its scope all of the following information for
15 the fiscal year, relative to the business activities of the broker and
16 those of any other brokers and real estate salespersons acting under
17 that broker's supervision:

18 (1) Name and license number of the supervising broker and
19 names and license numbers of the real estate brokers and
20 salespersons under that broker's supervision. The report shall
21 include brokers and salespersons who were under the supervising
22 broker's supervision for all or part of the year.

23 (2) A list of the real estate-related activities in which the
24 supervising broker and the brokers and salespersons under the
25 supervising broker's supervision engaged during the prior year.
26 This listing shall identify all of the following:

27 (A) Activities relating to mortgages, including arranging,
28 making, or servicing.

29 (B) Other activities performed under the real estate broker's or
30 salesperson's license.

31 (C) Activities performed under related licenses, including, but
32 not limited to, a license to engage as a finance lender or a finance
33 broker under the California Financing Law (Division 9
34 commencing with Section 22000) of the Financial Code), or a
35 license to engage as a residential mortgage lender or residential
36 mortgage loan servicer under the California Residential Mortgage
37 Lending Act (Division 20 (commencing with Section 50000) of
38 the Financial Code).

1 (3) A list of the forms of media used by the broker and those
2 under the broker’s supervision to advertise to the public, including
3 print, radio, television, the internet, or other means.

4 (4) For fixed rate loans made, brokered, or serviced, all of the
5 following:

6 (A) The total number, aggregate principal amount, lowest
7 interest rate, highest interest rate, and a list of the institutional
8 lenders of record. If the loan was funded by any lender other than
9 an institutional lender, the broker shall categorize the loan as
10 privately funded.

11 (B) The total number and aggregate principal amount of covered
12 loans, as defined in Section 4970 of the Financial Code.

13 (C) The total number and aggregate principal amount of loans
14 for which Department of Real Estate form RE Form 885 or an
15 equivalent is required.

16 (5) For adjustable rate loans made, brokered, or serviced, all of
17 the following:

18 (A) The total number, aggregate principal amount, lowest
19 beginning interest rate, highest beginning interest rate, highest
20 margin, and a list of the institutional lenders of record. If the loan
21 was funded by any lender other than an institutional lender, the
22 broker shall categorize the loan as privately funded.

23 (B) The total number and aggregate principal amount of covered
24 loans, as defined in Section 4970 of the Financial Code.

25 (C) The total number and aggregate principal amount of loans
26 for which Department of Real Estate form RE Form 885 or an
27 equivalent is required.

28 (6) For all loans made, brokered, or serviced, the total number
29 and aggregate principal amount of loans funded by institutional
30 lenders, and the total number and aggregate principal amount of
31 loans funded by private lenders.

32 (7) For all loans made, brokered, or serviced, the total number
33 and aggregate principal amount of loans that included a prepayment
34 penalty, the minimum prepayment penalty length, the maximum
35 prepayment penalty length, and the number of loans with
36 prepayment penalties whose length exceeded the length of time
37 before the borrower’s loan payment amount could increase.

38 (8) For all loans brokered, the total compensation received by
39 the broker, including yield spread premiums, commissions, and

1 rebates, but excluding compensation used to pay fees for third-party
2 services on behalf of the borrower.

3 (9) For all mortgage loans made or brokered, the total number
4 of loans for which a mortgage loan disclosure statement was
5 provided in a language other than English, and the number of forms
6 provided per language other than English.

7 (10) For all mortgage loans serviced, the total amount of funds
8 advanced to be applied toward a payment to protect the security
9 of the note being serviced.

10 (11) For purposes of this section, an institutional lender has the
11 meaning specified in paragraph (1) of subdivision (c) of Section
12 10232.

13 (b) A broker subject to this section and Section 10232.2 may
14 file consolidated reports that include all of the information required
15 under this section and Section 10232.2. Those consolidated reports
16 shall clearly indicate that they are intended to satisfy the
17 requirements of both sections.

18 (c) If a broker subject to this section fails to timely file the report
19 required under this section, the commissioner may cause an
20 examination and report to be made and may charge the broker one
21 and one-half times the cost of making the examination and report.
22 In determining the hourly cost incurred by the commissioner for
23 conducting an examination and preparing the report, the
24 commissioner may use the estimated average hourly cost for all
25 department audit staff performing audits of real estate brokers. If
26 a broker fails to pay the commissioner’s cost within 60 days of the
27 mailing of a notice of billing, the commissioner may suspend the
28 broker’s license or deny renewal of that license. The suspension
29 or denial shall remain in effect until the billed amount is paid or
30 the broker’s right to renew a license has expired. The commissioner
31 may maintain an action for the recovery of the billed amount in
32 any court of competent jurisdiction.

33 (d) The report described in this section is exempted from any
34 requirement of public disclosure by paragraph (2) of subdivision
35 (d) of Section 6254 of the Government Code.

