



DEPARTMENT OF CONSUMER AFFAIRS • PHYSICIAN ASSISTANT BOARD

2005 Evergreen Street, Suite 1100, Sacramento, CA 95815
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MEETING NOTICE
January 28, 2019
PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
8:30 A.M. – 5:00 P.M.

(Please see below for Webcast information)

EXCEPT "TIME CERTAIN"* ITEMS, ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

1. Call to Order by President (Grant)
2. Roll Call (Caldwell)
3. Consider Approval of November 5, 2018 Meeting Minutes (Grant)
4. Public Comment on items not on the Agenda (Grant)
(Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a).])

***TIME CERTAIN 9:00 AM – Regulation Hearing**

5. Regulation Hearing, Discussion and Possible Action to Amend Section 1399.617
 - a. Regulatory Hearing on the Amendment of Audit and Sanctions for Noncompliance, Section 1399.617 of Division 13.8 of Title 16 of the California Code of Regulations (Grant)
 - b. Discussion and Possible Action to Amend Title 16, California Code of Regulations Section 1399.617 – Audit and Sanctions for Noncompliance (Winslow)
6. Reports
 - a. President's Report (Grant)
 - i. Attendance at Governor Brown's Farewell Reception
 - ii. Physician Assistant Board Website Updates Regarding Recent Changes in Law
 - b. Executive Officer's Report (Forsyth)
 - i. Staffing and Potential Office Space (Update)
 - c. Licensing Program Activity Report (Winslow)
 - d. Diversion Program Activity Report (Forsyth)
 - e. Enforcement Program Activity Report (Firdaus)
7. Department of Consumer Affairs – Director's Update (DCA Staff) – May Include Updates Pertaining to the Department's Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory and Policy Matters
8. Consider Proposed Legislation for Initial Application Fee Increase (Forsyth)
9. Consider Identifying Measures to Create an Independent Physician Assistant Board (Grant)
10. Physician Assistant Board Budget Sub-Committee Update (Martinez)
 - a. Meeting with Department of Consumer Affairs Budget Office

11. Report on Medical Board of California Activities (Kim Kirchmeyer, Executive Officer Medical Board of California)

CLOSED SESSION:

- A. Pursuant to Section 11126(c)(3) of the Government Code, the Board will move into closed session to deliberate and take action on disciplinary matters.
- B. Pursuant to Section 11126(e) of the Government Code, the Board will move into closed session to receive advice from legal counsel in the following matter: *Mari Jo Hanson v. State of California Department of Consumer Affairs, Physician Assistant Board, et al.*, Superior Court of California, County of Los Angeles, Case No. BC652433.

RETURN TO OPEN SESSION

12. Update Regarding Optimal Team Practice of Physician Assistants (Grant)
13. Consider Attorney General's Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies (Schieldge)
14. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 1399.525 Substantial Relationship Criteria (Schieldge/Winslow)
15. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 1399.526 Rehabilitation Criteria for Denials and Reinstatements (Schieldge/Winslow)
16. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 1399.527 Rehabilitation Criteria for Suspensions and Revocations (Schieldge/Winslow)
17. Regulations – Update, Discussion, and Possible Action (Schieldge/Winslow) Regarding:
 - a. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.515 -Retired Status for Physician Assistant Licenses (Update)
 - b. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.545 – Supervision Required (Update)

Lunch break taken at some point during the day's meeting.

18. Education/Workforce Development Advisory Committee: Update on Physician Assistant Education Programs and Applicants in California (Grant/Alexander)
19. Budget Update (DCA Budget Analyst)
20. Discussion Regarding Enacted Legislation (Grant):
 - a. AB 2760 – *Naloxone Hydrochloride Prescribing for High Risk Patients*
 - b. AB 2983 – *Health Care Facilities: Voluntary Psychiatric Care*
 - c. SB 1152 – *Homeless Patient Discharge Requirement*
 - d. Controlled Substance Utilization Review and Evaluation System (CURES) 2.0 Mandatory Use Requirement
21. Agenda Items for Next Meeting (Grant)
22. Adjournment (Grant)

Note: Agenda discussion and report items are subject to action being taken on them during the meeting by the Board at its discretion. Action may be taken on any item on the agenda. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as "time certain". The meeting may be canceled without notice. For meeting verification, call (916) 561-8780 or access the Board's website at <http://www.pac.ca.gov>. Public comments will be taken on agenda items

at the time the item is heard and prior to the Board taking any action on said items. Agenda items may be taken out of order and total time allocated for public comment on particular issues may be limited at the discretion of the President.

While the Board intends to webcast this meeting, it may not be possible to webcast the meeting due to technical difficulties or limitations on resources. The meeting will continue even if the webcast is unavailable. The webcast can be located at www.dca.ca.gov. If you would like to ensure participation, please plan to attend at the physical location.

Notice: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Julie Caldwell at (916) 561-8781 or email Julie.Caldwell@mbc.ca.gov send a written request to the Physician Assistant Board, 2005 Evergreen Street, Suite 1100, Sacramento, California 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the Request.

AGENDA

ITEM

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MEETING MINUTES

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November 5, 2018
PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
8:30 A.M. – 5:00 P.M.

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1. Call to Order by President

President Sachs called the meeting to order at 8:30 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present: Charles Alexander, PhD.
Juan Armenta
Jennifer Carlquist, PA-C
Sonya Earley, PA-C
Javier Esquivel-Acosta, PA-C
Jed Grant, PA-C
Xavier Martinez
Robert Sachs, PA

Staff Present: Maureen L. Forsyth, Executive Officer
Kristy Schieldge, Attorney III
Julie Caldwell, Administrative Analyst
Rozana Firdaus, Enforcement Analyst
Anita Winslow, Lead Licensing Analyst

3. Approval of August 10, 2018, Meeting Minutes

M/ Sonya Earley S/ Xavier Martinez to:

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Approve the April 23, 2018, Meeting Minutes.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia				X	

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Motion approved.

4. 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 that is not included on this agenda, except to decide whether to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a).])

Patrick Le, Assistant Deputy Director for Board and Bureau Services of the Department of Consumer Affairs, thanked Mr. Sachs for being an incredible resource to the Physician Assistant Executive Officers, Board Members and for physician assistant students and recognized his twenty year service to the Board by presenting him with a California Senate Resolution. Mr. Le quoted the following from the California Senate Resolution, "whereas Robert Sachs, retiring after nearly twenty-six years of dedicated service as a member of the Physician Assistant Board and in recognition of his professional and civic leadership, he is deserving a special public honors and accommodations. Senator Anthony Portantino takes this opportunity to draw special public attention to Robert Sachs in appreciate of the professional service he has provided to the people of California throughout his career, his outstanding record of civic leadership and extends to him sincere best wishes for a rewarding and gratifying retirement."

Ms. Forsyth thanked Mr. Sachs for all of his support and guidance and recognized his dedication to the Board.

5. Nomination and Election of Physician Assistant Board Officers

Business and Professions Code (BPC) Section 3509.5 states that, "the board shall elect annually a president and vice president from among its members". Typically, the nomination and election of board officers is held at the last meeting of the year.

Ms. Forsyth asked for nominations for president for 2019.

M/ Robert Sachs S/ Jennifer Carlquist to:

Nominate Jed Grant as President of the Physician Assistant Board for 2019. No other nominations were made.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant			X		
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia				X	

Motion approved.

Ms. Forsyth asked for nominations for Vice-President for 2019.

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M/ Jed Grant S/ Javier Esquivel-Acosta to:

Nominate Robert Sachs as Vice-President of the Physician Assistant Board for 2019. No other nominations were made.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs			X		
Mary Valencia				X	

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Motion approved.

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6. Reports

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a. President's Report

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Presentation at the Medical Board Meeting on October 19th Regarding Optimal Team Practice:

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Mr. Sachs reported that on October 19, 2018, he and Mr. Grant attended the Medical Board of California's (MBC) board meeting where they were provided an opportunity to speak with the board about Optimal Team Practice (OTP) and how it affects physician assistants. Mr. Sachs stated that the board was receptive to the information.

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b. Executive Officer's Report

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Staffing and Workload Update:

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Ms. Forsyth reported that the office staff has been extremely busy reviewing and issuing licenses and thanked the staff for their hard work.

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Ms. Forsyth reported that the Strategic Plan for 2019-2023 is now available on the Board's website, the Evacuation Plan and Contingency Plan have been updated and the 2019 Annual Report has been submitted to DCA.

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Ms. Forsyth reported that she is currently working with the other DCA Allied Healthcare Boards, who participate in the diversion program, on a Request for Proposal (RFP) and they hope to have the RFP out by February for responses.

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Ms. Forsyth reported that she recently attended both a quarterly Director's meeting and Substance Abuse Coordination Committee meeting.

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c. Licensing Program Activity Report

Ms. Winslow reported licensing activity from July 20, 2018 to October 15, 2018, to be:

- Initial applications received – 409
- Licenses issued – 386
- Total licenses renewed and current - 12, 533
- Average time to process an initial application – 34 days

d. Diversion Program Activity Report

Ms. Forsyth reported total licensees participating in the drug and alcohol diversion program as of October 1, 2018, to be:

- Board referrals – 11
- Total number of participants since inception - 148
- Closed cases - 137

e. Enforcement Program Activity Report

Ms. Firdaus reported enforcement activity from July 1, 2018 to September 3, 2018, to be:

- Complaints – Intake
 - Complaints received – 113
 - Assigned to desk analyst (**may include cases received in previous quarters) – 110
 - Pending at intake – 10
- Complaints and Investigations
 - Complaints referred for investigation – 19
 - Complaints and investigations closed** – 106
 - Complaints pending at desk analyst** – 102
 - Investigations pending at field** – 82
 - Average age of pending investigations** – 356 days
 - Investigation over 8 months old - 37
- Suspensions
 - Automatic suspension order – 1
 - Interim suspension order – 2
- Office of Attorney General Cases
 - Cases initiated – 7
 - Cases pending** - 34
 - Average age of pending cases** - 499 days
- Formal Actions Filed/Withdrawn/Dismissed
 - Accusation filed – 5
- Administrative Outcomes/Final Order
 - Placed on probation – 2
 - Public Reproval – 1
 - Revocation – 1
 - Surrender – 1
 - Probationary license issued – 1

- 175 o Petition for termination of probation granted – 1
- 176 • Current Probationers
- 177 o Active – 58
- 178 o Tolling – 5
- 179 • Citations and Fines (April 1, 2018 to June 30, 2018)
- 180 o Pending – 13
- 181 o Fines due - \$4,500
- 182 • Citations and Fines (July 1, 2018 to September 30, 2018)
- 183 o Issued – 4
- 184 o Resolved/closed – 1
- 185 o Pending – 3
- 186 o Fines issued - \$1,750
- 187 o Fines received - \$250
- 188 o Fines due from previous & current quarter - \$6,000

190 In response to Mr. Martinez's question of whether or not the eight month
191 investigation is normal, Ms. Firdaus responded that the time frame is normal but may
192 vary depending upon the complexity of the case. She stated that she does monitor
193 statute of limitations to prevent loss of jurisdiction.

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195 Mr. Grant thanked Ms. Firdaus for the additional breakdown regarding types of
196 complaints and asked if Ms. Firdaus is aware of any trends within the category of
197 Gross Negligence/Incompetence, Ms. Firdaus responded, no.

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199 **7. Department of Consumer Affairs (DCA)– Director's Update**

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201 Patrick Le, Assistant Deputy Director for Board and Bureau Services of the
202 Department of Consumer Affairs, thanked the Board for the opportunity to address
203 the Board and reported the following:

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- 205 • Since August of 2018, DCA has hosted two quarterly Director's meetings that
206 included presentations from the Department of General Services (DGS),
207 Equal Employment Opportunity Office and DCA's Office of Human
208 Resources. DGS previewed their plans for new construction that will house
209 DCA in 2024. The Office of Human Resources shared some improvements
210 with human resource processes, specific to recruitment and adverse actions.
211 DCA presented an update on the salary study and legislative implantation of
212 AB 2138.
- 213
- 214 • In September 2018, DCA held its kick off meeting with the second cohort of
215 the Future Leadership Development Program. The program was launched to
216 develop and mentor DCA staff across all boards and bureaus. The program
217 includes executive mentoring, customized leadership training and project
218 management.
- 219
- 220 • Per SB 796 DCA reconvened the Substance Abuse Coordination Committee
221 (Committee) and tasked the Committee with examining the standards related
222 to drug testing for substance abusing licensees who are in a diversion
223 program or are in probation. The Committee is currently determining if the
224 existing criteria needs to be updated based on recent developments in drug
225 testing and technology. The Committee met last week and examined the

226 issue of drug testing frequency and whether or not the frequencies should be
227 adjusted. The Committee determined to add some exceptions that boards
228 may use to lower the drug testing frequencies in very specific instances.
229

- 230 • DCA has awarded a contract to conduct a salary study of executive officers.
231 The contractor will be expected to provide a comprehensive, independent
232 review and assessment of board executive officer's salary levels. The
233 contractor will evaluate changes that have occurred subsequent to a previous
234 study conducted in 2011. The new study will assess the problematic changes
235 that have occurred over the past few years and how the changes have
236 increased the operational complexity of boards. This study will help to
237 determine the degree to which these changes will support compensation
238 augmentation. DCA is focusing on key goals 1) synthesis data and collect
239 information to evaluate the salary bands used by DCA programs and make
240 determinations on how the data may or may not suggest augmentation of the
241 programs level, 2) determine the critical factors are used to support a
242 compensation increase review process, 3) evaluate gender parity for
243 executive officer's salaries across all DCA programs and 4) comparison of
244 positions in comparable executive officer's in other states.
245
- 246 • December 5, 2018 will be the last opportunity to complete the required Board
247 Member Orientation Training for 2018.
248

249 In response to Mr. Sachs question of when the salary study will be completed, Mr.
250 Le stated early 2019.
251

252 **8. Approval of Passing Score for 2019 Physician Assistant (PA) Initial** 253 **Licensing Examination and 2019 Dates and Locations for PA Initial** 254 **Licensing Examination** 255

256 Mr. Sachs stated that the exam is controlled by the National Commission on
257 Certification of Physician Assistants (NCCPA) and the dates and locations are also
258 set by the NCCPA.
259

260 Ms. Sachs asked for clarification regarding why the Board is required to do this
261 considering the NCCPA administers the exam. Ms. Schieldge responded that the
262 Board is required under the Board's laws to annually set the score, dates and
263 locations even though the Board has selected NCCPA to administer the exam. The
264 Board is currently pursuing a legislative amendment to remove this requirement. She
265 indicated that typically if a board selects an examiner, the examiners set the score
266 based on the psychometric analysis. Most boards in the department do not have this
267 requirement.
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269 M/ Jed Grant S/ Xavier Martinez to:

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271 To approve the passing score for the physician assistant initial licensing examination
272 for year 2019 as established by the National Commission on Certification of
273 Physician Assistants.
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Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				

Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia				X	

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Motion approved.

M/ Jed Grant S/ Jennifer Carlquist to:

To approve the dates and locations for the physician assistant initial licensing examination for year 2019.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia				X	

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Motion approved.

9. Schedule of 2019 Board Meeting Dates and Locations

Mrs. Sachs asked for the Board's input regarding the 2019 suggested dates included in the board meeting packet.

M/ Jed Grant S/ Jennifer Carlquist to:

To approve the following dates and locations of the PAB's board meetings:

- January 28, 2018 - Sacramento
- April 29, 2018 - Sacramento
- August 9, 2018 - San Diego
- November 4, 2018 - Sacramento

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				

Robert Sachs	X				
Mary Valencia				X	

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Motion approved.

PETITION FOR REINSTATEMENT

The following petition hearing was held before the Board:

Petition for Reinstatement of PA License – Christopher Pilaczynski, License No. PA-18727, Case No. 950-2018-001748.

10. Report on Medical Board of California Activities

Kimberly Kirchmeyer, Executive Officer of the Medical Board of California (MBC), thanked the Board for the opportunity to provide them with an update regarding MBC.

- Ms. Kirchmeyer has been traveling all over the state of California providing presentations on changes to Controlled Substance Utilization Review and Evaluation System (CURES) and the mandatory consultation. While Department of Justice (DOJ) addresses how CURES works and how one registers, MBC needs to address how they are implementing SB 482. MBC has developed both a fact sheet and a frequently asked questions sheet to help answer their licensee's questions. MBC is happy to provide the Board with this information in order to assist the PA licensees.
- MBC is setting up two new tasks forces:

Stem Cell and Regenerative Medicine Taskforce

MBC has assigned two of their physician board members to take a look at the board's policies and procedures and how MBC handles these complaints to see if the board needs to change how they deal with this issue and if changes need to be made to current MBC laws.

Compounding Taskforce

This taskforce will be looking at the compounding that takes place in the physician's office. MBC is reviewing current laws and regulations, federal regulations and the laws of states who currently allow compounding in the physician's office as well as working with the California State Board of Pharmacy.

- Passing of SB 1448; disclosure of licensees' probation. This requires licensees on probation and who meet the criteria, to notify patients verbally that they are on probation and provide the patients with the resources in order to view the licensees' license information. MBC will be implementing changes to BreEZe so when this becomes effective in July of 2019 BreEZe will reflect accurate information.
- January 1, 2019, will mark the elimination of the Vertical Enforcement Model (VE). VE requires that all MBC cases assigned for investigation are assigned to both an investigator as well as a deputy attorney general. A benefit of the

349 program is that the investigators are well trained as to what the attorney
350 needs in order for the attorney to present a case.
351

- 352 • MBC is preparing to implement changes related to postgraduate training
353 requirements occurring under SB 798 and effective January 1, 2020. The
354 changes will require all U.S., Canadian and international medical school
355 graduates to complete three years of postgraduate training in California
356 before being issued a Postgraduate Training License (PTL). A recent cleanup
357 bill has addressed the following concerns: 1) moonlighting will be allowed as
358 long as it is approved by the postgraduate training director and 2) DEA
359 certificates will be issued as long as the individual has been issued the PTL.
360 MBC is still evaluating the subject matter of allowing one who holds a PTL to
361 sign death certificates.
362

363 In response to Ms. Earley's question regarding what happens when someone
364 decides not to complete a postgraduate training program after being issued a PTL,
365 Ms. Kirchmeyer responded that MBC does not issue licenses by specialty. If an
366 individual enrolls in a postgraduate training program and within the first ninety (90)
367 days gets licensed and then drops out of the postgraduate training program, they
368 can practice as they have a full unrestricted license at that time. What the licensee
369 choses to practice is up to them, their knowledge and training and whether or not
370 they can get credentialed.
371

372 In response to Mr. Armenta's request to explain the Sunset provision in the
373 legislation of VE and if the problem with VE was due to making it mandatory instead
374 of discretionary, Ms. Kirchmeyer responded that VE started out as a pilot program
375 and the goal of the program was to strengthen MBC's cases and reduce time. While
376 MBC saw a small reduction in the time to file an accusation and time to file a
377 stipulated settlement, investigations took longer, and the board determined VE was
378 not necessary for all cases. During MBC's last Sunset Review, the Legislature did
379 not see improvements to warrant continuing the program based on the costs
380 incurred. MBC did not see the need for vertical enforcement in all cases and felt that
381 it should have been used in select cases all along.
382

383 **11. Update Regarding Optimal Team Practice of Physician Assistants** 384

385 Mr. Grant stated that some of the components of Optimal Team Practice (OTP)
386 include defining the collaboration between the PA and physician or the PA and
387 healthcare team at the practice level rather than at the legislative level, billing for
388 services provided by the PA and a PA member majority on the regulatory board or
389 an independent regulatory board.
390

391 Mr. Grant stated that even though the PA Board (Board) and California Medical
392 Board (MBC) have a close working relationship, the Board is independent from MBC
393 except in terms of legislation involving supervision. This means that anytime the
394 Board needs to change regulations involving supervision it has to go through MBC.
395 He also stated that MBC and the Board have a shared services agreement and
396 emphasized that, as the Board continues to grow, a burden may be placed on MBC
397 due to the growth.
398

399 Based on the anticipated changes to the Board's supervision laws as a result of the
400 desire to move OTP forward in California, and the growth and maturation of the PA

401 profession, Mr. Grant posed a question to the other members as to whether the
402 timing is right to consider becoming independent from MBC and what a fully
403 independent board look like.
404

405 Ms. Schiedge suggested placing any law and regulatory changes on a future
406 agenda and only discussing the parameters of OTP.
407