36 (e) The commissioner may waive the requirement to submit
37 certain information described in paragraphs (1) to (10), inclusive,
38 of subdivision (a) if the commissioner determines that this
39 information is duplicative of information required by the

1 Nationwide ~~Mortgage~~ *Multistate* Licensing System and Registry,
2 pursuant to Section 10166.08.

3 SEC. 43. Section 10166.08 of the Business and Professions
4 Code is amended to read:

5 10166.08. Each mortgage loan originator shall submit reports
6 of condition to the Nationwide ~~Mortgage~~ *Multistate* Licensing
7 System and Registry reports of condition, and those reports shall
8 be in the form and shall contain information as the Nationwide
9 ~~Mortgage~~ *Multistate* Licensing System and Registry may require.

10 SEC. 44. Section 10166.10 of the Business and Professions
11 Code is amended to read:

12 10166.10. (a) A mortgage loan originator shall complete at
13 least eight hours of continuing education annually, which shall
14 include at least three hours relating to federal law and regulations,
15 two hours of ethics, which shall include instruction on fraud,
16 consumer protection, and fair lending issues, and two hours related
17 to lending standards for the nontraditional mortgage product
18 marketplace.

19 (b) For purposes of subdivision (a), continuing education courses
20 and course providers shall be reviewed and approved by the
21 commissioner and the Nationwide ~~Mortgage~~ *Multistate* Licensing
22 System and Registry.

23 (c) The commissioner shall have the authority to substitute any
24 of the courses described in subdivision (a) for the course
25 requirements of Section 10170.5, subject to a finding that the
26 course requirements in subdivision (a) and the course completion
27 standards in subdivision (g) of Section 10166.06 are substantially
28 equivalent to, and meet the intent of, Section 10170.5.

29 (d) ~~Nothing in this section shall~~ *This section does not* preclude
30 any education course, as approved by the commissioner and the
31 Nationwide ~~Mortgage~~ *Multistate* Licensing System and Registry,
32 that is provided by the employer of the mortgage loan originator
33 or an entity that is affiliated with the mortgage loan originator by
34 an agency contract, or any subsidiary or affiliate of the employer
35 or entity.

36 (e) Continuing education may be offered either in a classroom,
37 online, or by any other means approved by the commissioner and
38 the Nationwide ~~Mortgage~~ *Multistate* Licensing System and
39 Registry.

1 (f) A mortgage loan originator may only receive credit for a
2 continuing education course in the year in which the course is
3 taken.

4 (g) A mortgage loan originator may not take the same approved
5 course in the same or successive years to meet the requirements
6 of this section for continuing education.

7 (h) A mortgage loan originator who is an instructor of an
8 approved continuing education course may receive credit for ~~his~~
9 ~~or her~~ *their* own annual continuing education requirement at the
10 rate of two hours credit for every one hour taught.

11 (i) A person who successfully completes the education
12 requirements approved by the Nationwide ~~Mortgage~~ *Multistate*
13 Licensing System and Registry in any state other than California
14 shall be granted credit by the commissioner towards completion
15 of continuing education requirements in this state.

16 (j) A mortgage loan originator whose license endorsement
17 lapses, expires, or is suspended or revoked, and who wishes to
18 regain ~~his or her~~ *their* license endorsement, shall complete
19 continuing education requirements for the last year in which the
20 endorsement was held, ~~prior to~~ *before* issuance of a new or renewed
21 endorsement.

22 SEC. 45. Section 10166.15 of the Business and Professions
23 Code is amended to read:

24 10166.15. (a) The commissioner shall regularly report
25 violations of this article, as well as enforcement actions taken
26 against any mortgage loan originator to whom an endorsement has
27 been issued, and enforcement actions taken against any individual
28 for failure to obtain an endorsement as a mortgage loan originator,
29 to the Nationwide ~~Mortgage~~ *Multistate* Licensing System and
30 Registry.

31 (b) The commissioner shall establish a process that may be used
32 by mortgage loan originators to challenge information entered into
33 the Nationwide ~~Mortgage~~ *Multistate* Licensing System and
34 Registry by the commissioner.

35 (c) The commissioner is authorized to promulgate regulations
36 specifying (1) the recordkeeping requirements that mortgage loan
37 originators shall satisfy and (2) the penalties that shall apply to
38 mortgage loan originators for violations of this article.

39 SEC. 46. Section 10166.16 of the Business and Professions
40 Code is amended to read:

1 10166.16. (a) Except as otherwise provided in Section 1512
2 of the SAFE Act, the requirements under any federal or state law
3 regarding the privacy or confidentiality of any information or
4 material provided to the Nationwide ~~Mortgage~~ *Multistate* Licensing
5 System and Registry, and any privilege arising under federal or
6 state law, including the rules of any federal or state court, with
7 respect to that information or material, shall continue to apply to
8 the information or material after the information or material has
9 been disclosed to the Nationwide ~~Mortgage~~ *Multistate* Licensing
10 System and Registry. The information and material may be shared
11 with all state and federal regulatory officials with mortgage
12 industry oversight authority without the loss of privilege or the
13 loss of confidentiality protections provided by federal or state law.

14 (b) For these purposes, the commissioner is authorized to enter
15 agreements or sharing arrangements with other governmental
16 agencies, the Conference of State Bank Supervisors, the American
17 Association of Residential Mortgage Regulators, or other
18 associations representing governmental agencies as established by
19 rule, regulation or order of the commissioner.

20 (c) Information or material that is subject to a privilege or
21 confidentiality under subdivision (a) shall not be subject to either
22 of the following:

23 (1) Disclosure under any federal or state law governing the
24 disclosure to the public of information held by an officer or an
25 agency of the federal government or the state.

26 (2) Subpoena or discovery, or admission into evidence, in any
27 private civil action or administrative process, unless with respect
28 to any privilege held by the Nationwide ~~Mortgage~~ *Multistate*
29 Licensing System and Registry with respect to the information or
30 material, the person to whom the information or material pertains
31 waives, in whole or in part, in the discretion of the person, that
32 privilege.

33 (d) This section shall not apply with respect to the information
34 or material relating to the employment history of, and publicly
35 adjudicated disciplinary and enforcement actions against, mortgage
36 loan originators that is included in the Nationwide ~~Mortgage~~
37 *Multistate* Licensing System and Registry for access by the public.

38 SEC. 47. Section 10166.17 of the Business and Professions
39 Code is amended to read:

1 10166.17. In addition to any other duties imposed upon the
 2 commissioner by law, the commissioner shall require mortgage
 3 loan originators to be licensed and registered through the
 4 Nationwide-Mortgage *Multistate* Licensing System and Registry.
 5 In order to carry out this requirement the commissioner is
 6 authorized to participate in the Nationwide-Mortgage *Multistate*
 7 Licensing System and Registry. For this purpose, the commissioner
 8 may establish by rule, regulation, or order, requirements as
 9 necessary, including, but not limited to, the following:

- 10 (a) Background checks for the following:
 - 11 (1) Criminal history through fingerprint or other databases.
 - 12 (2) Civil or administrative records.
 - 13 (3) Credit history.
 - 14 (4) Any other information as deemed necessary by the
 15 Nationwide-Mortgage *Multistate* Licensing System and Registry.
- 16 (b) The payment of fees to apply for or renew licenses through
 17 the Nationwide-Mortgage *Multistate* Licensing System and
 18 Registry.
- 19 (c) The setting or resetting as necessary of renewal or reporting
 20 dates.
- 21 (d) Requirements for amending or surrendering a license or any
 22 other activities as the commissioner deems necessary for
 23 participation in the Nationwide-Mortgage *Multistate* Licensing
 24 System and Registry.

25 SEC. 48. Section 10235.5 of the Business and Professions
 26 Code is amended to read:

27 10235.5. (a) A real estate licensee or mortgage loan originator
 28 shall not place an advertisement disseminated primarily in this
 29 state for a loan unless there is disclosed within the printed text of
 30 that advertisement, or the oral text in the case of a radio or
 31 television advertisement, the Department of Real Estate number
 32 and the unique identifier assigned to that licensee by the
 33 Nationwide-Mortgage *Multistate* Licensing System and Registry
 34 under which the loan would be made or arranged.

35 (b) “Mortgage loan originator,” “unique identifier,” and
 36 “Nationwide-Mortgage *Multistate* Licensing System and Registry”
 37 have the meanings set forth in Section 10166.01.

38 SEC. 49. Section 10236.4 of the Business and Professions
 39 Code is amended to read:

1 10236.4. (a) In compliance with Section 10235.5, every
2 licensed real estate broker shall also display ~~his or her~~ *their* license
3 number on all advertisements where there is a solicitation for
4 borrowers or potential investors. Every mortgage loan originator,
5 as defined in Section 10166.01, shall also display the unique
6 identifier assigned to that individual by the Nationwide ~~Mortgage~~
7 *Multistate* Licensing System and Registry on all advertisements
8 where there is a solicitation for borrowers.

9 (b) The disclosures required by Sections 10232.4 and 10240
10 shall include the licensee’s license number, the mortgage loan
11 originator’s unique identifier, if applicable, and the department’s
12 license information telephone number.

13 (c) “Mortgage loan originator,” “unique identifier,” and
14 “~~Nationwide Mortgage~~ *Multistate* Licensing System and Registry”
15 have the meanings set forth in Section 10166.01.

16 SEC. 50. Section 12303 of the Business and Professions Code
17 is amended to read:

18 12303. The state standards of weights and measures by which
19 all state and county standards of weights and measures shall be
20 tried, proved, and sealed include the following standards, provided
21 the standards have been certified relative to national standards
22 under the direction of the National Institute of Standards and
23 Technology:

- 24 (a) Metrological standards provided by the United States.
- 25 (b) Metrological standards procured by the state.
- 26 (c) Metrological standards in the possession of county sealers.
- 27 (d) Metrological standards in the possession of laboratories
28 certified to perform measurement services pursuant to Section
29 ~~12500.7.~~ *12314.*

30 SEC. 51. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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MEMORANDUM

DATE	April 25, 2022
TO	Members of the Dental Board of California
FROM	Mirela Taran, Administrative Analyst Dental Board of California
SUBJECT	Agenda Item 25: Discussion of Prospective Legislative Proposals

Background Information:

Stakeholders are encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future Board meeting.

Action Requested:

No action requested.