408 Mr. Sachs stated that he agrees and believes that the Board is the only Allied Health
409 board under MBC. Ms. Schiedge stated that she believes there is some crossover
410 between Osteopathic Medical Board and MBC and that the Dental Hygiene
411 Committee of California has similar issues in having the Dental Board of California
412 approve changes to their scope of practice and supervision regulations.
413

414 In response to Mr. Martinez's question of what would be involved in order to
415 separate from the MBC, Mr. Grant replied that the Board would need to seek
416 legislative change, which means finding an author to draft language.
417

418 In response to Ms. Earley's question of MBC's opinion of OTP based on the
419 information presented at the recent MBC meeting, Mr. Grant responded that MBC
420 seemed receptive in terms of the Board becoming independent but raised some
421 concerns regarding independent practice. Mr. Grant stated that they assured MBC
422 that OTP is not independent practice.
423

424 Public Comment: Gaye Breyman, Executive Director of the California Academy of
425 PAs (CAPA), stated that regardless of OTP she hopes that the Board moves forward
426 with becoming their own board. The Osteopathic Medical Board has their own board
427 and she understand hygienists, but she doesn't know of any other highly trained
428 person, who practices medicine in California, that doesn't not have their own
429 regulatory board. She stated that the deadline to introduce OTP language is
430 February 15, 2019, and hopes that the bill will be signed by the end of 2019 and
431 implemented by January 1, 2020. She stated that by the Board's next meeting
432 CAPA's OTP language will be introduced.
433

434 **12. Developments Since the February 2015 United State Supreme Court**
435 **Decision in *North Carolina State Board of Dental Examiners v. Federal***
436 ***Trade Commission***
437

438 Ms. Schiedge stated that included in the board packet is H.R. 6515, a bill pending in
439 Congress, and that is currently with the Subcommittee on Regulatory Reform,
440 Commercial and Antitrust Law. She is bringing this to the board's attention due to
441 the Supreme Court's decision in *North Carolina State Board of Dental Examiners v.*
442 *Federal Trade Commission* that board members, serving on a regulatory board,
443 were not immune to antitrust liability and damages. H.R. 6515 is an attempt to
444 remove that concern and if the state has enacted a law requiring the occupational
445 license to be regulated by the board, there would no longer be the liability concern.
446 The bill also lists other criteria including whether the state has a Sunset Review
447 process, whether the board includes public members, and whether there is a
448 process in place to contest actions taken by the board, all of which this board has.
449 Ms. Schiedge stated that she will continue to monitor this bill but wanted the board
450 to know that there is some movement at the federal level to help with antitrust issues
451 and potential liability of serving on a board as a member.
452

453 **13. Discussion and Possible Action to Initiate a Rulemaking to Adopt Title 16,**
 454 **California Code of Regulations Sections 1399.513 and 1399.513.5 – Waivers**
 455 **of Renewal Requirements for Members of the U.S. Armed Forces or**
 456 **California National Guard Who Are Called to Active Duty**
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458 Ms. Winslow stated that Business and Professions Code Section 114.3 allows
 459 boards to waive any renewal requirements for active duty military. The Board has
 460 determined that the waiver would apply to individuals who are full-time military
 461 personnel being deployed and reservists who are called to active duty.
 462

463 Ms. Winslow stated after working with Mr. Grant and Ms. Schiedge to develop
 464 language for the waiver, she was informed by a licensee that the Department of
 465 Defense is mandating what is required for all military branches in terms of
 466 maintaining a healing arts license which mandates that the licensee hold only an
 467 unrestricted license. This means that a status of military active or military inactive
 468 would not be allowed, as it is considered restricted.
 469

470 Ms. Winslow stated Business and Professions Code 114.3 would still affect anyone
 471 in the military who holds more than one state license. She stated that in the past two
 472 years the Board has only had two licensees request military waivers. She stated the
 473 options at this point are to take a look at the proposed waiver language or to table
 474 the subject.
 475

476 Mr. Grant stated that the Department of Defense is experiencing a time of change in
 477 terms of "medical readiness". The intent behind the original legislation was to make it
 478 easier for the service member to maintain their license. He stated most places offer
 479 internet service and licensees are able to renew online, licensees are required to
 480 have a current credential packet when deployed and have to have an active state
 481 license. Mr. Grant suggested to continue to monitor our licensees and table the topic
 482 until the Department of Defense gets settled on medical readiness and integration
 483 between the different services.
 484

485 M/ Jed Grant S/ Javier Esquivel-Acosta to:

486
 487 To table the subject for a year and to monitor the licensee population assessing the
 488 need for the waiver.
 489

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia				X	

490 Motion approved.
 491
 492

493 In response to Ms. Winslow's question of posting information on the Board's website
494 to direct licensees to visit the Department of Defense's website for additional
495 information, Mr. Grant responded yes and to also solicit information from the
496 licensee about what they find out.
497

498 Ms. Winslow stated that if a license fails to renew before deployment then the
499 delinquency fee will be waived.
500

501 **CLOSED SESSION**
502

503 Pursuant to Section 11126(c)(3) of the Government Code, the Board moved into
504 closed session to deliberate and take action on disciplinary matters, including the
505 above petition for early termination of probation.
506

507 **RETURN TO OPEN SESSION**
508

509 **14. Regulations**
510

511 Proposed Amendments to Title 16, California Code of Regulations, Section 1399.514 -
512 Renewal of License
513

514 Ms. Winslow reported that this amendment has been approved by Business,
515 Consumer Services and Housing Authority (Agency) and is with the Office of
516 Administrative Law (OAL) and will be effective April 1, 2019.
517

518 Proposed Amendments to Title 16, California Code of Regulations, Section 1399.515 -
519 Retired Status for Physician Assistant Licenses
520

521 Ms. Winslow reported that Agency has approved the amendment, it will be submitted
522 to OAL this week and will be effective April 1, 2019.
523

524 Proposed Amendments to Title 16, California Code of Regulations, Section 1399.545 -
525 Supervision Required
526

527 No update provided.
528

529 Proposed Amendments to Title 16 California Code of Regulations, Section 1399.617 -
530 Audit and Sanctions for Noncompliance
531

532 No updated provided.
533

534 Proposed Amendments to Repeal Title 16 California Code of Regulations Sections
535 1399.531 and 1399.532 - Requirements for an Approved Program for the Specialty
536 Training of a PA
537

538 No updated provided.
539

540 Proposed Amendments to Title 16, California Code of Regulations, Section 1399.573 -
541 Citations for Unlicensed Practice
542

543 No updated provided.
544

545 Public Comment: Gaye Breyman, Executive Director of the California Academy of
546 PAs (CAPA), asked what the average timeframe is from the introduction of a
547 regulation to implementation. Ms. Winslow advised twelve to eighteen months but
548 some of the regulations have been delayed due to errors by the Board and a process
549 change within DCA.
550

551 **15. Education/Workforce Development Advisory Committee**

552
553 Mr. Grant provided the following update regarding PA programs:
554

- 555 • Current United States programs – 236
 - 556 ○ 51 of these programs are developing
- 557 • California programs – 16
 - 558 ○ 9 of the CA programs are provisional
 - 559 ○ 1 of the CA programs is on probation

560
561 Mr. Grant stated that the pathway for provisional programs never last more than five
562 years. The Accreditation Review Commission on Education for the Physician
563 Assistant (ARC-PA) visits the program once before the first class starts, once when
564 the first class has completed half of the program and once after the first class
565 graduates. The program doesn't matriculate a class until they are accredited. If a
566 student matriculates from a provisional school they are able to sit for the national
567 exam.
568

569 Mr. Grant reported that he recently visited the campus of Dominican University
570 where he delivered a presentation regarding the California PA Laws and
571 Regulations. The Board directed staff to prepare a standardized Laws and
572 Regulations presentation.
573

574 In response to Mr. Martinez's questions of how many students graduate from the
575 programs yearly and what the Board is doing to accommodate the growth, Mr. Grant
576 responded that as of April 2018, there were 671 California graduates and in 2017
577 there were 7,000 graduates in the United States. Ms. Forsyth responded that she is
578 currently in the processing of obtaining an approval to make the licensing technician
579 desk full-time, hiring of an additional office technician and moving to another office
580 location to accommodate additional staff.
581

582 Public Comment: Gaye Breyman, Executive Director of the California Academy of
583 PAs (CAPA), commented that technology has assisted CAPA, administratively, in
584 handling the increase in memberships due to the increase of PAs.
585

586 **16. Budget Update**

587
588 Marie Reyes, DCA Budget Analyst, and Mark Ito, Budget Office Manager, presented
589 budget information to the Board. Ms. Reyes stated that all DCA programs participate
590 in incremental budgeting which means that the starting budget for one year is the
591 prior year's budget act. As a result of budget change proposals, executive orders,
592 legislative bills, budget letters, augmentations, etc., adjustments are then made to
593 the budget. The Budget Office works very closely with the boards and bureaus and
594 provides open communication to insure transparency.
595

596 Ms. Reyes stated the Fund Condition, included in the board meeting packet, depicts
597 that the Board is structurally sound. She provided the Board with an expenditure
598 projection report which included actual expenditures for fiscal years 2015-16, 2016-
599 17 and 2017-18, current year expenditures for fiscal year 2018-19 and year end
600 projections to offer a more realistic view of the budget.

601
602 In response to Mr. Sachs' question of why line item Net Appropriation is less than
603 line item Total Expenses for 2016-17, Mr. Ito, responded that the net appropriation is
604 the total expense minus any reimbursements the Board collects. The report doesn't
605 reflect the reimbursements which will be included on a future report.

606
607 Ms. Schiedge stated that the Board understands the liability for spending beyond
608 their appropriation and wants to make sure that they are staying within their total
609 appropriation for expenditures.

610
611 In response to Mr. Martinez's question of if the projection report could be produced
612 earlier allowing an opportunity for the Board to review it prior to the meeting and why
613 the current year's enforcement numbers reflect a negative, Mr. Reyes responded
614 that there was a delay in extracting the information and the enforcement numbers
615 reflect an average spending for all fiscal years including in the report.

616
617 Mr. Ito stated that budget bill language for healing arts programs allows an
618 opportunity to augment a current year's budget for Attorney General's and Office of
619 Administrative Hearings' costs. The board would have to be both over spending the
620 line enforcement items as well as over spending the bottom line.

621
622 In response to Ms. Earley's question on a more permanent solution to over spending
623 other than an augmentation, Mr. Ito responded that the Board received a current
624 year ninety thousand dollar augmentation based on an established multiyear trend
625 and that would be how additional augmentations would be approved.

626
627 Mr. Martinez asked for an update regarding Fi\$Cal. Mr. Ito stated that the anticipated
628 closing for fiscal year 2017-18 is March of 2019. Department of Consumer Affairs
629 and the State Controller's Office work in different financial platforms so closing is
630 more difficult than when everyone was on one system. Preliminary reports for the
631 current year are available earlier than they were last year and the system is
632 transacting appropriately in order to provide extractions.

633
634 Ms. Reyes stated that the 1.5 million dollar loan repayment from the general fund to
635 the Physician Assistant Board is scheduled for 2022 and the Board is receiving
636 interest on the loan.

637 638 **17. Report by the Legislative Committee**

639
640 Ms. Earley provided the following update:

- 641
642
- 643 • AB 2193 (Maienschein); Maternal Mental Health (Chaptered)
644 Beginning on July 1, 2019, a license healthcare practitioner who provides
645 prenatal or post-partum care for patients has to offer screening to mothers for
646 maternal mental health conditions.
 - 647 • SB 1338 (Hueso); Electrical and Gas Corporations: Rates (Chaptered)

648 This bill will authorize a physician assistant to certify, in writing, to the utility
649 that the energy, heating or cooling allowances is medically necessary to
650 sustain life or for a person being treated for life threatening illnesses.
651

652 • AB 2138 (Chiu and Low) Licensing Boards: Denial of Application: Criminal
653 Conviction (Chaptered)

654 Existing law authorizes a board to deny, suspend or revoke a license or to
655 take disciplinary action against a licensee on the grounds that the licensee or
656 applicant has been convicted of a felony. This bill would revise and recast
657 those provisions to authorize the board to deny, revoke or suspend a license
658 on the grounds that the applicant or licensee has been subject to formal
659 discipline or convicted of a crime only if the applicant or licensee has been
660 convicted of a crime within the preceding seven years from the date of
661 application substantially related to the qualifications, functions or duties of the
662 business or profession for which the application was made regardless of
663 whether the applicant was incarcerated for the conviction.
664

665 Ms. Schiedge stated the Board submitted a letter of opposition requesting to seek
666 amendments that would remove consumer protection harm issues raised by the bill
667 and the Board was only granted one amendment, additional time to implement the
668 changes. This bill would remove all the board's ability to deny an applicant who's
669 obtained an expungement of a conviction according to their probation or parole
670 terms. This law will go into effect July 1, 2020, and impose a seven year wash out
671 period for all crimes except for sex offender or serious felony crimes. Additionally,
672 the Board will be required to remove all criminal history conviction questions from all
673 applications and are only allowed to request evidence of rehabilitation and inform the
674 applicant that you won't use the rehabilitation evidence to deny the license.
675

676 Ms. Schiedge stated moving forward, the application will need to be substantively
677 amended to remove anything related to criminal conviction questions and she will be
678 bringing back proposals to address what the bill requires by way of substantial
679 relationships.
680

681 Ms. Carlquist offered her assistance with working on the proposals.
682

683 Ms. Schiedge stated that AB 2143 has been vetoed by the Governor.
684

685 **18. Agenda Items for the Next Meeting**
686

- 687 1) Legislative proposals for fee increases
- 688 2) Optimal Team Practice
- 689 3) Staffing and office space proposals to address growth
- 690 4) Proposals for creating an independent PA Board
- 691 5) Budget
692

693 Mr. Sachs thanked everyone for the privilege of serving on the Physician Assistant
694 Board.
695

696 **Adjournment**
697

698 With no further business the meeting was adjourned at 3:33.
699

700
701
702

Minutes do not reflect the order in which agenda items were presented at the Board meeting.

DRAFT

AGENDA

ITEM

5

Background

This regulatory proposal will help to strengthen CME compliance by requiring licensees to respond within specified time frames, provide accurate and complete information in response to CME audits conducted by the board, and provide the board with additional enforcement mechanisms for CME audits.

At the Board's January 23, 2017 meeting, Board members discussed possible enforcement issues related to noncompliance with CME audits, and the limited ability to address CME audit deficiencies and unresponsive licensees.

At the Board's October 30, 2017 meeting, Board members discussed and approved proposed changes to further strengthen the board's authority to require accurate, complete and timely responses to CME audits.

Following the regulatory hearing to receive public comment on the proposal the next step in the rulemaking process is that the Board must act to formally adopt the proposed regulation outlined in agenda item 5.b. The Board may decide to make changes to the proposed regulation based on any received comments, or it may proceed with adopting the proposal without modification.

Comments

As of this date no written comments have been received.

If no changes are to be made after the public comment period and hearing closes. *Motion:* 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 (OAL), authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulation as originally noticed.

If substantive changes are to be made after the public comment period and hearing closes. *Motion:* Direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text 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 regulation as described in the modified text notice.

Fiscal/Economic Impact Considerations

This proposed regulatory amendment will not have a significant adverse economic impact on businesses. A business owned by a licensee who faces disciplinary action due to a violation may incur a significant fiscal impact depending on the nature and severity of the violation. The board only has authority to take administrative action against a licensee and not a business

Recommendation

Staff recommends the Board adopt the motion regarding no additional changes and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the OAL; authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as originally noticed.

Attachment

Proposed Regulatory Language

Proposed Language

Amend section 1399.617 of Article 8 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

1399.617. Audit and Sanctions for Noncompliance

(a) The board may audit a random sample of physician assistants who have reported compliance with the continuing medical education requirement. Within 65 days of the board's request, These those physician assistants selected for audit shall be required to document their compliance with the continuing medical education requirements of this article and shall be required to respond to any inquiry by the board regarding compliance with this article or provide to the board the records retained pursuant to subdivision (e) of section 1399.615, ~~except that~~ However, a physician assistant who complies with the continuing medical education requirements of certification by the National Commission on Certification of Physician Assistants need not provide such records if the board may obtain the records directly from the Commission. If the board is unable to obtain such records from the Commission, the physician assistant shall provide the board with the certification records within 65 days of the board's request.

(b) It shall constitute unprofessional conduct for any physician assistant to fail to provide accurate or complete information in response to a board inquiry, or to misrepresent his or her compliance with the provisions of this article.

(c) In addition to any enforcement action, any physician assistant who was found not to have completed the required number of hours of approved continuing medical education or was found not to hold a valid certification from the National Commission on Certification of Physician Assistants at the time of renewal will be required to make up any deficiency during the next biennial renewal period. The hours earned to make up the deficiency shall not be counted towards compliance with the next biennial renewal period. Such physician assistant shall document to the board the completion of any deficient hours identified by the audit. Any physician assistant who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to perform medical services until such time as the deficient hours of continuing medical education are documented to the board.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5 and 3527, Business and Professions Code.

AGENDA

ITEM

6

Licensing Population by Type
Board Code: 950

Data as of: Jan 6, 2019 9:56:59 AM

Licensing Population by Status

			License Status												Total
			20	21	22	31	45	48	50	63	65	85	98	99	
License Type	License Type Long Name	Rank Short	C	CI	CTFM	FSS	D	S	CD	SD	R	DC	E	DL	
9501	Physician Assistant	PA	12,652	37	2	1	1,814	2	3,366	87	77	75		1	18,114
Total			12,652	37	2	1	1,814	2	3,366	87	77	75	0	1	18,114

Current	12652
Inactive	37
Temp Fam Supp	2
Total Current Licenses	<u>12691</u>

- C - Current
- CI - Current Inactive
- CTFM - Current Temporary Family Support
- FSS - Family Support Suspension
- D - Delinquent
- S - Suspension
- CD - Cancelled
- SD - Surrendered
- R - Revoked
- DC - Deceased
- E - Error
- DL - Deleted

Summary of Licensing Activity

Date Range: Between Jan 1, 2018 12:00 AM and Dec 31, 2018 11:59 PM

License Type	License Type Long Name	Transaction Code	Transaction Description	Apps Received	Apps Approved	Renewed
9501	Physician Assistant	1020	Initial Application	1,341	1,162	
9501	Physician Assistant	2020	Renewal Application			5,581

License Type	License Type Long Name	Rank Short	Licenses Issued
9501	Physician Assistant	PA	1,162

Summary of Licensing Activity

Date Range: Between Oct 15, 2018 12:00 AM and Jan 8, 2019 11:59 PM

Run Date: Jan 8, 2019

License Type	License Type Long Name	Transaction Code	Transaction Description	Apps Received	Apps Approved	Renewed
9501	Physician Assistant	1020	Initial Application	285	281	
9501	Physician Assistant	2020	Renewal Application			1,274

License Type	License Type Long Name	Rank Short	Licenses Issued
9501	Physician Assistant	PA	281



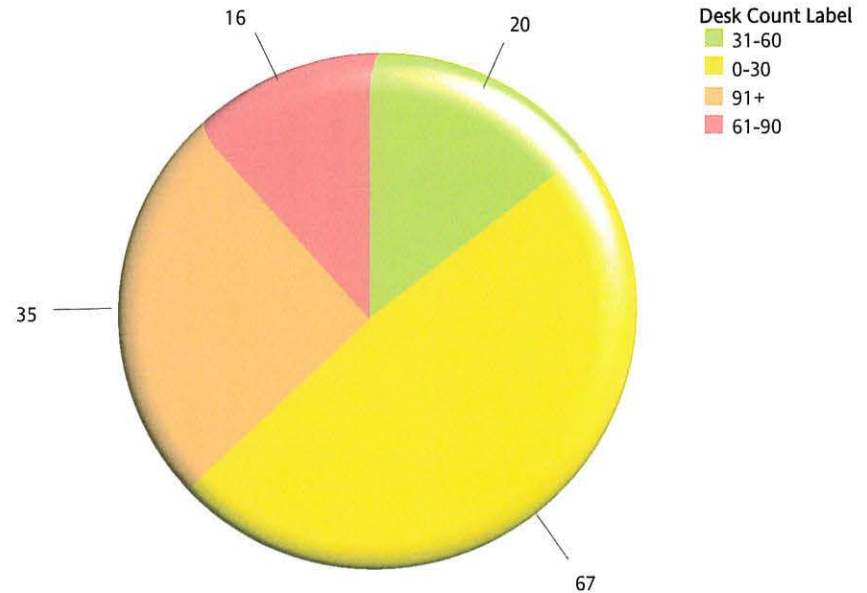
Pending Application Workload

Physician Assistant Board
 Application Deficiency: Show All
 Paid Applications Only: No
 Include External Staff: Yes
[Click here for complete raw data extract](#)



9501 - 1020 (PHYASSIST - Initial Application)			
Staff Assigned	Application Count	Average Desk Age	Average Application Age
FLETCHER, SARAH	115	56	62
WINSLOW, ANITA	10	81	98
WEBUSER, WEBUSER	13	118	118
9501 - 1020 - Average		85	92
9501 - 1020 - Total		138	
Overall - Total		138	

Desk Age (Days)						
License Type	Transaction Code	0-30	31-60	61-90	91+	Total
9501	1020	67	20	16	35	138
Overall - Total		67	20	16	35	138



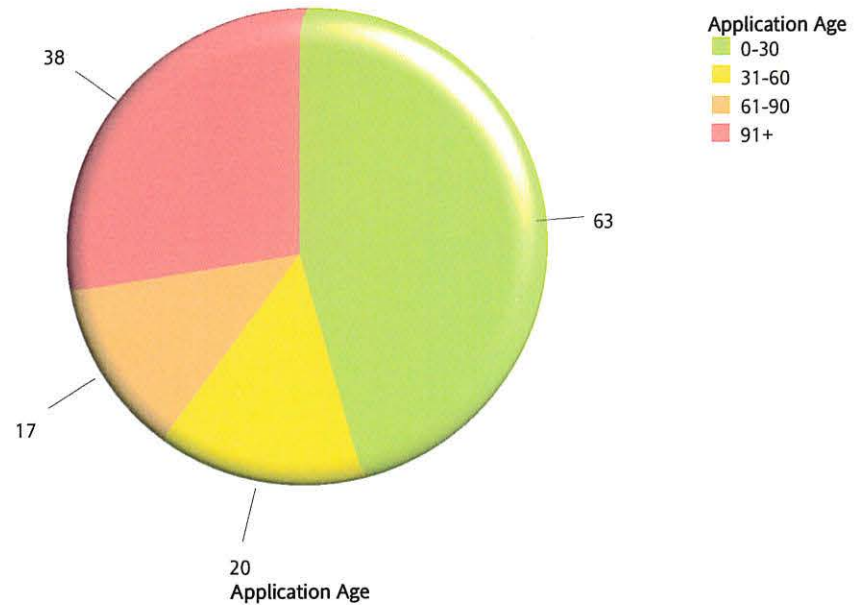


Pending Application Workload

Physician Assistant Board
 Application Deficiency: Show All
 Paid Applications Only: No
 Include External Staff: Yes
[Click here for complete raw data extract](#)



Application Age (Days)						
License Type	Transaction Code	0-30	31-60	61-90	91+	Total
9501	1020	63	20	17	38	138
Overall - Total		63	20	17	38	138



Licensing Performance Measures

Applications Approved Between Oct 15, 2018 12:00 AM and Jan 8, 2019 11:59 PM

Board Code: 950

Board Long Name: Physician Assistant Board

License Type	License Type Long Name	Transaction Code	Transaction Description	Target	COMPLETE APPLICATIONS		INCOMPLETE APPLICATIONS	
					Count	Processing Time	Count	Processing Time
9501	Physician Assistant	1020	Initial Application	20	66	38	215	59

Exceeds target Exceeds target by 50-99% Exceeds target by 100% (or more)

[REPORT DETAIL - ALL](#)

Report Comments:

none

**PHYSICIAN ASSISTANT BOARD
DIVERSION PROGRAM**

ACTIVITY REPORT

California licensed physician assistants participating in the Physician Assistant Board's Drug and Alcohol Diversion Program:

	As of December 31, 2018	As of December 31, 2017	As of December 31, 2016
Voluntary referrals	0	5	5
Board referrals	10	11	09
Total number of Participants	10	16	14

HISTORICAL STATISTICS

(Since program inception: 1990)

Total intakes into program as of December 31, 2018:	151
Closed Case as of December 31, 2018	
• Applicant Not Accepted	2
• Applicant Public Risk	5
• Applicant Withdrawn	11
• Clinically Inappropriate	23
• Completed	58
• Not eligible	2
• Terminated	26
• Withdrawn	14
Total closed cases	141

PHYSICIAN ASSISTANT BOARD
ENFORCEMENT ACTIVITY REPORT
OCTOBER 1, 2018 TO DECEMBER 31, 2018

COMPLAINTS - INTAKE	
98	RECEIVED
102	ASSIGNED TO DESK ANALYST* *
6	PENDING AT INTAKE

COMPLAINTS AND INVESTIGATIONS	
18	COMPLAINTS REFERRED FOR INVESTIGATION
75	COMPLAINTS AND INVESTIGATIONS CLOSED* *
131	COMPLAINTS PENDING AT DESK ANALYST* *
93	INVESTIGATIONS PENDING AT FIELD* *
362	AVERAGE AGE OF PENDING INVESTIGATIONS* *
41	INVESTIGATION OVER 8 MONTHS OLD

SUSPENSIONS	
0	AUTOMATIC SUSPENSION ORDER
0	CEASE PRACTICE ORDER
0	INTERIM SUSPENSION ORDER/PC23

OFFICE OF ATTORNEY GENERAL CASES	
5	CASES INITIATED
33	CASES PENDING* *
465	AVERAGE AGE OF PENDING CASES* *

FORMAL ACTIONS FILED/WITHDRAWN/DISMISSED	
9	ACCUSATION FILED
0	ACCUSATIONS WITHDRAWN/DISMISSED
0	STATEMENT OF ISSUES FILED
0	STATEMENT OF ISSUES WITHDRAWN/DISMISSED
0	ACCUSATION AND/OR PETITION TO REVOKE PROB. FILED
0	PETITION TO COMPEL PHYSICAL/PSYCHIATRIC EXAM

ADMINISTRATIVE OUTCOMES/FINAL ORDER	
0	LICENSE APPLICATION DENIED
2	PROBATION
1	PUBLIC REPROVAL
0	REVOCAION
2	SURRENDER
1	PROBATIONARY LICENSE ISSUED
0	PETITION FOR REINSTATEMENT DENIED
0	PETITION FOR REINSTATEMENT GRANTED
0	PETITION FOR TERMINATION OF PROB. DENIED
0	PETITION FOR TERMINATION OF PROB. GRANTED
0	OTHER

CURRENT PROBATIONERS	
61	ACTIVE
5	TOLLING

CITATIONS AND FINES	
PREVIOUS QTR. (JULY 1, 2018 TO SEPTEMBER 30, 2018)	
3	PENDING
\$1,500	FINES DUE
CURRENT QTR.(OCTOBER 1, 2018 TO DECEMBER 30, 2018)	
0	ISSUED
0	WITHDRAWN
1	RESOLVED/CLOSED
0	SENT TO AG/NONCOMPLIANCE
0	PENDING
\$0	FINES ISSUED
\$0	FINES WITHDRAWN
\$1,000	FINES RECEIVED
\$500	FINES DUE FROM PREVIOUS & CURRENT QTR.

* *MAY INCLUDE CASES RECEIVED IN PREVIOUS QUARTERS

**Physician Assistant Board
Complaints Received by Type and Source**

Fiscal Year 2018-2019*									
	Fraud	Health & Safety¹	Non-Jurisdictional²	Gross Negligence/Incompetence³	Other Category	Personal Conduct⁴	Unprofessional Conduct⁵	Unlicensed/Unregistered	Total
Public	0	0	15	87	0	2	25	0	129
B&P Code ⁶	0	0	0	7	0	0	1	0	8
Licensee/Prof. Group ⁷	0	2	3	0	2	1	2	0	10
Government Agency ⁸	0	1	0	7	3	13	14	0	38
Misc./Anonymous	0	5	6	5	0	4	3	3	26
Totals	0	8	24	106	5	20	45	3	211

Fiscal Year 2017-2018									
	Fraud	Health & Safety¹	Non-Jurisdictional²	Gross Negligence/Incompetence³	Other Category	Personal Conduct⁴	Unprofessional Conduct⁵	Unlicensed/Unregistered	Total
Public	2	16	13	189	1	0	40	8	269
B&P Code ⁶	0	0	0	19	0	5	1	0	25
Licensee/Prof. Group ⁷	0	4	8	3	0	3	5	0	23
Government Agency ⁸	0	9	0	13	2	27	73	2	126
Misc./Anonymous	1	7	5	20	7	0	6	3	49
Totals	3	36	26	244	10	35	125	13	492

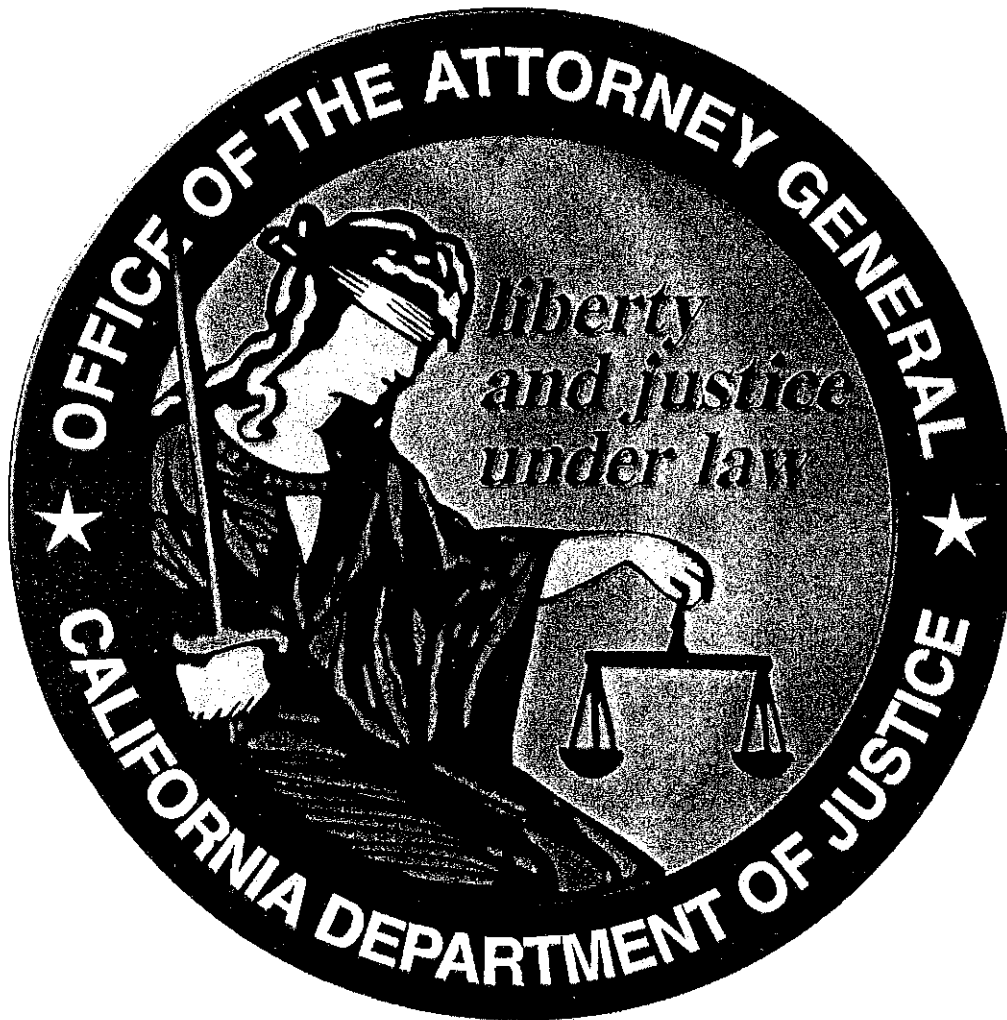
1. Health and Safety complaints, e.g., excessive prescribing, sale of dangerous drugs, etc.
2. Non-jurisdictional complaints are not under the authority of the Board and are referred to other agencies such as the Department of Health Care Services, Department of Managed Health Care, etc.
3. Gross Negligence/Incompetence complaints are related to the quality of care provided by licensees.
4. Personal Conduct complaints, e.g., licensee self-abuse of drugs/alcohol, conviction of a crime, etc.
5. Unprofessional Conduct complaints include sexual misconduct with patients, discipline by another state, failure to release medical records, etc.
6. Reference is to B&P Code §800 and §2240(a) and includes complaints initiated based upon reports submitted to the Board by hospitals, insurance companies and others, as required by law, regarding instances of health facility discipline, malpractice judgments/settlements, or other reportable activities. Verify sections do we need to include B&P Code § 2510 and B&P Code § 2216.3. Look at 'M' source code.
7. Licensee/Professional Group includes the following complaint sources: other Licensee, Society/Trade Organization, and Industry.
8. Governmental Agency includes the following complaint sources: Internal, Law Enforcement Agency, other California State Agency, other State, other Unit of Consumer Affairs, and Federal or other Governmental Agency.

*July 1, 2018 through December 31, 2018

AGENDA

ITEM

13



Attorney General's Annual Report

on

**Accusations Prosecuted for Department of
Consumer Affairs Client Agencies**

Business and Professions Code Section 312.2

January 1, 2019

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Attorney General's Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies

January 1, 2019

EXECUTIVE SUMMARY

This is the second annual report by the Office of the Attorney General pursuant to Business and Professions Code section 312.2, which became effective on January 1, 2016, requiring annual reports to be filed by January 1st each year. This report is based on data from Fiscal Year 2017-18. It provides information concerning accusation referrals received and accusations adjudicated for each Department of Consumer Affairs client agency represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General.

Each client agency is unique and not comparable to others, yet some general observations can be made from the data collected to compile this report. In Fiscal Year 2017-18, approximately 43 percent of the legal work performed by the Licensing Section and Health Quality Enforcement Section was for the prosecution of accusation matters, which are the focus of this report. During the year, 4,409 accusation referrals were received from our Department of Consumer Affairs client agencies. About 2 percent of accusation referrals to the Office of the Attorney General were rejected, and 5 percent of accusation referrals required further investigation.

There were 3,310 adjudications of accusation matters by the Office of the Attorney General during the year. The accusations adjudicated were referred to this office in Fiscal Year 2017-18 or in a prior fiscal year. Multiple adjudications can occur when more than one licensee is included within one matter, each with different adjudication dates and types, or a client agency exercises its discretion to reject an original adjudication. Approximately 55 percent of the total adjudications were by stipulated settlement, 29 percent by default, 13 percent by administrative hearing, and 3 percent resulted from withdrawal of accusations by the agencies.

BACKGROUND

Licensing Section and Health Quality Enforcement Section

The Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General's Civil Law Division specialize in professional and vocational licensing law in California. These sections represent 38 Department of Consumer Affairs agencies that issue multiple types of professional and vocational licenses. They provide legal representation to these agencies in many kinds of licensing matters to protect California consumers and enhance the quality of the professions and vocations. Liaison deputies also regularly consult with agency staff to advise them on jurisdictional, legal, and programmatic issues. Both sections' legal staff also provide training for the Department of Consumer Affairs Division of Investigation, agency investigators, and agency staff.

Both sections prosecute licensing matters, including accusations (license discipline), which comprise about 43 percent of their combined caseload. The balance of prosecution matters consist of statements of issues (appeal hearings when a license application has been denied), interim suspension petitions (hearings before the Office of Administrative Hearings for immediate suspension of a license), injunction proceedings (brought in superior court to stop unlicensed practice), post-discipline matters

(when a licensee petitions for reduction of penalty, or reinstatement of a revoked license), citations (appeal hearings when a citation has been issued), Penal Code section 23 petitions (seeking a license restriction during the pendency of a criminal proceeding), subpoena enforcement actions (to obtain records needed for the investigation of complaints), judicial review proceedings (superior court review of final administrative decisions), appeals (usually from superior court review proceedings), and civil litigation related to license discipline (defending agencies in civil lawsuits brought in state or federal courts).

Of these many types of legal actions, Business and Professions Code section 312.2 requests data only for the prosecution of accusation matters. Accusations are the primary component of the enforcement program for each licensing agency. The legal services in other types of licensing matters handled by the Licensing Section and Health Quality Enforcement Section are not included in this report, except where accusations are combined with petitions to revoke probation.

Department of Consumer Affairs Client Agencies

The 38 Department of Consumer Affairs agencies represented by the Licensing Section and Health Quality Enforcement Section each have different licensing laws, programs, and processes unique to their practice areas. A few agencies issue only one type of license, but most issue multiple license types. As a result, they differ in how they refer accusation matters to the Office of the Attorney General; some refer one matter for each licensee, while others refer multiple licensees involved in the same or related acts for which discipline will be sought to be included in a single accusation. About one-third of client agencies represented by the Licensing Section file a single accusation naming all of their licensees involved in the events underlying the disciplinary action. None of the agencies represented by the Health Quality Enforcement Section file a single accusation against multiple licensees. Instead, a separate accusation is filed against each licensee, and when multiple licensees are involved in the same events, the accusations may be consolidated for hearing. Any agency may also refer additional investigations to the Office of the Attorney General for prosecution while an initial accusation matter is pending, and these subsequent investigations are counted as additional *accusation referrals* in this report.

There are also other differences among the agencies. Some agencies have higher default rates than others, and some have higher rates of representation by counsel in their accusation matters. The applicable burden of proof varies based on the type of professional or business license. Generally, when there are specific educational and testing requirements to obtain a license, disciplinary charges must be proven by clear and convincing evidence to a reasonable certainty. Most accusation matters brought by Department of Consumer Affairs agencies are subject to this burden of proof, but a few license types are subject to a lower burden of proof, i.e., preponderance of evidence. Generally, these are licenses that permit operation of a business at a specific location, such as an automotive repair dealership or pharmacy. Only about a dozen Department of Consumer Affairs agencies are required to file their accusations within a prescribed statute of limitations, which generally range from one year to five years, but may be longer in specific circumstances. All Department of Consumer Affairs client agencies except the Medical Board of California are entitled to recover their costs of investigation and prosecution from respondents. The data included in this report are consistent with each client's licensing programs and practices to the extent possible, but as a result of the wide variances among the many agencies, often are not comparable to each other in any meaningful way.

Investigation Process

Agencies also differ in how they investigate their cases. Investigations are assigned to balance quality and efficiency and avoid insufficient evidence, which causes delay while supplemental evidence is gathered. First and most commonly, agencies investigate their cases using their own staff, including inspectors, sworn and unsworn investigators, investigator assistants, or analysts. Second, certain kinds

of cases are required to be referred to the Department of Consumer Affairs Division of Investigation for investigation consistent with Complaint Prioritization Guidelines developed pursuant to Business and Professions Code section 328. Medical Board cases are excluded from the requirements of section 328. From 2006 to December 31, 2018, Medical Board investigations were handled under a third model known as Vertical Enforcement and Prosecution, pursuant to Government Code section 12529.6. Vertical Enforcement required a deputy attorney general to be jointly assigned to the investigation with a Division of Investigation investigator from the Health Quality Investigation Unit. If the investigation resulted in the filing of an accusation, the same deputy attorney general would also be responsible for prosecuting the case for the Medical Board. Some agencies represented by the Health Quality Enforcement Section opted to have some or all of their investigations conducted under the Vertical Enforcement model.

Administrative Adjudication Process

If the investigation reveals evidence that a licensee has violated the agency's practice act, the agency refers the matter to the Office of the Attorney General to initiate a legal proceeding to revoke, suspend, limit, or condition the license, which is called an *accusation*. (Gov. Code, § 11503.)

Upon receipt, a deputy attorney general reviews the transmitted evidence to determine its sufficiency to meet the requisite burden of proof and for any jurisdictional issues. If the evidence is insufficient and circumstances suggest additional avenues for evidentiary development, the deputy may request further investigation from the agency. When evidence is insufficient and further investigation is not recommended, or legal issues prevent prosecution, the Office of the Attorney General declines prosecution, and the case is rejected, or reviewed and returned to the agency.

Based on sufficient evidentiary support, a deputy attorney general prepares an accusation to initiate the agency's adjudicative proceeding. The accusation pleading is sent to the agency for signature by the executive director, executive officer, or other designated *complainant* for the agency. The accusation is *filed* when the complainant signs it, and it is then served by the agency, or returned to the Office of the Attorney General for service on the licensee, known in the accusation proceeding as the *respondent*. When charged in an accusation, a respondent has a right to an adjudicative hearing under the California Administrative Procedure Act (Gov. Code, tit. 2, div. 3, ch. 5, commencing with §11500). Once served with an accusation, the respondent must file a notice of defense within fifteen days, or is in default. Once the notice of defense has been received, a hearing is scheduled with the Office of Administrative Hearings. If no notice of defense is received, then a default is prepared for presentation to the client agency for its ultimate decision.

The deputy attorney general prosecutes the accusation case before the Office of Administrative Hearings. Upon conclusion of the hearing, the case is submitted to the administrative law judge who presides over the hearing, prepares a proposed decision, and sends it to the agency for its ultimate decision. Of course, a stipulated settlement (such as public reprimand, probation, license surrender, or revocation) can occur at any time and is the most common method of adjudication of accusation matters.

The agency itself makes the final decision in each accusation case. The agency can accept or reject a settlement, and if rejected, the proceedings will continue. After an administrative hearing, the agency can accept the proposed decision issued by the administrative law judge, in which case it becomes the final decision. However, the agency may opt to reduce the penalty, or reject the proposed decision and order the hearing transcript. After review of the transcript and the evidence in the case, it can then adopt the proposed decision or issue its own decision. Most cases are resolved when the

agency accepts a stipulated settlement or proposed decision, but if not, additional proceedings ensue, which take more time.

Even after an agency's decision is issued, it may not be final. A respondent may exercise the right to petition for reconsideration, and if granted by the agency, the final decision will be reconsidered. This can also happen if an agency decides a case based upon the default of a respondent for failure to timely file a notice of defense, or failure to appear at a duly noticed hearing. Upon petition by the respondent, the agency can vacate the default decision, and additional proceedings are conducted to ultimately decide the case. Each of these types of *post-submission* events will lengthen the processing of a case and require further adjudication.

Once the agency's decision is final, it is still subject to judicial review in administrative mandamus and appellate proceedings. In very few cases, judicial review results in remand to the agency to conduct further administrative proceedings or reconsider its decision. In these cases, the ultimate, final decision of the agency may be delayed by many months, or even one or more years.

MEASURES REPORTED

The text of Business and Professions Code section 312.2 is set forth in its entirety in the attached appendix. We provide the following interpretation of terms, and description of the manner in which the data was gathered for each of the reporting metrics in subdivisions (a)(1) – (7) and (b)(1) – (6) as follows.

(a)(1) The number of accusation matters referred to the Attorney General.

Accusation matter means an investigation of one or more complaints which the agency has referred to the Office of the Attorney General to review evidence and, if appropriate, prosecute the matter through the disciplinary process as an accusation.

Accusation matters are counted by each investigation report received that bears a distinct investigation number. Some agencies request that more than one respondent be named and prosecuted in a single accusation, in which case the investigation number is counted as an accusation matter for each respondent. Multiple investigations may be referred during the time that the Office of the Attorney General is prosecuting the agency's initial accusation referral, which can span different fiscal years. Each investigation received during the reporting period is counted for each respondent to which it pertains.

(a)(2) The number of accusation matters rejected for filing by the Attorney General.

Rejected for filing describes the determination made by a deputy attorney general with a supervisor's approval, that an accusation should not be filed. An accusation can be rejected for many reasons, including (1) because the evidence submitted is insufficient to meet the burden of proof to sustain a cause for discipline under the agency's applicable practice act, (2) the events in question are not within the statute of limitations, and/or (3) disciplinary action is not supported by law or public policy. When prosecution is declined, the investigative file is returned to the client agency and the case is closed in the Office of the Attorney General.

A rejection for filing during the reporting period is counted once for each respondent to which the rejection pertains, without regard to the number of investigations referred to the Office of the Attorney General for consideration.

(a)(3) The number of accusation matters for which further investigation was requested by the Attorney General.

Further investigation requested describes an instance when a deputy attorney general reviews the evidence in the investigation and determines that it is insufficient to meet the burden of proof, but there are avenues available to augment the evidence to support a cause for discipline under the agency's applicable practice act. With supervisory approval, the deputy may request further investigation from the agency or the Division of Investigation, or it is done internally at the Office of the Attorney General. When further investigation is requested in a matter handled by the Licensing Section, the file remains open pending receipt of supplemental investigation, and is documented accordingly. In the Health Quality Enforcement Section, the file is returned to the client agency, and the matter is closed. The file is reopened if the matter is re-referred to the Office of the Attorney General with additional evidence.

Each request for further investigation made during the reporting period is counted in each matter, and is not necessarily associated with the number of referrals received in the matter, or number of respondents to which the further investigation may pertain. There may be only one request for further investigation in a matter that contains more than one respondent or more than one investigation. There may also be more than one further investigation request made pertaining to a single respondent in a matter with only one referral.

(a)(4) The number of accusation matters for which further investigation was received by the Attorney General.

Further investigation received describes the additional investigation received as a result of further investigation requested, as described above. Very rarely, an agency refers a matter back to the Office of the Attorney General with *additional* investigation and requests reconsideration of a previous decision not to prosecute (i.e., rejected). If the matter is accepted for prosecution, this is also recorded as further investigation received. Additional investigation received is distinguished from a *new* referral of an accusation matter from a client agency, which is counted in subdivision (a)(1), but is not counted in (a)(4).

Each supplemental investigation received during the reporting period is counted in each matter and is not necessarily associated with the number of referrals received in the matter or number of respondents to which the further investigation may pertain.

(a)(5) The number of accusations filed by each constituent entity.

Accusation means the initial accusation filed in a matter to initiate proceedings to revoke or suspend a license against one or more respondents, and any subsequent amended accusation filed in the matter. Accusations may be amended during the pendency of a case for a variety of reasons, most commonly because the client agency refers an additional investigation of a new complaint, and the accusation is amended to add new causes for discipline based on the new investigation. *Filed* means the accusation or amended accusation is signed by the agency's designee, known as the complainant, who is usually the executive officer or executive director of the agency. The accusation is filed on the date the document is signed.

Each accusation or amended accusation filed during the reporting period is counted and reported under subdivision (a)(5).

(a)(6) The number of accusations a constituent entity withdraws.

On occasion, the complainant withdraws the accusation after it has been filed, terminating the prosecution of the accusation matter. A common reason for an accusation to be withdrawn is the death of the respondent against whom the accusation is filed. In other cases, the evidentiary basis for the matter may change during litigation, or evidence received from a respondent in the course of discovery may lead to re-evaluation of the merits of the case. The withdrawal of an accusation is counted separately for each respondent named in the accusation.

(a)(7) The number of accusation matters adjudicated by the Attorney General.

Adjudication means the work of the Office of the Attorney General has been completed to bring the case back before the agency's decision maker for its final decision. There are four types of adjudicative events: (1) A default decision and order prepared and sent to the agency because a respondent did not file a notice of defense or failed to appear at a duly noticed administrative hearing; (2) A stipulated settlement signed by a respondent and sent to the agency to consider accepting as its disposition of the matter for that respondent; (3) The submission of the case at the conclusion of an administrative hearing to an administrative law judge to prepare a proposed decision, and the decision is sent to the agency for its consideration; and (4) Withdrawal of an accusation by the complainant, which terminates the matter. An adjudicative event for each respondent named in an accusation is necessary before the matter is fully adjudicated.

An adjudicative event is counted for each named respondent that occurs during the reporting period. In matters where more than one licensee is named in the accusation, more than one adjudicative event will be counted if it occurs during the reporting period.

Multiple adjudicative events can also occur in cases with only a single respondent. This happens when an agency does not accept a stipulated settlement, does not adopt a proposed decision submitted by an administrative law judge, grants reconsideration of its decision, or when a superior court judge remands the matter to the agency for further consideration. These *post-submission* adjudicative events are counted in reporting the number of accusation matters *adjudicated* in subdivision (a)(7), but because they are not *original* adjudications they are not included in calculating the averages reported in subdivisions (b)(3), (b)(4), and (b)(6).

(b)(1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.

The date that each accusation referral is received in the Office of the Attorney General is documented. The calculation of the average reported for subdivision (b)(1) begins on the date of receipt of the first accusation referral in each matter and ends on the date the complainant signs the initial accusation in each matter. Amended accusations received after the client agency's initial referral are not included in the average.

(b)(2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.

Prepare an accusation in subdivision (b)(2) is different from *filing an accusation* in subdivision (b)(1). An accusation is *prepared* (i.e., the preparation is based on an attorney's familiarization with the technical subject matter issues, thorough review of the evidence and expert reports to determine chargeable causes for discipline, then drafting, and supervisory review of the accusation) by the

assigned deputy attorney general and then sent to the complainant at the agency to be reviewed, approved, and signed.

Re-referred means the date when supplemental investigation has been received by the Office of the Attorney General in response to a request for further investigation, or, in rare cases, following rejection of an accusation matter.

The calculation of the average reported for subdivision (b)(2) begins on the date each initial accusation referral was received in the Office of the Attorney General – including time for initial review of the matter, request for further investigation, further investigation conducted, receipt of the supplemental investigation by the Office of the Attorney General from the agency, re-review by the deputy, and the deputy preparing the accusation – and ends on the date the deputy sends the prepared accusation to the complainant for review and filing in each matter. The average may also include review of additional referrals received while further investigation is being conducted on the initial referral that required it.

Notably, the matters that required further investigation before preparation of an accusation reported in subdivision (b)(2) are included in the average number of days to file accusations reported in subdivision (b)(1). As a consequence, delays in *preparing* accusations for cases that required further investigation generally will increase the average number of days to *file* the agency's accusations reported in subdivision (b)(1).

(b)(3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.

Settlements are negotiated according to authorization provided by the complainant based on the agency's published disciplinary guidelines. A stipulated settlement is provided to the agency's decision maker who decides whether to accept the settlement as its disposition of the case against the respondent.

The calculation of the average reported for subdivision (b)(3) begins on the date of filing the initial accusation in each matter, and ends on the date the stipulated settlement for each respondent is sent to the agency for its consideration.

As described in subdivision (a)(7), above, *post-submission* settlements are not included in calculating the average reported in subdivision (b)(3). Only one settlement that occurs during the reporting period for each respondent named in an accusation is included to calculate the average. In matters where more than one respondent is named in the accusation, more than one stipulated settlement will be included in the average if they all occurred during the reporting period.

(b)(4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.

If a respondent fails to send a notice of defense to the assigned deputy attorney general or agency within 15 days after service of the accusation, or fails to appear at a duly noticed administrative hearing on the accusation, the respondent is in default. The agency can opt to present the case to an administrative law judge without participation by the respondent who has defaulted. However, most often, the agency requests the deputy to prepare a default decision and order for the agency's decision-maker to consider issuing as its final decision against the respondent. Many agencies have delegated authority to their executive officers to adopt default decisions as a matter of course without consideration by the board itself.

The calculation of the average reported for subdivision (b)(4) begins on the date each initial accusation in a matter is filed, and ends on the date of transmission of the default decision and order to the agency for each respondent.

As described in subdivision (a)(7), above, *post-submission* defaults are not included in calculating the average reported in subdivision (b)(4). To calculate the average, only one default that occurs during the reporting period for each respondent named in an accusation is included. In matters where more than one respondent is named in the accusation, more than one default will be included in the average if they all occurred during the reporting period.

(b)(5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.

After a notice of defense has been received from each respondent named in an accusation, the deputy attorney general assigned to the matter is responsible to coordinate with opposing counsel, unrepresented respondents, prosecution witnesses, and the Office of Administrative Hearings to determine a hearing date when everyone is available. The deputy attorney general prepares a request to set the hearing based on this coordination and sends it to the Office of Administrative Hearings to calendar the hearing.

The calculation of the average reported for subdivision (b)(5) begins on the date the initial accusation in each matter is filed, and ends on the date the request to set a hearing in each case is sent to the Office of Administrative Hearings. Infrequently, a request to set a hearing is done more than once in a case, usually because a continuance has been granted. Only the first request to set a hearing in a case is included in calculating the average.

(b)(6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.

When the Office of Administrative Hearings receives the request to set hearing sent by the deputy attorney general, the hearing date is set on its calendar and the parties are informed of the hearing date. Unless an intervening motion for a continuance is granted by an administrative law judge, the hearing will commence on that date, and depending on the length of the hearing and intervening factors, may conclude on the same day or at a later date.

The calculation of the average reported for subdivision (b)(6) begins on the date the deputy attorney general receives notice from the Office of Administrative Hearings that the hearing date has been set for each case, and ends on the date the hearing in each case actually commences. As described in subdivision (a)(7), above, any *post-submission* commencement of a hearing is not included in calculating the average reported in subdivision (b)(6). When motions to continue hearings are granted, the commencement of hearings are delayed, and the average number of days will increase as a consequence.

METHODOLOGY

Case Management System

This report is based on data entered by legal professionals in ProLaw, the case management system of the Office of the Attorney General. Each matter received by the Licensing Section and Health Quality Enforcement Section from a client is opened in this system. Rules for the entry of data have been created by the sections, and are managed by the Case Management Section of the Office of the Attorney General, which dictates the definitions, dating, entry, and documentation for each data point.

Section-specific protocols, business processes, and uniform standards across all professionals responsible for data entry ensure the consistency, veracity, and quality of the reported data. The data entered has been verified to comply with established standards. The data markers in administrative cases have been used to generate the counts and averages in this report. Every effort has been made to report data in a transparent, accurate, and verifiable manner. The Office of the Attorney General continues to improve its technology, systems and protocols, and integrate these into its business routines and operations.

Data Presentation

The information required to be reported by Business and Professions Code section 312.2 has been organized on a separate page for each constituent entity in the Department of Consumer Affairs represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General. Each page includes the number of licenses and types of licenses issued by the agency, which were taken from the 2017 Annual Report of the California Department of Consumer Affairs, containing data from Fiscal Year 2016-17. The report can be found online at: https://www.dca.ca.gov/publications/2017_annrpt.pdf. The following Department of Consumer Affairs website contains links for further information: http://www.dca.ca.gov/about_dca/entities.shtml. Any applicable statute of limitations has been included for each client agency's page, as well as the frequency of more than one respondent being named in the agency's accusations.

Table 1: Business and Professions Code section 312.2, subdivision (a)

Table 1 on the page for each agency provides the *counts* for various aspects of accusation matters, as requested under subdivision (a) of section 312.2, such as the number of accusation referrals received and the number of accusations filed (subd. (a)(1) and (5)). There are some differences in the counts reported for subdivision (a) in this report compared to the first annual report. First, in reporting the number of accusation matters received pursuant to subdivision (a)(1), this year we have reported every accusation referral received for each client agency of the Licensing Section and Health Quality Enforcement Section in a consistent manner across the two sections. In the first annual report, every referral was counted by the Health Quality Enforcement Section. However, due to different business processes and rules for entering data in ProLaw for the Licensing Section, count of *referrals* was based only on new matters opened in ProLaw, and therefore did not include referrals for each licensee named in multiple respondent cases and subsequent referrals received after the initial referral. Effective in Fiscal Year 2017-18, the case management system rules were adapted to provide consistency in the manner in which referrals are counted for both sections. As a result, in this second annual report, the number of referrals reported for all client agencies represented by the Licensing Section exceeds the number of referrals reported last year by 42 percent.

The second difference this year is in the manner of counting accusations pursuant to subdivision (a)(5). This year we have reported the *total* number of accusations filed for each client agency, which include both initial accusations filed to initiate disciplinary proceedings and amended accusations. In the first report, only the Health Quality Enforcement Section reported amended accusations. In this report, we have ensured that the count of accusations is consistent for all client agencies, including both initial and amended accusations.

Table 2: Business and Professions Code section 312.2, subdivision (b)

Table 2 provides the averages requested under subdivision (b) of section 312.2, which are based on the accusation matters adjudicated during the year, as reported under subdivision (a)(7). We have

included the mean, median, standard deviation, and number of values in the data set from which the averages were determined. The average expresses the central or typical value in a set of data, which is most commonly known as the arithmetic mean. The central value in an ordered set of data is known as the median. The standard deviation (SD) for a data set provides context for averages. A low SD indicates that the data points tend to be close to the mean of the set, while a high SD indicates that the data points are spread out over a wider range of values.

Compared to the median, the mean is more sensitive to extreme values, or *outliers*, and the number of values, or *sample size*. When the mean and median are nearly equivalent, that is a likely indicator that there are no or few extreme values in the data set. However, when there is a large difference between the mean and median, it is likely that there are one or more extreme values skewing the data. For example, for the California Board of Accountancy (page 12), the average number of days from filing an accusation to when a stipulated settlement was sent to the agency was 117 days for the mean and 84 days for the median, with SD of 97, based on 81 stipulations, suggesting the mean is a fair representation of the number of days to reach settlement. In contrast, for the Bureau of Security and Investigative Services (page 445), the average for settlements was 570 days for the mean and 245 days for the median, with SD of 699, based on 22 stipulations. The data for this agency included one case with four respondents, all of whom settled 2,008 days after the accusation was filed. This skewed the data and impacted the mean, as shown by the large 325-day difference between the mean and median, and extremely high SD of 699.¹ This example shows how extreme values influence the mean, especially when the sample size is small, underscoring the importance of considering all results provided when interpreting the data.

There are some differences in the manner in which averages were calculated in this report compared to the first annual report for subdivisions (b)(3) through (6). Data for adjudication of the accusation matter for each respondent named in an accusation whose initial default or settlement was not accepted by the agency as its final decision are not included in these reports. On occasion, an agency grants a petition for reconsideration for a respondent who has defaulted in an accusation matter, vacating the default and allowing the respondent to litigate the case. Similarly, the agency may decide not to accept a stipulated settlement as the final disposition of the case, directing that a different settlement be negotiated, and/or requiring the matter to be set for an administrative hearing before an administrative law judge. In cases where defaults are vacated or proposed stipulated settlements are not adopted by the agency, those subsequent adjudications are not included in the data reported in subdivisions (b)(3) and (4). By excluding subsequent adjudications that are necessitated by agencies' decision making, the average number of days it takes to adjudicate matters by settlement and default is more closely associated with the work of the Office of the Attorney General.

Similarly, under subdivision (b)(6) reporting the average number of days from hearing date received to hearing commenced, we have excluded hearings commenced after reconsideration or non-adoption by an agency.

The individual client agency pages that follow have been organized in alphabetical order for convenience.

¹ The extreme age of that particular matter was due to a series of delaying events. It started as one referral against one licensee, for which further investigation was requested. The additional investigation was extensive and ultimately resulted in a total of nine referrals against four licensees. There was a two-year cessation of that investigation due to redirection of key investigatory staff to internal projects by the agency. A second lengthy delay was caused by an intervening investigation by the district attorney until he decided not to file criminal charges. The case was further delayed intermittently due to attrition of the agency's top two decision makers during critical junctures in the litigation.

California Board of Accountancy

The California Board of Accountancy regulated 102,882 licensees in Fiscal Year 2016-17, with five license types. Most complaints received by the Board are investigated by the Board's own investigators, who are either certified public accountants or analysts. Some investigations are assisted by the Office of Attorney General and the Board's Enforcement Advisory Committee through the taking of testimony under oath of licensees under investigation. There were multiple respondents in about 25 percent of the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	96
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	6
(4) accusation matters for which further investigation was received by the Attorney General.	6
(5) accusations filed.	80
(6) accusations withdrawn.	1
(7) accusation matters adjudicated by the Attorney General.	102

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	157	126	101	81
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	312	312	89	2
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	117	85	96	83
(4) from the filing of an accusation to when a default decision is sent to the agency.	101	56	128	17
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	119	92	103	10
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	178	178	0	1

California Acupuncture Board

The California Acupuncture Board regulated 11,999 licensees in Fiscal Year 2016-2017 with one license type, Licensed Acupuncturist. Complaints received by the Board are investigated by the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	11
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	3
(4) accusation matters for which further investigation was received by the Attorney General.	4
(5) accusations filed.	14
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	11

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	119	43	157	11
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	364	364	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	147	152	91	8
(4) from the filing of an accusation to when a default decision is sent to the agency.	95	88	59	3
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	54	31	39	5
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

California Architects Board

The California Architects Board regulated 21,025 licensees in Fiscal Year 2016-17 with only one license type, Licensed Architect. Most complaints received by the Board are investigated by the Board's own staff and architect consultants, and when appropriate referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. The statute of limitations to file an accusation is generally five years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	1
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	1
(4) accusation matters for which further investigation was received by the Attorney General.	1
(5) accusations filed.	1
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	1

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	69	69	0	1
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	0	0	0	0
(4) from the filing of an accusation to when a default decision is sent to the agency.	0	0	0	0
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	0	0	0	0
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	171	171	0	1

California State Athletic Commission

The California State Athletic Commission regulated 3,595 licensees in Fiscal Year 2016-17 with nine license types. The Commission referred three arbitration matters and two suspension appeals to the Office of the Attorney General in Fiscal Year 2017-18, but did not refer any accusation matters. There is no statute of limitations within which to file accusations for this agency.

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Bureau of Automotive Repair

The Bureau of Automotive Repair regulated 73,624 licensees in Fiscal Year 2016-17 with 10 license types. Complaints and other matters are investigated by the Bureau's own program representatives. There were multiple respondents in over 60 percent of the Bureau's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. The statute of limitations to file an accusation is generally three years from the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	907
(2) accusation matters rejected for filing by the Attorney General.	1
(3) accusation matters for which further investigation was requested by the Attorney General.	6
(4) accusation matters for which further investigation was received by the Attorney General.	10
(5) accusations filed.	463
(6) accusations withdrawn.	9
(7) accusation matters adjudicated by the Attorney General.	425

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	166	140	116	273
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	370	279	236	7
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	217	213	143	160
(4) from the filing of an accusation to when a default decision is sent to the agency.	124	100	92	167
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	102	65	107	97
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	144	135	105	71

Board of Barbering and Cosmetology

The Board of Barbering and Cosmetology regulated 612,016 licensees in Fiscal Year 2016-17 with 10 license types. The Board receives consumer complaints and routinely inspects establishments for health and safety. The Board's cases are investigated by the Board's own inspectors or other staff, and when appropriate, may also be referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. There were multiple respondents in less than 5 percent of the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	88
(2) accusation matters rejected for filing by the Attorney General.	2
(3) accusation matters for which further investigation was requested by the Attorney General.	4
(4) accusation matters for which further investigation was received by the Attorney General.	3
(5) accusations filed.	72
(6) accusations withdrawn.	5
(7) accusation matters adjudicated by the Attorney General.	71

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	175	148	111	68
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	257	257	193	2
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	149	113	98	36
(4) from the filing of an accusation to when a default decision is sent to the agency.	100	84	67	20
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	118	81	70	12
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	129	158	57	10

Board of Behavioral Sciences

The Board of Behavioral Sciences regulated 108,662 licensees in Fiscal Year 2016-17 with seven license types. Most complaints received by the Board are investigated by the Board's own investigators or staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Number of –	Count
(1) accusation matters referred to the Attorney General.	120
(2) accusation matters rejected for filing by the Attorney General.	2
(3) accusation matters for which further investigation was requested by the Attorney General.	4
(4) accusation matters for which further investigation was received by the Attorney General.	4
(5) accusations filed.	128
(6) accusations withdrawn.	1
(7) accusation matters adjudicated by the Attorney General.	110

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	129	109	93	108
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	261	309	136	5
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	200	175	166	66
(4) from the filing of an accusation to when a default decision is sent to the agency.	75	48	55	24
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	164	120	153	33
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	178	178	83	15

Cemetery and Funeral Bureau

The Cemetery and Funeral Bureau regulated 13,147 licensees in Fiscal Year 2016-17 with 13 license types. Most complaints received by the Bureau are investigated by the Bureau's field representatives or staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There were multiple respondents in 60 percent of the Bureau's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. The statute of limitations to file an accusation is generally three years from the act or omission for cemetery licensees and two years for funeral licensees charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	24
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	2
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	4
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	7

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	181	161	44	4
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	231	231	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	142	140	53	6
(4) from the filing of an accusation to when a default decision is sent to the agency.	241	241	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	107	107	0	1
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

Board of Chiropractic Examiners

The Board of Chiropractic Examiners regulated 13,191 licensees in Fiscal Year 2016-17 with one license type, Doctor of Chiropractic. It also authorizes satellite offices, chiropractic corporations and referral services. Most complaints received by the Board are investigated by the Board's own investigators or staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	31
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	5
(4) accusation matters for which further investigation was received by the Attorney General.	6
(5) accusations filed.	38
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	32

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	185	172	155	32
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	371	373	208	5
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	276	290	153	21
(4) from the filing of an accusation to when a default decision is sent to the agency.	67	50	35	8
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	204	162	172	8
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	74	74	18	2

Contractors State License Board

The Contractors State License Board regulated 305,611 licensees in Fiscal Year 2016-17 with two license types and many classifications, including general contractor. Most complaints received by the Board are investigated by the Board's own enforcement representatives, some of whom are sworn investigators. There were very few multiple respondents in the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. However, the number of adjudications reported in subdivision (a)(7) include licensees affiliated with respondents that are entities. The statute of limitations to file an accusation is generally four years from an act or omission charged in the accusation.

The tables below show data for Fiscal Year 2016-17.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	455
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	19
(4) accusation matters for which further investigation was received by the Attorney General.	22
(5) accusations filed.	357
(6) accusations withdrawn.	10
(7) accusation matters adjudicated by the Attorney General.	315

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	188	146	140	306
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	248	216	120	23
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	265	232	162	109
(4) from the filing of an accusation to when a default decision is sent to the agency.	69	36	97	142
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	113	97	94	70
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	149	118	81	46

Court Reporters Board of California

The Court Reporters Board of California regulated 6,687 licensees in Fiscal Year 2016-17 with one license type, Certified Shorthand Reporter. Most complaints received by the Board are investigated by the Board's own staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	5
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	2
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	0

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	0	0	0	0
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	0	0	0	0
(4) from the filing of an accusation to when a default decision is sent to the agency.	0	0	0	0
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	0	0	0	0
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

Dental Board of California

The Dental Board of California regulated 106,416 licensees in Fiscal Year 2016-17 with 16 license types. Most complaints received by the Board are investigated by the Board's own staff or investigators, some of whom are sworn investigators, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	110
(2) accusation matters rejected for filing by the Attorney General.	4
(3) accusation matters for which further investigation was requested by the Attorney General.	5
(4) accusation matters for which further investigation was received by the Attorney General.	5
(5) accusations filed.	86
(6) accusations withdrawn.	3
(7) accusation matters adjudicated by the Attorney General.	76

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	131	126	77	73
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	153	212	85	5
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	300	287	148	47
(4) from the filing of an accusation to when a default decision is sent to the agency.	149	130	82	12
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	148	134	83	24
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	134	121	56	11

Dental Hygiene Committee of California

The Dental Hygiene Committee of California regulated 23,448 licensees in Fiscal Year 2016-17 with four license types. Most complaints received by the Committee are investigated by the Dental Board's staff or investigators, some of whom are sworn officers, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	3
(2) accusation matters rejected for filing by the Attorney General.	1
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	1
(5) accusations filed.	10
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	10

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	137	113	69	10
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	277	276	44	8
(4) from the filing of an accusation to when a default decision is sent to the agency.	84	84	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	143	147	30	7
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	21	21	0	1

Bureau of Electronic & Appliance Repair, Home Furnishings & Thermal Insulation

The Bureau regulated 40,671 licensees in Fiscal Year 2016-17 with 15 license types. Most complaints received by the Bureau are investigated by the Bureau's own investigators or staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Number of –	Count
(1) accusation matters referred to the Attorney General.	0
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	1
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	1

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	109	109	0	1
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	0	0	0	0
(4) from the filing of an accusation to when a default decision is sent to the agency.	139	139	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	0	0	0	0
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

State Board of Guide Dogs for the Blind

The State Board of Guide Dogs for the Blind regulated 108 licensees in Fiscal Year 2016-17 with two license types. The Board did not refer any accusation matters to the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

Assembly Bill (AB) 1705 was signed into law October 11, 2017, and became effective January 1, 2018. It repealed the chapter regulating guide dog instruction.

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Landscape Architects Technical Committee

The Landscape Architects Technical Committee regulated 3,607 licensees in Fiscal Year 2016-17 with one license type, Landscape Architect. Most complaints received by the Committee are investigated by the Committee's own enforcement staff, and some are reviewed by the Committee's subject matter experts. When appropriate, complaints may be referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	2
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	2
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	1

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	114	114	0	1
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	116	116	0	1
(4) from the filing of an accusation to when a default decision is sent to the agency.	0	0	0	0
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	0	0	0	0
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

Licensed Midwives Program (Medical Board of California)

The Medical Board of California regulated 390 licensees in Fiscal Year 2016-2017 with one license type, Licensed Midwife. Complaints received by the Midwives Program are investigated by the Department of Consumer Affairs Division of Investigation, Health Quality Investigation Unit. There is no specific statute of limitations within which to file accusations for this program. However, because licensed midwives are within the jurisdiction of the Medical Board of California, accusations are filed within the same limitations period pertaining to the Medical Board, which is generally three years from the discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	2
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	0
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	0

Table 2 are based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	0	0	0	0
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	0	0	0	0
(4) from the filing of an accusation to when a default decision is sent to the agency.	0	0	0	0
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	0	0	0	0
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

Medical Board of California

The Medical Board of California regulated 157,441 licenses, registrations, and permits of eight types in Fiscal Year 2016-2017 (excluding Licensed Midwives, data for which is set forth on the preceding page). Data for Physicians and Surgeons, Research Psychoanalysts, and Polysomnographic Program are consolidated below. Complaints received by the Board are investigated by its in-house Complaint Investigation Office or by the Department of Consumer Affairs Division of Investigation, Health Quality Investigation Unit. The Board used vertical enforcement in investigations referred to the Health Quality Investigation Unit until approximately November 2018. In Fiscal Year 2017-18, 70 percent of the accusation matters referred to the Attorney General were vertical enforcement joint investigations. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	513
(2) accusation matters rejected for filing by the Attorney General.	7
(3) accusation matters for which further investigation was requested by the Attorney General.	19
(4) accusation matters for which further investigation was received by the Attorney General.	61
(5) accusations filed.	465
(6) accusations withdrawn.	7
(7) accusation matters adjudicated by the Attorney General.	322

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	61	49	51	312
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	173	143	107	6
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	227	214	139	221
(4) from the filing of an accusation to when a default decision is sent to the agency.	94	50	163	33
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	71	49	67	122
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	201	173	136	59

Naturopathic Medicine Committee

The Naturopathic Medicine Committee regulated 828 licensees in Fiscal Year 2016-2017, with one type of license, Naturopathic Doctor. Complaints received by the Board are investigated by the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. The Committee did not refer any accusation matters in Fiscal Year 2017-2018. There is no statute of limitations within which to file accusations for this agency.

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California Board of Occupational Therapy

The Board of Occupational Therapy regulated 15,553 licensees in Fiscal Year 2016-17 with four license types. Most complaints received by the Board are investigated by the Board's own investigators or staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	31
(2) accusation matters rejected for filing by the Attorney General.	1
(3) accusation matters for which further investigation was requested by the Attorney General.	2
(4) accusation matters for which further investigation was received by the Attorney General.	2
(5) accusations filed.	29
(6) accusations withdrawn.	3
(7) accusation matters adjudicated by the Attorney General.	13

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	89	59	58	13
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	92	82	38	7
(4) from the filing of an accusation to when a default decision is sent to the agency.	44	46	18	3
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	90	33	90	3
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

California State Board of Optometry

The Board of Optometry includes the Dispensing Optician Committee. The Board regulated 17,082 licensees in Fiscal Year 2016-17 with 12 types of licenses, including those for optometrists and opticians. Most complaints received by the Board are investigated by the Board's own staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. The Board does not employ its own investigators. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	17
(2) accusation matters rejected for filing by the Attorney General.	1
(3) accusation matters for which further investigation was requested by the Attorney General.	1
(4) accusation matters for which further investigation was received by the Attorney General.	1
(5) accusations filed.	21
(6) accusations withdrawn.	1
(7) accusation matters adjudicated by the Attorney General.	16

Table 2 are based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	124	129	63	16
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	76	76	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	174	169	54	6
(4) from the filing of an accusation to when a default decision is sent to the agency.	55	55	23	7
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	75	70	43	4
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	100	100	24	2

Osteopathic Medical Board of California

The Osteopathic Medical Board of California regulated 9,843 licenses and registrations in Fiscal Year 2016-2017, with one type of license, Osteopathic Physician and Surgeon. In Fiscal Year 2017-18, the Board used vertical enforcement in select accusation matters referred to the Attorney General. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	24
(2) accusation matters rejected for filing by the Attorney General.	1
(3) accusation matters for which further investigation was requested by the Attorney General.	5
(4) accusation matters for which further investigation was received by the Attorney General.	2
(5) accusations filed.	19
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	14

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	48	43	36	13
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	274	236	170	12
(4) from the filing of an accusation to when a default decision is sent to the agency.	67	67	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	50	50	16	2
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

California State Board of Pharmacy

The Board of Pharmacy regulated 139,164 licensees in Fiscal Year 2016-17 with more than 25 license types. The Board receives consumer complaints and routinely inspects pharmacies for compliance. Most complaints received by the Board are investigated by the Board's own inspectors, who are licensed pharmacists themselves. There were multiple respondents in about 37 percent of the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	438
(2) accusation matters rejected for filing by the Attorney General.	10
(3) accusation matters for which further investigation was requested by the Attorney General.	20
(4) accusation matters for which further investigation was received by the Attorney General.	20
(5) accusations filed.	294
(6) accusations withdrawn.	7
(7) accusation matters adjudicated by the Attorney General.	360

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	228	182	177	266
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	249	192	136	19
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	326	301	218	203
(4) from the filing of an accusation to when a default decision is sent to the agency.	116	88	97	109
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	140	118	95	82
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	144	146	84	28

Physical Therapy Board of California

The Physical Therapy Board of California regulated 37,184 licensees in Fiscal Year 2016-2017 with two license types, Physical Therapist and Physical Therapist Assistant. Complaints received by the Board are investigated by the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	38
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	1
(4) accusation matters for which further investigation was received by the Attorney General.	5
(5) accusations filed.	35
(6) accusations withdrawn.	3
(7) accusation matters adjudicated by the Attorney General.	23

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	112	86	112	22
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	210	205	119	15
(4) from the filing of an accusation to when a default decision is sent to the agency.	110	110	37	2
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	43	34	23	8
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	204	175	56	3

Physician Assistant Board

The Physician Assistant Board regulated 11,534 licensees in Fiscal Year 2016-2017 with one license type, Physician Assistant. Complaints received by the Board are investigated by the Department of Consumer Affairs Division of Investigation, Health Quality Investigation Unit. In Fiscal Year 2017-18, the Board used vertical enforcement in 87 percent of the accusation matters referred to the Attorney General. There is no statute of limitations within which to file accusations for this agency. However, the Board follows the Medical Board of California's limitations period, which is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	24
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	2
(4) accusation matters for which further investigation was received by the Attorney General.	6
(5) accusations filed.	22
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	33

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	110	52	131	29
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	256	256	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	340	234	349	25
(4) from the filing of an accusation to when a default decision is sent to the agency.	62	62	2	2
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	131	129	67	6
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	207	134	192	3

California Board of Podiatric Medicine

The California Board of Podiatric Medicine regulated 2,182 licensees in Fiscal Year 2016-2017 with three license types, including Doctor of Podiatric Medicine. Complaints received by the Board are investigated by the Department of Consumer Affairs Division of Investigation, Health Quality Investigation Unit. The Board used vertical enforcement in all of its investigations in Fiscal Year 2017-18. The statute of limitations generally requires accusations to be filed within three years after the discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	22
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	2
(5) accusations filed.	10
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	9

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	77	58	56	9
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	254	288	124	6
(4) from the filing of an accusation to when a default decision is sent to the agency.	88	88	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	103	103	0	1
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	98	98	5	2

Bureau for Private Postsecondary Education

The Bureau for Private Postsecondary Education issues three types of approvals, which authorize private postsecondary institutions to operate. It regulated 1,111 licensees in Fiscal Year 2016-17. The Bureau does not employ investigators and most complaints are investigated by the Board's own staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	6
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	8
(6) accusations withdrawn.	2
(7) accusation matters adjudicated by the Attorney General.	7

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	200	194	53	7
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	293	306	80	3
(4) from the filing of an accusation to when a default decision is sent to the agency.	503	503	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	226	240	94	4
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	114	114	0	1

Board for Professional Engineers, Land Surveyors, and Geologists

The Board for Professional Engineers, Land Surveyors, and Geologists regulated 106,673 licensees in Fiscal Year 2016-17 with 28 license types. The Board does not employ investigators and most complaints are investigated by the Board's own staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	31
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	1
(5) accusations filed.	23
(6) accusations withdrawn.	1
(7) accusation matters adjudicated by the Attorney General.	21

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	243	121	244	21
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	802	802	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	384	306	266	14
(4) from the filing of an accusation to when a default decision is sent to the agency.	59	57	15	3
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	331	138	340	9
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	119	124	30	3

Professional Fiduciaries Bureau

The Professional Fiduciaries Bureau regulated 995 licensees in Fiscal Year 2016-17 with one license type, Professional Fiduciary. Complaints received by the Bureau are investigated by the Bureau's own staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	5
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	3
(4) accusation matters for which further investigation was received by the Attorney General.	2
(5) accusations filed.	3
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	5

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	181	181	67	3
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	251	251	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	73	73	0	1
(4) from the filing of an accusation to when a default decision is sent to the agency.	60	60	6	2
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	0	0	0	0
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	0	0	0	0

California Board of Psychology

The California Board of Psychology regulated 22,449 licensees in Fiscal Year 2016-2017 with three license types, Psychologist, Psychological Assistant, and Registered Psychologist. In Fiscal Year 2017-18, the Board used vertical enforcement in 67 percent of the accusation matters referred to the Attorney General. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	32
(2) accusation matters rejected for filing by the Attorney General.	7
(3) accusation matters for which further investigation was requested by the Attorney General.	5
(4) accusation matters for which further investigation was received by the Attorney General.	7
(5) accusations filed.	22
(6) accusations withdrawn.	2
(7) accusation matters adjudicated by the Attorney General.	28

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	63	49	55	27
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	228	196	116	20
(4) from the filing of an accusation to when a default decision is sent to the agency.	151	156	72	3
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	76	62	59	10
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	185	200	60	3

Bureau of Real Estate Appraisers

The Bureau of Real Estate Appraisers regulated 10,630 licensees in Fiscal Year 2016-17 with six license types. Most complaints received by the Bureau involved violations of the Uniform Standards of Professional Appraisal Practice and are investigated by the Bureau's own staff of investigators who each hold a certified appraiser license. Federal law directs the resolution of administrative actions within one year after a complaint is filed with the Bureau.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	5
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	0
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	6
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	4

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	37	17	72	4
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	150	150	0	1
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	252	252	95	2
(4) from the filing of an accusation to when a default decision is sent to the agency.	34	34	0	1
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	218	218	0	1
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	68	68	0	1

Board of Registered Nursing

The Board of Registered Nursing regulated 549,047 licensees in Fiscal Year 2016-17 with nine license types. Most complaints received by the Board are investigated by the Board's own staff of investigators, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	866
(2) accusation matters rejected for filing by the Attorney General.	38
(3) accusation matters for which further investigation was requested by the Attorney General.	63
(4) accusation matters for which further investigation was received by the Attorney General.	59
(5) accusations filed.	840
(6) accusations withdrawn.	30
(7) accusation matters adjudicated by the Attorney General.	855

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	144	103	137	822
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	310	272	195	64
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	194	178	134	491
(4) from the filing of an accusation to when a default decision is sent to the agency.	63	35	74	209
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	134	103	120	235
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	154	128	116	98

Respiratory Care Board of California

The Respiratory Care Board of California regulated 23,473 licensees in Fiscal Year 2016-2017 with one license type, Respiratory Care Practitioner. Complaints received by the Board are investigated by Board staff. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	46
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	4
(4) accusation matters for which further investigation was received by the Attorney General.	8
(5) accusations filed.	40
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	48

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	65	55	40	46
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	79	43	63	3
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	154	152	77	28
(4) from the filing of an accusation to when a default decision is sent to the agency.	56	48	27	16
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	82	40	78	9
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	193	116	115	3

Bureau of Security and Investigative Services

The Bureau of Security and Investigative Services regulated 404,837 licensees in Fiscal Year 2016-17 with 23 license types. Most complaints received by the Bureau are investigated by the Bureau's own staff, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There were multiple respondents in about 13 percent of the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	45
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	6
(4) accusation matters for which further investigation was received by the Attorney General.	5
(5) accusations filed.	44
(6) accusations withdrawn.	2
(7) accusation matters adjudicated by the Attorney General.	50

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	199	190	125	44
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	241	216	100	8
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	570	245	699	22
(4) from the filing of an accusation to when a default decision is sent to the agency.	140	96	105	21
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	165	49	228	7
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	145	141	36	5

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board regulated 24,021 licensees in Fiscal Year 2016-2017 with 13 license types, including Speech and Language Pathologist, Audiologist, Dispensing Audiologist, Speech Language Pathology Assistant, and Hearing Aid Dispenser. Complaints received by the Board are investigated by the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. There is no generally applicable statute of limitations within which to file accusations for this agency, with the exception of certain kinds of violations, for which an accusation must be filed within three or four years from the act or omission charged in the accusation.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	7
(2) accusation matters rejected for filing by the Attorney General.	1
(3) accusation matters for which further investigation was requested by the Attorney General.	1
(4) accusation matters for which further investigation was received by the Attorney General.	0
(5) accusations filed.	5
(6) accusations withdrawn.	1
(7) accusation matters adjudicated by the Attorney General.	9

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	162	42	186	7
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	0	0	0	0
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	166	154	67	6
(4) from the filing of an accusation to when a default decision is sent to the agency.	0	0	0	0
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	41	41	8	3
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	166	166	0	1

Structural Pest Control Board

The Structural Pest Control Board regulated 27,557 licensees in Fiscal Year 2016-17 with five license types. Most complaints received by the Board are investigated by the Board's own staff of investigators, or referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There were multiple respondents in about 22 percent of the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. The statute of limitations requires a complaint to be received by the Board within two years from an alleged act or omission, and generally the accusation must be filed within 18 months after the Board's receipt of the complaint.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	75
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	1
(4) accusation matters for which further investigation was received by the Attorney General.	2
(5) accusations filed.	49
(6) accusations withdrawn.	2
(7) accusation matters adjudicated by the Attorney General.	54

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	70	69	42	44
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	120	88	71	4
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	163	163	82	28
(4) from the filing of an accusation to when a default decision is sent to the agency.	107	96	67	14
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	86	71	53	11
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	144	151	34	7

Veterinary Medical Board

The Veterinary Medical Board regulated 29,545 licensees in Fiscal Year 2016-17 with six license types. The Board receives consumer complaints and routinely inspects veterinary hospital premises for compliance. The Board's cases are investigated by the Board's own inspectors or other staff, and when appropriate, may also be referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. There were multiple respondents in about 23 percent of the Board's accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	45
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	5
(4) accusation matters for which further investigation was received by the Attorney General.	6
(5) accusations filed.	44
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	22

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	251	197	160	22
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	352	366	103	4
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	313	287	154	16
(4) from the filing of an accusation to when a default decision is sent to the agency.	79	84	28	4
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	93	78	51	11
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	317	317	172	2

Board of Vocational Nursing and Psychiatric Technicians

The Board of Vocational Nursing and Psychiatric Technicians regulated 137,796 licensees in Fiscal Year 2016-17 with two license types, Vocational Nurse and Psychiatric Technician. Most complaints received by the Board are investigated by the Board's own staff or investigators, and referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit, when appropriate. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	287
(2) accusation matters rejected for filing by the Attorney General.	10
(3) accusation matters for which further investigation was requested by the Attorney General.	25
(4) accusation matters for which further investigation was received by the Attorney General.	21
(5) accusations filed.	261
(6) accusations withdrawn.	6
(7) accusation matters adjudicated by the Attorney General.	257

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	144	121	111	251
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	269	253	154	20
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	192	174	118	94
(4) from the filing of an accusation to when a default decision is sent to the agency.	94	67	86	93
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	135	94	121	71
(6) from the Attorney General's receipt of a hearing date to the commencement of a hearing.	137	111	99	51

CONCLUSION

This report for the data in Fiscal Year 2017-18 is based on some differences in calculating counts and averages compared to the first report. We expect consistency in these calculations going forward. Over time, the Office of the Attorney General will be able to derive insights related to performance, productivity, and public protection enhancements with respect to the reported-on prosecutions. The report will allow for statistical and predictive modeling techniques to identify trends and correlations to drive beneficial changes in business processes. The insights and value derived from this data will also provide the basis for the Office of the Attorney General to support the acquisition of additional resources and data tools as needed. We will endeavor to identify any performance gaps as additional relevant data is generated and case delivery mechanisms are examined. We anticipate that this report will facilitate collaboration among the Office of the Attorney General, Office of Administrative Hearings, and Department of Consumer Affairs, all of which join in responsibility for protection of the public through efficiency in adjudicating accusation matters.

This Attorney General's Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies is also available on the Attorney General's website at <http://oag.ca.gov/publications>.

If you have any questions regarding this report, or if you would like additional information, please contact Sirat Attapit, Director of Legislative Affairs, at (916) 210-6192.

APPENDIX

Business and Professions Code section 312.2 states:

- (a) The Attorney General shall 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, at a minimum, all of the following for the previous fiscal year for each constituent entity within the department represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General:
 - (1) The number of accusation matters referred to the Attorney General.
 - (2) The number of accusation matters rejected for filing by the Attorney General.
 - (3) The number of accusation matters for which further investigation was requested by the Attorney General.
 - (4) The number of accusation matters for which further investigation was received by the Attorney General.
 - (5) The number of accusations filed by each constituent entity.
 - (6) The number of accusations a constituent entity withdraws.
 - (7) The number of accusation matters adjudicated by the Attorney General.
- (b) The Attorney General shall also report all of the following for accusation matters adjudicated within the previous fiscal year for each constituent entity of the department represented by the Licensing Section and Health Quality Enforcement Section:
 - (1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.
 - (2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.
 - (3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.
 - (4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.
 - (5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.
 - (6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.
- (c) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

AGENDA

ITEM

14

SUBSTANTIAL RELATIONSHIP CRITERIA

Existing law (Business and Professions Code section 480) presently authorizes the board to deny an application for licensure based on a conviction for a crime or act substantially related to the licensed business or profession. Likewise, Section 490 authorizes the board to suspend or revoke a license on the basis that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession.

The Legislature's intent in enacting AB 2138 was "to reduce licensing and employment barriers for people who are rehabilitated." Section 480 was amended to restrict the board's ability to use prior convictions or acts when denying licenses. Beginning July 1, 2020, the board may not deny a license to an applicant because the applicant was convicted of a crime, or due to acts underlying the conviction, if the applicant has a certificate of rehabilitation, was granted clemency, made a showing of rehabilitation, or the conviction was dismissed or expunged.

Discussion

AB 2138 will permit the board to deny a license when an applicant has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the physician assistant profession and one of the following conditions exists:

- The conviction occurred within the seven years preceding the application date. This does not apply if the applicant was convicted of:
 - A serious felony under Penal Code 1192.7
 - A registerable offense under Penal Code section 290
- The applicant is presently incarcerated for the crime
- The applicant was released from incarceration for the crime within the seven years preceding the application date.

AB 2138 also specified three criteria that the board must consider when evaluating whether a crime is substantially related to the physician assistant profession. The criteria shall include all of the following:

- The nature and gravity of the offense,
- The number of years elapsed since the date of the offense, and
- The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

The proposed language incorporates the AB 2138 substantial relationship criteria. It is also expanded to include discipline under Business and Professions Code section 141, because substantially related acts that are the basis for discipline in another jurisdiction may be used to discipline a licensee under this section. The proposed language also includes "professional misconduct" as this may be considered for denial under Business and Professions Code section 480.

Motion

Option #1

Approve the proposed regulatory text for section 1399.525, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Option #2

Approve the proposed regulatory text as amended

For section 1399.525, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Title 16. Physician Assistant Board

Proposed Language

To Amend § 1399.525 in Article 2 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.525. Substantial Relationship Criteria.

(a) For the purposes of the denial, suspension or revocation of a license pursuant to section 141 or division 1.5 (commencing with section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physician Assistant Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but are not limited to, the following:

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and,

(3) The nature and duties of a physician assistant.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(a)(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Medical Practice Act.

(b)(2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physician Assistant Practice Act or other state or federal laws governing the practice of physician assistants.

(e)(3) A conviction of child abuse.

(d)(4) Conviction as a sex offender.

(e)(5) Any crime, professional misconduct, or act involving the sale, gift, administration, or furnishing of narcotics or dangerous drugs or dangerous devices, as defined in Section 4022 of the code.

(f)(6) Conviction for assault and/or battery.

(g)(7) Conviction of a crime involving lewd conduct.

(h)(8) Conviction of a crime involving fiscal dishonesty.

(i)(9) Conviction for driving under the influence of drugs or alcohol.

Note: Authority cited: Sections 481, 493, 2018 and 3510, Business and Professions Code.

Reference cited: Sections 141, 480, 481, 490, 493, 3527 and 3531, Business and Professions Code.



Assembly Bill No. 2138

CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of 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 or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from

denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

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

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (A) The State Athletic Commission.
- (B) The Bureau for Private Postsecondary Education.
- (C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she 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 or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 1 (commencing with Section 5000) of Division 3.

(ii) Chapter 6 (commencing with Section 6500) of Division 3.

- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) 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, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she 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 other 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, or 1203.42 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 other 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.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing

with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she 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 or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false

statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary

Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(1) Considering the denial of a license by the board under Section 480;
or

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser

refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

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AGENDA

ITEM

15

REHABILITATION CRITERIA FOR DENIALS AND REINSTATEMENTS

Existing law (Business and Professions Code section 482) required the board to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering denying or disciplining a license based on a conviction, and to consider evidence of rehabilitation in making such decisions. The board may not deny an applicant a license based solely on a misdemeanor conviction, if the applicant met the applicable requirements of the criteria of rehabilitation that the board developed.

Effective July 1, 2020, section 480 will prohibit the board from denying a license on the basis that the applicant was convicted of a crime, or on the basis of the facts underlying a conviction, if the applicant made a showing of rehabilitation pursuant to Section 482.

In deciding whether to deny a license based on a conviction, the board must consider evidence of the applicant's rehabilitation, pursuant to the process established in the board's practice act, or its regulations, and as directed under section 482.

The board will need to revise its regulations that establish criteria for evaluating rehabilitation, when deciding whether to deny, or reinstate a license based on a conviction. You will also need to decide whether an applicant or licensee "made a showing of rehabilitation," if the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation, or the board finds, in applying its rehabilitation criteria that the applicant or licensee is rehabilitated.

Discussion

Option No. 1

This proposed option would require the board to consider whether an applicant made a showing of rehabilitation, if the person completed the applicable criminal sentence without a parole or probation violation. In this circumstance, the board would apply a narrow set of rehabilitation criteria focused on the applicant's parole or probation and whether successful completion of parole or probation sufficiently demonstrates the applicant's rehabilitation. The board would not be required to consider its standard rehabilitation criteria and could find that the applicant made a sufficient showing of the rehabilitation base on the narrower set of criteria. But if the board determines that the requisite showing was not made, or the applicant did not comply with the terms of parole or probation, the proposed regulation would require the board to apply its standard set of rehabilitation criteria to evaluate the applicant's rehabilitation.

Option No. 2

This proposed option would require the board to find that the applicant made a showing of rehabilitation and is eligible for licensure, if the applicant completed the criminal sentence without a parole or probation violation. And if not, the board would apply its standard rehabilitation criteria to determine whether the applicant made the requisite showing of rehabilitation.

Motion

Motion for Option #1

Approve the proposed regulatory text of Option #1 for section 1399.526, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Motion for Option #1

Approve the proposed regulatory text of Option #1 as amended

For section 1399.526, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Motion for Option #2

Approve the proposed regulatory text of Option #2 for section 1399.526, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Motion for Option #2

Approve the proposed regulatory text of Option #2 as amended

For section 1399.526, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Title 16. Physician Assistant Board

Proposed Language

To Amend § 1399.526 in Article 2 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

1399.526. Rehabilitation Criteria for Denials and Reinstatements.

OPTION NO.1

(a) When considering the denial of a license under section 480 of the code on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, shall consider the following criteria:

(1) the nature and gravity of the crime(s).

(2) the length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

(1) The nature and severity of the act(s) conduct or crime(s) under consideration as grounds for denial.

(2) Evidence of any ~~act(s)~~ conduct committed subsequent to the ~~act(s)~~ conduct or crime(s) under consideration as grounds for denial under section 480 or 3527 of the code.

(3) The time that has elapsed since commission of the ~~act(s)~~ conduct or crime(s) referred to in subsection ~~(a)~~ (b)(1) or (b)(2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

~~(b)~~ (c) When considering a petition for reinstatement of a license or a petition for modification or termination of probation under the provisions of section ~~44522~~ 3530 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

NOTE: Authority cited: Sections 482, 2018 and 3510, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 3527, 3530 and 3531, Business and Professions Code.

OPTION NO. 2

(a) When considering the denial of a license under section 480 of the code on the ground that the applicant was convicted of a crime, the board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation.

(b) If subdivision (a) is inapplicable, the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

(1) The nature and severity of the ~~act(s)~~ conduct or crime(s) under consideration as grounds for denial.

(2) Evidence of any ~~act(s)~~ conduct committed subsequent to the ~~act(s)~~ conduct or crime(s) under consideration as grounds for denial under section 480 or 3527 of the code.

(3) The time that has elapsed since commission of the ~~act(s)~~ conduct or crime(s) referred to in subsection ~~(a)~~ (b)(1) or (b)(2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

~~(b)~~ (c) When considering a petition for reinstatement of a license or a petition for modification or termination of probation under the provisions of ~~section 44522~~ 3530 of the ~~Government~~ Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

NOTE: Authority cited: Sections 482, 2018 and 3510, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 3527, 3530 and 3531, Business and Professions Code.

AGENDA

ITEM

16

REHABILITATION CRITERIA FOR SUSPENSIONS AND REVOCATIONS

Existing law (Business and Professions Code section 482) required the board to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering denying or disciplining a license based on a conviction, and to consider evidence of rehabilitation in making such decisions. The board may not deny an applicant a license based solely on a misdemeanor conviction, if the applicant met the applicable requirements of the criteria of rehabilitation that the board developed.

Effective July 1, 2020, section 480 will prohibit the board from denying a license on the basis that the applicant was convicted of a crime, or on the basis of the facts underlying a conviction, if the applicant made a showing of rehabilitation pursuant to Section 482.

In deciding whether to deny a license based on a conviction, the board must consider evidence of the applicant's rehabilitation, pursuant to the process established in the board's practice act, or its regulations, and as directed under section 482.

The board will need to revise its regulations that establish criteria for evaluating rehabilitation, when deciding whether to suspend or revoke a license based on a conviction. You will also need to decide whether an applicant or licensee "made a showing of rehabilitation," if the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation, or the board finds, in applying its rehabilitation criteria that the applicant or licensee is rehabilitated.

Discussion

Option No. 1

This proposed option would require the board to consider whether an applicant made a showing of rehabilitation, if the person completed the applicable criminal sentence without a parole or probation violation. In this circumstance, the board would apply a narrow set of rehabilitation criteria focused on the applicant's parole or probation and whether successful completion of parole or probation sufficiently demonstrates the applicant's rehabilitation. The board would not be required to consider its standard rehabilitation criteria and could find that the applicant made a sufficient showing of the rehabilitation base on the narrower set of criteria. But if the board determines that the requisite showing was not made, or the applicant did not comply with the terms of parole or probation, the proposed regulation would require the board to apply its standard set of rehabilitation criteria to evaluate the applicant's rehabilitation.

Option No. 2

This proposed option would require the board to find that the applicant made a showing of rehabilitation and is eligible for licensure, if the applicant completed the criminal sentence without a parole or probation violation. And if not, the board would apply its standard rehabilitation criteria to determine whether the applicant made the requisite showing of rehabilitation.

Motion

Motion for Option #1

Approve the proposed regulatory text of Option #1 for section 1399.527, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Motion for Option #1

Approve the proposed regulatory text of Option #1 as amended

For section 1399.527, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Motion for Option #2

Approve the proposed regulatory text of Option #2 for section 1399.527, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Motion for Option #2

Approve the proposed regulatory text of Option #2 as amended

For section 1399.527, direct staff to submit the text to the Director 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 rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Title 16. Physician Assistant Board

Proposed Language

To Amend § 1399.527 in Article 2 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.527. Rehabilitation Criteria for Suspensions and Revocations.

OPTION 1:

(a) When considering the suspension or revocation of a license on the ground that a person holding a license under the Physician Assistant Practice Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: in evaluating the rehabilitation of such person and his or her eligibility for a license shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If subdivision (a) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:

(a)(1) The nature and severity of the act(s) or offensecrime(s).

(b)(2) The total criminal record.

(c)(3) The time that has elapsed since commission of the act(s) or offensecrime(s).

~~(d)~~(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)~~(6) If applicable, evidence of ~~expungement~~dismissal proceedings pursuant to section 1203.4 of the Penal Code.

~~(f)~~(7) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 482, 2018 and 3510, Business and Professions Code.
Reference: Sections 141, 480, 482, 488, 493, 3527 and 3531, Business and Professions Code.

OPTION 2:

(a) When considering the suspension or revocation of a license on the ground that a person holding a license under the Physician Assistant Practice Act has been convicted of a crime, the board shall find that the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation.

(b) If subdivision (a) is inapplicable, the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:

~~(a)~~(1) The nature and severity of the act(s) or ~~offense~~crime(s).

~~(b)~~(2) The total criminal record.

~~(c)~~(3) The time that has elapsed since commission of the act(s) or ~~offense~~crime(s).

~~(d)~~(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)~~(6) If applicable, evidence of ~~expungement~~dismissal proceedings pursuant to section 1203.4 of the Penal Code.

~~(f)~~(7) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 482, 2018 and 3510, Business and Professions Code.
Reference: Sections 141, 480, 482, 488, 493, 3527 and 3531, Business and Professions Code.

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Regulation Summary

Regulation Number	Title	Action	Description	45-Day to DCA for Agency Approval	45-Day from Agency	OAH 45-day Notice	Hearing Date	Final Agency Review	OAL Final Filing	Effective Date	Notes
1399.515	Retired Status	Adopt	Allows for retirement status of PAs, including the required form.	4/18/2017 to Agency 3/29/2018	5/10/2018	To OAL 6/5/2018 publication date 6/15/2018	8/10/2018	To DCA 9/6/2018 to Agency 10/15/2018	12/21/2018	4/1/2019	Completed
1399.525	Substantial Relationship Criteria	Amend	Revised to conform to AB 2138								
1399.526	Rehabilitation Criteria for Denials and Reinstatements	Amend	Revised to conform to AB 2138								
1399.527	Rehabilitation Criteria for Suspensions and Revocations	Amend	Revised to conform to AB 2138								
1399.545	Supervision Required	Amend	Conform regulation to the implementation of SB 337 as it relates to chart review.								MBC has sent 45-day notice for DCA approval.
1399.617	Audit & Sanctions for Noncompliance	Amend	Includes a fine for failure to respond to the CME audit letter and defines unprofessional conduct as it relates to CME noncompliance	3/6/2018 to Agency 10/15/2018	11/19/2018	11/20/2018	1/28/2019				

AGENDA

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1165 - Physician Assistant Board
Item 1111-001-0280
2019-20 BUDGET SUMMARY

	<u>CY 2018-19</u>	<u>Governor's Proposed Budget BY 2019-20</u>		
2018 Governor's Budget	1,795,000			
Change Book / Governor's Veto:				
SFL - CCSD Technical Reduction	-1,000			
2018 Budget Act	1,794,000	1,794,000		
One-Time Costs / Full Year Cost Adj:				
1111-200-BCP-2019 GB (Staff Augmentation)		24,000		
1111-300-BCP-2018-A1 (CCSD Technical Reduction)		-1,000		
1111-075-BCP-2018-GB (BreZEz)		-17,000		
Baseline Adjustments:				
Employer Retirement Rate (BL 18-24))	3,000	3,000		
Employee Compensation (BL 18-27)	20,000	21,000		
Other Post Employment Benefits (18-27)	4,000	4,000		
Equipment		-2,000		
Department Distributed Costs		67,000		
Office of Information Services Pro Rata [25,000]				
Departmental Services [35,000]				
Shared Services (Medical Board) [1,000]				
Division of Investigation - Special Operations Unit [1,000]				
Communications Pro Rata [2,000]				
Program Policy Review Division Pro Rata [3,000]				
Division of Investigation - Investigative [0]				
Budget Change Proposals (BCPs):				
1111-200-BCP-2019 GB (Staff Augmentation)		233,000		
Department-wide:				
1111-005-BCP-2019-GB		5,000		
DCA/BCSHA Inter-Agency Agreement Distribution		2,000		
REVISED APPROPRIATION	1,821,000	2,133,000	312,000	17.1%
Reimbursements	-50,000	-50,000		
Revised Net Appropriation (from fund)	1,771,000	2,083,000		
POSITIONS	4.5	7.0	2.5	55.6%
Authorized Positions	4.5	7.0		

*Budget Transparency for Display Only (3-year average)

0280 - Physician Assistant Fund

Analysis of Fund Condition

Prepared 12/6/18

(Dollars in Thousands)

Governor's Budget of 2019

	PY 2017-18	CY 2018-19	BY 2019-20
BEGINNING BALANCE	\$ 1,870	\$ 1,817	\$ 1,918
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,870	\$ 1,817	\$ 1,918
REVENUES AND TRANSFERS			
Revenues:			
4121200 Delinquent fees	\$ 4	\$ 4	\$ 4
4127400 Renewal fees	\$ 1,610	\$ 1,668	\$ 1,802
4129200 Other regulatory fees	\$ 9	\$ 12	\$ 13
4129400 Other regulatory licenses and permits	\$ 264	\$ 272	\$ 286
4163000 Income from surplus money investments	\$ 6	\$ 35	\$ 39
4171400 Escheat of unclaimed checks and warrants	\$ 1	\$ -	\$ -
Total Revenues	\$ 1,894	\$ 1,991	\$ 2,144
Transfers from Other Funds			
Proposed GF Loan Repay	\$ -	\$ -	\$ 1,500
Total Revenues, Transfers, and Other Adjustments	\$ 1,894	\$ 1,991	\$ 3,644
Total Resources	\$ 3,764	\$ 3,808	\$ 5,562
EXPENDITURES			
Disbursements:			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 1,854	\$ 1,771	\$ 2,083
8880 Financial Information System for California (State Operations)	\$ 2	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 9	\$ 17
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 91	\$ 110	\$ 106
Total Expenditures and Expenditure Adjustments	\$ 1,947	\$ 1,890	\$ 2,206
FUND BALANCE			
Reserve for economic uncertainties	\$ 1,817	\$ 1,918	\$ 3,356
Months in Reserve	11.5	10.4	17.9

NOTES:

C. ASSUMES INTEREST RATE AT 1.5%.

D. PY 2017-18 BASED ON PRELIMINARY FM 12 REPORTS

PYSICIANS ASSISTANT BOARD -280
BUDGET REPORT
FY 2018-19 EXPENDITURE PROJECTION
FISCAL MONTH 04 - ACTIVITY LOG

OBJECT DESCRIPTION	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19				
	ACTUAL	ACTUAL	ACTUAL	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	EXPENDITURES	STONE	EXPENDITURES	SPENT	TO YEAR END	BALANCE
	(MONTH 13)	(MONTH 13)	(MONTH 12)	2018-19	10/31/2018			
PERSONNEL SERVICES								
Civil Service-Perm	138,311	135,642	178,836	234,000	69,724	30%	213,051	20,949
Statutory Exempt (EO)	90,648	82,730	84,636	76,000	29,340	39%	88,020	(12,020)
Temp Help Reg (907)	31,865	59,948	14,766	30,000	5,373	18%	16,119	13,881
Bd / Commsn (901, 920)	0	0	0	2,000	2,900	145%	8,700	(6,700)
Comm Member (911)	9,600	11,600	10,100	0	0	0%	0	0
Overtime	0	399	0	0	0	0%	0	0
Staff Benefits	112,420	118,102	149,817	162,000	59,248	37%	181,041	(19,041)
TOTALS, PERSONNEL SVC	382,844	408,421	438,155	504,000	166,585	33%	506,931	(2,931)
OPERATING EXPENSE AND EQUIPMENT								
General Expense	11,698	15,843	15,340	13,000	6,936	53%	14,294	(1,294)
Fingerprint Reports	18,767	24,353	17,248	15,000	4,615	31%	13,845	1,155
Minor Equipment	0	11,582	0	2,000	0	0%	0	2,000
Printing	6,378	7,240	12,254	3,000	4,437	148%	8,624	(5,624)
Communication	1,816	2,101	3,594	6,000	550	9%	2,504	3,496
Postage	4,903	4,177	6,364	8,000	0	0%	5,148	2,852
Insurance	0	4	1,327	0	0	0%	0	0
Travel In State	25,501	19,056	17,315	21,000	5,020	24%	20,624	376
Training	0	434	0	1,000	3,533	353%	4,000	(3,000)
Facilities Operations	45,199	45,311	47,123	56,000	14,914	27%	59,656	(3,656)
C & P Services - Interdept.	0	0	18	0	0	0%	0	0
C & P Services - External	28,003	29,161	134,081	60,000	120,121	200%	134,081	(74,081)
DEPARTMENTAL SERVICES:								
OIS Pro Rata	142,503	140,718	81,667	112,000	37,333	33%	112,000	0
Administration Pro Rata	54,942	53,791	35,979	71,000	23,667	33%	71,000	0
Interagency Services	0	0	4,569	8,000	2,667	33%	8,000	0
Shared Svcs - MBC Only	90,112	132,450	92,518	163,000	54,333	33%	163,000	0
DOI - Pro Rata	983	920	1,142	2,000	667	33%	2,000	0
Public Affairs Pro Rata	3,000	6,741	2,284	4,000	1,333	33%	4,000	0
PCSD Pro Rata	0	0	1,713	3,000	1,000	33%	3,000	0
INTERAGENCY SERVICES:								
Consolidated Data Center	0	0	0	5,000	0	0%	0	5,000
DP Maintenance & Supply	1,176	763	904	3,000	176	6%	706	2,294
Statewide - Pro Rata	74,006	0	0	0	0	0%	0	0
Other Items of Expense:	0	0	1,500	0	0	0%	0	0
ENFORCEMENT:								
Attorney General	537,401	555,204	420,754	465,000	187,496	40%	449,990	15,010
Office Admin. Hearings	112,693	51,334	143,455	75,000	7,860	10%	31,440	43,560
Court Reporters	4,878	997	6,559	0	499	-	1,995	(1,995)
Evidence/Witness Fees	70,529	65,876	58,329	0	9,207	-	27,620	(27,620)
Investigative Svcs - MBC Only	117,905	143,282	106,767	220,000	0	0%	106,767	113,233
TOTALS, OE&E	1,352,393	1,311,338	1,212,804	1,316,000	486,363	37%	1,244,294	71,706
TOTAL EXPENSE	1,735,237	1,719,759	1,650,959	1,820,000	652,949	36%	1,751,225	68,775
Sched. Reimb. - Fingerprints	(19,355)	(24,892)	(22,246)	(25,000)	(4,410)	18%	(25,000)	0
Sched. Reimb. - Other	(940)	(1,175)	(940)	(25,000)	(5,583)	22%	(25,000)	0
Unsched. Reimb. - ICR - FTB Collection	(2,443)	0	0	0	0	0%	0	0
Unsched. Reimb. - ICR	(47,163)	(31,815)	(65,355)	0	0	0%	0	0
Unsched. Reimb. - ICR - Prob Monitor	(13,847)	(24,092)	(36,925)	0	(1,965)	0%	0	0
NET APPROPRIATION	1,651,489	1,637,785	1,625,493	1,770,000	640,991	36%	1,701,225	68,775
SURPLUS/(DEFICIT):								3.9%

AGENDA

ITEM

20

AB 2760



Assembly Bill No. 2760

CHAPTER 324

An act to add Article 10.7 (commencing with Section 740) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 10, 2018. Filed with Secretary of State September 10, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, Wood, Prescription drugs: prescribers: naloxone hydrochloride and other FDA-approved drugs.

Existing law provides for the regulation of health care practitioners and requires prescription drugs to be ordered and dispensed in accordance with the Pharmacy Law. Existing law authorizes a pharmacist to furnish naloxone hydrochloride in accordance with standardized procedures or protocols developed by both the California State Board of Pharmacy and the Medical Board of California.

This bill would require a prescriber, as defined, to offer a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient when certain conditions are present and to provide education on overdose prevention and the use of naloxone hydrochloride or another drug to the patient and specified others, except as specified. The bill would subject a prescriber to referral to the board charged with regulating his or her license for the imposition of administrative sanctions, as that board deems appropriate, for violating those provisions.

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

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

- (a) Abuse and misuse of opioids is a serious problem that affects the health, social, and economic welfare of the state.
- (b) After alcohol, prescription drugs are the most commonly abused substances by Americans over 12 years of age.
- (c) Almost 2,000,000 people in the United States suffer from substance use disorders related to prescription opioid pain relievers.
- (d) Nonmedical use of prescription opioid pain relievers can be particularly dangerous when the products are manipulated for snorting or injection or are combined with other drugs.
- (e) Deaths involving prescription opioid pain relievers represent the largest proportion of drug overdose deaths, greater than the number of overdose deaths involving heroin or cocaine.

(f) Driven by the continued surge in drug deaths, life expectancy in the United States dropped for the second year in a row in 2016, resulting in the first consecutive decline in national life expectancy since 1963.

(g) Should 2017 also result in a decline in life expectancy as a result of drug deaths, it would be the first three-year period of consecutive life expectancy declines since World War I and the Spanish flu pandemic in 1918.

SEC. 2. Article 10.7 (commencing with Section 740) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 10.7 Opioid Medication

740. For purposes of this article, “prescriber” means a person licensed, certified, registered, or otherwise subject to regulation pursuant to this division, or an initiative act referred to in this division, who is authorized to prescribe prescription drugs.

741. (a) Notwithstanding any other law, a prescriber shall do the following:

(1) Offer a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient when one or more of the following conditions are present:

(A) The prescription dosage for the patient is 90 or more morphine milligram equivalents of an opioid medication per day.

(B) An opioid medication is prescribed concurrently with a prescription for benzodiazepine.

(C) The patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant.

(2) Consistent with the existing standard of care, provide education to patients receiving a prescription under paragraph (1) on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression.

(3) Consistent with the existing standard of care, provide education on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to one or more persons designated by the patient, or, for a patient who is a minor, to the minor’s parent or guardian.

(b) This section does not apply to a prescriber when prescribing to an inmate or a youth under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice within the Department of Corrections and Rehabilitation.

742. A prescriber who fails to offer a prescription, as required by paragraph (1) of subdivision (a) of Section 741, or fails to provide the education and use information required by paragraphs (2) and (3) of subdivision (a) of Section 741 shall be referred to the appropriate licensing board solely for the imposition of administrative sanctions deemed appropriate by that board. This section does not create a private right of action against a prescriber, and does not limit a prescriber's liability for the negligent failure to diagnose or treat a patient.

AB 2983



Assembly Bill No. 2983

CHAPTER 831

An act to amend Section 1317 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 27, 2018. Filed with Secretary of State September 27, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2983, Arambula, Health care facilities: voluntary psychiatric care.

Existing law provides for the licensure and regulation of general acute care hospitals and acute psychiatric hospitals by the State Department of Public Health. Existing law requires emergency services and care, including screening, examination, and evaluation to determine if a psychiatric emergency medical condition exists and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, to be provided to any person requesting the services or care. Existing law regulates the transfer of a person from one hospital to another. Violation of these provisions is a crime.

This bill would prohibit a general acute care hospital or an acute psychiatric hospital from requiring a person who voluntarily seeks care to be in custody as a danger to himself or herself or others or gravely disabled as a condition of accepting a transfer of that person after his or her written consent for treatment and transfer is documented or in the absence of evidence of probable cause for detention, as defined. By creating a new crime, this bill would impose a state-mandated local program.

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

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

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

SECTION 1. Section 1317 of the Health and Safety Code is amended to read:

1317. (a) Emergency services and care shall be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter that maintains and operates an emergency department to provide emergency

services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care.

(b) In no event shall the provision of emergency services and care be based upon, or affected by, the person's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any other characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient.

(c) Neither the health facility, its employees, nor any physician and surgeon, dentist, clinical psychologist, or podiatrist shall be liable in any action arising out of a refusal to render emergency services or care if the refusal is based on the determination, exercising reasonable care, that the person is not suffering from an emergency medical condition, or that the health facility does not have the appropriate facilities or qualified personnel available to render those services.

(d) Emergency services and care shall be rendered without first questioning the patient or any other person as to his or her ability to pay therefor. However, the patient or his or her legally responsible relative or guardian shall execute an agreement to pay therefor or otherwise supply insurance or credit information promptly after the services are rendered.

(e) If a health facility subject to this chapter does not maintain an emergency department, its employees shall nevertheless exercise reasonable care to determine whether an emergency exists and shall direct the persons seeking emergency care to a nearby facility that can render the needed services, and shall assist the persons seeking emergency care in obtaining the services, including transportation services, in every way reasonable under the circumstances.

(f) A general acute care hospital or acute psychiatric hospital shall not require a person who voluntarily seeks care to be in custody pursuant to Section 5150 of the Welfare and Institutions Code as a condition of accepting a transfer of that person after his or her written consent for treatment and transfer is documented or in the absence of evidence of probable cause for detention, as defined in Section 5150.05 of the Welfare and Institutions Code.

(g) An act or omission of a rescue team established by a health facility licensed under this chapter, or operated by the federal or state government, a county, or by the Regents of the University of California, done or omitted while attempting to resuscitate a person who is in immediate danger of loss of life shall not impose any liability upon the health facility, the officers, members of the staff, nurses, or employees of the health facility, including, but not limited to, the members of the rescue team, or upon the federal or state government or a county, if good faith is exercised.

(h) "Rescue team," as used in this section, means a special group of physicians and surgeons, nurses, and employees of a health facility who have been trained in cardiopulmonary resuscitation and have been designated

by the health facility to attempt, in cases of emergency, to resuscitate persons who are in immediate danger of loss of life.

(i) This section does not relieve a health facility of any duty otherwise imposed by law upon the health facility for the designation and training of members of a rescue team or for the provision or maintenance of equipment to be used by a rescue team.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SB 1152



Senate Bill No. 1152

CHAPTER 981

An act to amend, repeal, and add Section 1262.5 of the Health and Safety Code, relating to public health.

[Approved by Governor September 30, 2018. Filed with
Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1152, Hernandez. Hospital patient discharge process: homeless patients.

(1) Existing law requires the State Department of Public Health to license and regulate general acute care hospitals, acute psychiatric hospitals, and special hospitals. Existing law requires these hospitals to comply with specific statutory provisions for standards of care and regulations promulgated by the department, and a violation of these provisions or regulations is a crime. Existing law requires each hospital to have a written discharge planning policy and process that requires that the appropriate arrangements for posthospital care are made prior to discharge for those patients likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning.

This bill would require each hospital to include a written homeless patient discharge planning policy and process within the hospital discharge policy, as specified. The bill would require a hospital to document specified information before discharging a homeless patient. The bill would, commencing on July 1, 2019, require a hospital to develop a written plan for coordinating services and referrals for homeless patients with the county behavioral health agency, health care and social service agencies in the region, health care providers, and nonprofit social service providers, as available, to assist with ensuring appropriate homeless patient discharge. The bill would also, commencing on July 1, 2019, require a hospital to maintain a log of homeless patients discharged and the destinations to which they were released after discharge, as specified, if any. The bill would specify how its provisions are to be construed in relation to local ordinances, codes, regulations, or orders related to the homeless patient discharge processes, and would exempt state hospitals under the jurisdiction of the State Department of State Hospitals from its provisions. Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

(2) 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.

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

SECTION 1. Section 1262.5 of the Health and Safety Code is amended to read:

1262.5. (a) Each hospital shall have a written discharge planning policy and process.

(b) The policy required by subdivision (a) shall require that appropriate arrangements for posthospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility, or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning. If the hospital determines that the patient and family members or interested persons need to be counseled to prepare them for posthospital care, the hospital shall provide for that counseling.

(c) As part of the discharge planning process, the hospital shall provide each patient who has been admitted to the hospital as an inpatient with an opportunity to identify one family caregiver who may assist in posthospital care, and shall record this information in the patient's medical chart.

(1) In the event that the patient is unconscious or otherwise incapacitated upon admittance to the hospital, the hospital shall provide the patient or patient's legal guardian with an opportunity to designate a caregiver within a specified time period, at the discretion of the attending physician, following the patient's recovery of consciousness or capacity. The hospital shall promptly document the attempt in the patient's medical record.

(2) In the event that the patient or legal guardian declines to designate a caregiver pursuant to this section, the hospital shall promptly document this declination in the patient's medical record, when appropriate.

(d) The policy required by subdivision (a) shall require that the patient's designated family caregiver be notified of the patient's discharge or transfer to another facility as soon as possible and, in any event, upon issuance of a discharge order by the patient's attending physician. If the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the patient. The hospital shall promptly document the attempted notification in the patient's medical record.

(e) The process required by subdivision (a) shall require that the patient and family caregiver be informed of the continuing health care requirements following discharge from the hospital. The right to information regarding continuing health care requirements following discharge shall also apply to the person who has legal responsibility to make decisions regarding medical care on behalf of the patient, if the patient is unable to make those decisions for himself or herself. The hospital shall provide an opportunity for the patient and his or her designated family caregiver to engage in the discharge

planning process, which shall include providing information and, when appropriate, instruction regarding the posthospital care needs of the patient. This information shall include, but is not limited to, education and counseling about the patient's medications, including dosing and proper use of medication delivery devices, when applicable. The information shall be provided in a culturally competent manner and in a language that is comprehensible to the patient and caregiver, consistent with the requirements of state and federal law, and shall include an opportunity for the caregiver to ask questions about the posthospital care needs of the patient.

(f) (1) A transfer summary shall accompany the patient upon transfer to a skilled nursing or intermediate care facility or to the distinct part-skilled nursing or intermediate care service unit of the hospital. The transfer summary shall include essential information relative to the patient's diagnosis, hospital course, pain treatment and management, medications, treatments, dietary requirement, rehabilitation potential, known allergies, and treatment plan, and shall be signed by the physician.

(2) A copy of the transfer summary shall be given to the patient and the patient's legal representative, if any, prior to transfer to a skilled nursing or intermediate care facility.

(g) A hospital shall establish and implement a written policy to ensure that each patient receives, at the time of discharge, information regarding each medication dispensed, pursuant to Section 4074 of the Business and Professions Code.

(h) A hospital shall provide every patient anticipated to be in need of long-term care at the time of discharge with contact information for at least one public or nonprofit agency or organization dedicated to providing information or referral services relating to community-based long-term care options in the patient's county of residence and appropriate to the needs and characteristics of the patient. At a minimum, this information shall include contact information for the area agency on aging serving the patient's county of residence, local independent living centers, or other information appropriate to the needs and characteristics of the patient.

(i) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, shall not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.

(j) Discharge planning policies adopted by a hospital in accordance with this section shall ensure that planning is appropriate to the condition of the patient being discharged from the hospital and to the discharge destination and meets the needs and acuity of patients.

(k) This section does not require a hospital to do any of the following:

(1) Adopt a policy that would delay discharge or transfer of a patient.

(2) Disclose information if the patient has not provided consent that meets the standards required by state and federal laws governing the privacy and security of protected health information.

(3) Comply with the requirements of this section in an area of the hospital where clinical care is provided, unless medically indicated.

(f) This section does not supersede or modify any privacy and information security requirements and protections in federal and state law regarding protected health information or personally identifiable information, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(m) For the purposes of this section, “family caregiver” means a relative, friend, or neighbor who provides assistance related to an underlying physical or mental disability but who is unpaid for those services.

(n) (1) Each hospital, as defined in subdivisions (a), (b), and (f) of Section 1250, shall include within its hospital discharge policy a written homeless patient discharge planning policy and process.

(2) The policy shall require a hospital to inquire about a patient’s housing status during the discharge planning process. Housing status may not be used to discriminate against a patient or prevent medically necessary care or hospital admission.

(3) The policy shall require an individual discharge plan for a homeless patient that helps prepare the homeless patient for return to the community by connecting him or her with available community resources, treatment, shelter, and other supportive services. The discharge planning shall be guided by the best interests of the homeless patient, his or her physical and mental condition, and the homeless patient’s preferences for placement. The homeless patient shall be informed of available placement options.

(4) Unless the homeless patient is being transferred to another licensed health facility, the policy shall require the hospital to identify a postdischarge destination for the homeless patient as follows, with priority given to identifying a sheltered destination with supportive services:

(A) A social services agency, nonprofit social services provider, or governmental service provider that has agreed to accept the homeless patient, if he or she has agreed to the placement. Notwithstanding paragraph (2) of subdivision (k) and subdivision (l), the hospital shall provide potential receiving agencies or providers written or electronic information about the homeless patient’s known posthospital health and behavioral health care needs and shall document the name of the person at the agency or provider who agreed to accept the homeless patient.

(B) The homeless patient’s residence. In the case of a homeless patient, “residence” for the purposes of this subparagraph means the location identified to the hospital by the homeless patient as his or her principal dwelling place.

(C) An alternative destination, as indicated by the homeless patient pursuant to the discharge planning process described in paragraph (3). The hospital shall document the destination indicated by the homeless patient or his or her representative.

(5) The policy shall require that information regarding discharge or transfer be provided to the homeless patient in a culturally competent manner and in a language that is understood by the homeless patient.

(o) The hospital shall document all of the following prior to discharging a homeless patient:

(1) The treating physician has determined the homeless patient's clinical stability for discharge, including, but not limited to, an assessment as to whether the patient is alert and oriented to person, place, and time, and the physician or designee has communicated postdischarge medical needs to the homeless patient.

(2) The homeless patient has been offered a meal, unless medically indicated otherwise.

(3) If the homeless patient's clothing is inadequate, the hospital shall offer the homeless patient weather-appropriate clothing.

(4) The homeless patient has been referred to a source of followup care, if medically necessary.

(5) The homeless patient has been provided with a prescription, if needed, and, for a hospital with an onsite pharmacy licensed and staffed to dispense outpatient medication, an appropriate supply of all necessary medication, if available.

(6) The homeless patient has been offered or referred to screening for infectious disease common to the region, as determined by the local health department.

(7) The homeless patient has been offered vaccinations appropriate to the homeless patient's presenting medical condition.

(8) The treating physician has provided a medical screening examination and evaluation. If the treating physician determines that the results of the medical screening examination and evaluation indicate that followup behavioral health care is needed, the homeless patient shall be treated or referred to an appropriate provider. The hospital shall make a good faith effort to contact one of the following, if applicable:

(A) The homeless patient's health plan, if the homeless patient is enrolled in a health plan.

(B) The homeless patient's primary care provider, if the patient has identified one.

(C) Another appropriate provider, including, but not limited to, the coordinated entry system.

(9) The homeless patient has been screened for, and provided assistance to enroll in, any affordable health insurance coverage for which he or she is eligible.

(10) The hospital has offered the homeless patient transportation after discharge to the destination identified in paragraph (4) of subdivision (n), if that destination is within a maximum travel time of 30 minutes or a maximum travel distance of 30 miles of the hospital. This requirement shall not be construed to prevent a hospital from offering transportation to a more distant destination.

(p) For purposes of this section, "homeless patient" has the same meaning as provided in Section 1262.4.

(q) Subdivisions (n) to (p), inclusive, do not apply to the state hospitals under the jurisdiction of the State Department of State Hospitals, as specified in Sections 4100 and 7200 of the Welfare and Institutions Code.

(r) This section shall remain in effect only until July 1, 2019, and as of that date is repealed.

SEC. 2. Section 1262.5 is added to the Health and Safety Code, to read:

1262.5. (a) Each hospital shall have a written discharge planning policy and process.

(b) The policy required by subdivision (a) shall require that appropriate arrangements for posthospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility, or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning. If the hospital determines that the patient and family members or interested persons need to be counseled to prepare them for posthospital care, the hospital shall provide for that counseling.

(c) As part of the discharge planning process, the hospital shall provide each patient who has been admitted to the hospital as an inpatient with an opportunity to identify one family caregiver who may assist in posthospital care, and shall record this information in the patient's medical chart.

(1) In the event that the patient is unconscious or otherwise incapacitated upon admittance to the hospital, the hospital shall provide the patient or patient's legal guardian with an opportunity to designate a caregiver within a specified time period, at the discretion of the attending physician, following the patient's recovery of consciousness or capacity. The hospital shall promptly document the attempt in the patient's medical record.

(2) In the event that the patient or legal guardian declines to designate a caregiver pursuant to this section, the hospital shall promptly document this declination in the patient's medical record, when appropriate.

(d) The policy required by subdivision (a) shall require that the patient's designated family caregiver be notified of the patient's discharge or transfer to another facility as soon as possible and, in any event, upon issuance of a discharge order by the patient's attending physician. If the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the patient. The hospital shall promptly document the attempted notification in the patient's medical record.

(e) The process required by subdivision (a) shall require that the patient and family caregiver be informed of the continuing health care requirements following discharge from the hospital. The right to information regarding continuing health care requirements following discharge shall also apply to the person who has legal responsibility to make decisions regarding medical care on behalf of the patient, if the patient is unable to make those decisions for himself or herself. The hospital shall provide an opportunity for the patient and his or her designated family caregiver to engage in the discharge planning process, which shall include providing information and, when appropriate, instruction regarding the posthospital care needs of the patient. This information shall include, but is not limited to, education and counseling about the patient's medications, including dosing and proper use of medication delivery devices, when applicable. The information shall be

provided in a culturally competent manner and in a language that is comprehensible to the patient and caregiver, consistent with the requirements of state and federal law, and shall include an opportunity for the caregiver to ask questions about the posthospital care needs of the patient.

(f) (1) A transfer summary shall accompany the patient upon transfer to a skilled nursing or intermediate care facility or to the distinct part-skilled nursing or intermediate care service unit of the hospital. The transfer summary shall include essential information relative to the patient's diagnosis, hospital course, pain treatment and management, medications, treatments, dietary requirement, rehabilitation potential, known allergies, and treatment plan, and shall be signed by the physician.

(2) A copy of the transfer summary shall be given to the patient and the patient's legal representative, if any, prior to transfer to a skilled nursing or intermediate care facility.

(g) A hospital shall establish and implement a written policy to ensure that each patient receives, at the time of discharge, information regarding each medication dispensed, pursuant to Section 4074 of the Business and Professions Code.

(h) A hospital shall provide every patient anticipated to be in need of long-term care at the time of discharge with contact information for at least one public or nonprofit agency or organization dedicated to providing information or referral services relating to community-based long-term care options in the patient's county of residence and appropriate to the needs and characteristics of the patient. At a minimum, this information shall include contact information for the area agency on aging serving the patient's county of residence, local independent living centers, or other information appropriate to the needs and characteristics of the patient.

(i) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, shall not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.

(j) Discharge planning policies adopted by a hospital in accordance with this section shall ensure that planning is appropriate to the condition of the patient being discharged from the hospital and to the discharge destination and meets the needs and acuity of patients.

(k) This section does not require a hospital to do any of the following:

(1) Adopt a policy that would delay discharge or transfer of a patient.

(2) Disclose information if the patient has not provided consent that meets the standards required by state and federal laws governing the privacy and security of protected health information.

(3) Comply with the requirements of this section in an area of the hospital where clinical care is provided, unless medically indicated.

(l) This section does not supersede or modify any privacy and information security requirements and protections in federal and state law regarding protected health information or personally identifiable information, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(m) For the purposes of this section, “family caregiver” means a relative, friend, or neighbor who provides assistance related to an underlying physical or mental disability but who is unpaid for those services.

(n) (1) Each hospital, as defined in subdivisions (a), (b), and (f) of Section 1250, shall include within its hospital discharge policy a written homeless patient discharge planning policy and process.

(2) The policy shall require a hospital to inquire about a patient’s housing status during the discharge planning process. Housing status may not be used to discriminate against a patient or prevent medically necessary care or hospital admission.

(3) The policy shall require an individual discharge plan for a homeless patient that helps prepare the homeless patient for return to the community by connecting him or her with available community resources, treatment, shelter, and other supportive services. The discharge planning shall be guided by the best interests of the homeless patient, his or her physical and mental condition, and the homeless patient’s preferences for placement. The homeless patient shall be informed of available placement options.

(4) Unless the homeless patient is being transferred to another licensed health facility, the policy shall require the hospital to identify a postdischarge destination for the homeless patient as follows, with priority given to identifying a sheltered destination with supportive services:

(A) A social services agency, nonprofit social services provider, or governmental service provider that has agreed to accept the homeless patient, if he or she has agreed to the placement. Notwithstanding paragraph (2) of subdivision (k) and subdivision (l), the hospital shall provide potential receiving agencies or providers written or electronic information about the homeless patient’s known posthospital health and behavioral health care needs and shall document the name of the person at the agency or provider who agreed to accept the homeless patient.

(B) The homeless patient’s residence. In the case of a homeless patient, “residence” for the purposes of this subparagraph means the location identified to the hospital by the homeless patient as his or her principal dwelling place.

(C) An alternative destination, as indicated by the homeless patient pursuant to the discharge planning process described in paragraph (3). The hospital shall document the destination indicated by the homeless patient or his or her representative.

(5) The policy shall require that information regarding discharge or transfer be provided to the homeless patient in a culturally competent manner and in a language that is understood by the homeless patient.

(o) The hospital shall document all of the following prior to discharging a homeless patient:

(1) The treating physician has determined the homeless patient’s clinical stability for discharge, including, but not limited to, an assessment as to whether the patient is alert and oriented to person, place, and time, and the physician or designee has communicated postdischarge medical needs to the homeless patient.

(2) The homeless patient has been offered a meal, unless medically indicated otherwise.

(3) If the homeless patient's clothing is inadequate, the hospital shall offer the homeless patient weather-appropriate clothing.

(4) The homeless patient has been referred to a source of followup care, if medically necessary.

(5) The homeless patient has been provided with a prescription, if needed, and, for a hospital with an onsite pharmacy licensed and staffed to dispense outpatient medication, an appropriate supply of all necessary medication, if available.

(6) The homeless patient has been offered or referred to screening for infectious disease common to the region, as determined by the local health department.

(7) The homeless patient has been offered vaccinations appropriate to the homeless patient's presenting medical condition.

(8) The treating physician has provided a medical screening examination and evaluation. If the treating physician determines that the results of the medical screening examination and evaluation indicate that followup behavioral health care is needed, the homeless patient shall be treated or referred to an appropriate provider. The hospital shall make a good faith effort to contact one of the following, if applicable:

(A) The homeless patient's health plan, if the homeless patient is enrolled in a health plan.

(B) The homeless patient's primary care provider, if the patient has identified one.

(C) Another appropriate provider, including, but not limited to, the coordinated entry system.

(9) The homeless patient has been screened for, and provided assistance to enroll in, any affordable health insurance coverage for which he or she is eligible.

(10) The hospital has offered the homeless patient transportation after discharge to the destination identified in paragraph (4) of subdivision (n), if that destination is within a maximum travel time of 30 minutes or a maximum travel distance of 30 miles of the hospital. This requirement shall not be construed to prevent a hospital from offering transportation to a more distant destination.

(p) A hospital shall develop a written plan for coordinating services and referrals for homeless patients with the county behavioral health agency, health care and social services agencies in the region, health care providers, and nonprofit social services providers, as available, to assist with ensuring appropriate homeless patient discharge. The plan shall be updated annually and shall include all of the following:

(1) A list of local homeless shelters, including their hours of operation, admission procedures and requirements, client population served, and general scope of medical and behavioral health services available.

(2) The hospital's procedures for homeless patient discharge referrals to shelter, medical care, and behavioral health care.

(3) The contact information for the homeless shelter's intake coordinator.

(4) Training protocols for discharge planning staff.

(q) Each hospital shall maintain a log of homeless patients discharged and the destinations to which they were released after discharge pursuant to paragraph (10) of subdivision (o), if any. The hospital shall maintain evidence of completion of the homeless patient discharge protocol in the log or in the patient's medical record.

(r) For purposes of this section, "homeless patient" has the same meaning as provided in Section 1262.4.

(s) It is the intent of the Legislature that nothing in this section shall be construed to preempt, limit, prohibit, or otherwise affect, the adoption, implementation, or enforcement of local ordinances, codes, regulations, or orders related to the homeless patient discharge processes, except to the extent that any such provision of law is inconsistent with the provisions of this section, and then only to the extent of the inconsistency. A local ordinance, code, regulation, or order is not deemed inconsistent with this section if it affords greater protection to homeless patients than the requirements set forth in this section. Where local ordinances, codes, regulations, or orders duplicate or supplement this section, this section shall be construed as providing alternative remedies and shall not be construed to preempt the field.

(t) Nothing in this section alters the health and social service obligations described in Section 17000 of the Welfare and Institutions Code.

(u) Subdivisions (n) to (t), inclusive, do not apply to the state hospitals under the jurisdiction of the State Department of State Hospitals, as specified in Sections 4100 and 7200 of the Welfare and Institutions Code.

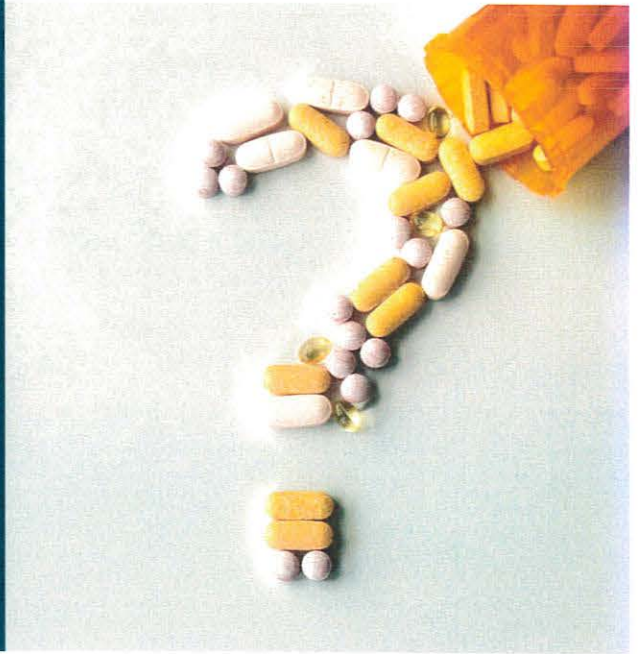
(v) This section shall become operative on July 1, 2019.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CURES 2.0

MANDATORY USE

BEGINS OCTOBER 2, 2018



The Controlled Substance Utilization Review and Evaluation System (CURES) was certified for statewide use by the Department of Justice (DOJ) on April 2, 2018. Therefore, the mandate to consult CURES prior to prescribing, ordering, administering, or furnishing a Schedule II–IV controlled substance becomes effective on October 2, 2018. Visit www.mbc.ca.gov/CURES for detailed information regarding CURES 2.0.

Note: The phrase "controlled substance" as used in this guide refers to a Schedule II, Schedule III, or Schedule IV controlled substance.

WHEN MUST I CONSULT CURES?

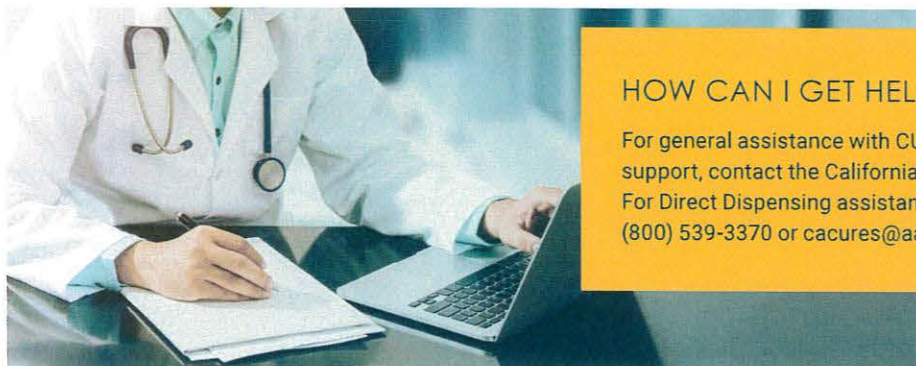
- The first time a patient is prescribed, ordered, administered, or furnished a controlled substance, unless one of the exemptions on back apply.
- Within the twenty-four hour period, or the previous business day, before prescribing, ordering, administering, or furnishing a controlled substance, unless one of the exemptions on back apply.
- Before subsequently prescribing a controlled substance, if previously exempt.
- At least once every four months if the controlled substance remains a part of the patient's treatment plan.

WHAT PROTECTIONS ARE THERE FOR PRESCRIBERS?

- There is no private cause of action for a prescriber's failure to consult CURES.
- For complete information on the mandatory requirement to consult CURES, please read HSC § 11165.4.
- If you have any further questions, please seek legal counsel.

"First time" is defined as the initial occurrence in which a health care practitioner intends to prescribe, order, administer, or furnish a controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

— Health and Safety Code (HSC), § 11165.4(a)(1)(B)



HOW CAN I GET HELP WITH CURES?

For general assistance with CURES, including training and CURES usage support, contact the California DOJ at (916) 210-3187 or CURES@doj.ca.gov. For Direct Dispensing assistance, contact Atlantic Associates, Inc. at (800) 539-3370 or cacures@aainh.com.

WHAT EXEMPTIONS ARE THERE TO CONSULTING CURES?

- A health care practitioner is exempt from consulting the CURES database before prescribing, ordering, administering, or furnishing a controlled substance in any of the following circumstances:
 - While the patient is admitted to, or during an emergency transfer between a
 - Licensed Clinic, or
 - Outpatient Setting, or
 - Health Facility, or
 - County Medical Facility
 - In the emergency department of a general acute care hospital, and the controlled substance does not exceed a non-refillable seven-day supply.
 - As part of a patient's treatment for a surgical procedure, and the controlled substance does not exceed a non-refillable five-day supply when a surgical procedure is performed at a
 - Licensed Clinic, or
 - Outpatient Setting, or
 - Health Facility, or
 - County Medical Facility, or
 - Place of Practice
 - The patient is receiving hospice care.
- What if it is not reasonably possible for a prescriber to access the information in CURES in a timely manner?
 - If another individual with access to CURES is not reasonably available, a five-day supply of the controlled substance can be prescribed, ordered, administered, or furnished as long as there is no refill allowed. In addition, the prescriber must document in the patient's medical records the reason for not consulting CURES.
- What if I determine that consulting CURES would result in a patient's inability to obtain a prescription in a timely manner and thereby adversely impact the patient's medical condition?
 - A prescriber may provide a non-refillable five-day supply if they make this determination. The prescriber must document in the patient's medical records the reason for not consulting CURES.

The facilities listed are specifically defined in statute commencing with HSC § 1200, § 1248, § 1250, and § 1440, respectively.

"Place of Practice" is defined as a Dental Office pursuant to Business and Professions Code § 1658.



WHAT IF I EXPERIENCE TECHNICAL DIFFICULTIES WITH CURES?

There are exemptions to consulting CURES if there are technical difficulties accessing CURES, such as CURES is temporarily unavailable for system maintenance, or you experience temporary technological or electrical failure and CURES cannot be accessed (e.g., power outage due to inclement weather).

A prescriber should contact the CURES Help Desk at (916) 210-3187 or cures@doj.ca.gov for assistance accessing their CURES account.

Note: A prescriber must, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within their control.



CURES 2.0



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Controlled Substance Utilization Review and Evaluation System (CURES) Mandatory Consultation – Frequently Asked Questions

1. What does 'mandatory use of' or 'consultation of' CURES mean?

This requirement means that unless an exemption exists in law, a physician must query the CURES database and run a Patient Activity Report (PAR) on each patient the first time a patient is prescribed, ordered, or administered a Schedule II-IV controlled substance. The PAR must be run within twenty-four hours, or the previous business day, before prescribing, ordering, or administering the controlled substance. In addition, a physician must also query the database at least once every four months if the controlled substance remains a part of the patient's treatment plan. Please go to the Board's [website](#) for more information.

2. What does 'first time' mean?

'First time' is defined as the initial occurrence in which a health care practitioner intends to prescribe, order, administer, or furnish a Schedule II-IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

3. What actions constitute successfully meeting the requirement to "consult CURES?" For example, can a staff member or other proxy consult CURES on behalf of the physician?

Consulting CURES means the physician prescribing, ordering, administering, or furnishing the Schedule II-IV controlled substance has received a Patient Activity Report (PAR) and has reviewed the information on the document. While a physician can have a registered delegate request the CURES report, the report will go into the physician's dashboard on CURES so the physician can review the PAR prior to prescribing, ordering, administering, or furnishing.

4. How do I document that I checked CURES prior to prescribing, is a note in the chart sufficient or do I print the CURES report and put it in the patient's file?

If a physician consults CURES, it is not required to note it in the patient's file; however, the Board recommends the physician do so. It is up to the physician to determine how to document that he or she consulted CURES, e.g., document it in the chart or print the report and place it in the patient's file.

5. How do I document I had an exemption and did not need to check CURES?

Most exemptions do not require a physician to document that he or she did not consult CURES because an exemption applied; however, the Board still recommends that a physician document the patient's record with the reason for not consulting CURES.

Documentation of an exemption **is required** if it is not reasonably possible for a physician to access the information in the CURES database in a timely manner, another physician, who can access the CURES database, is not reasonably available, and the quantity of the controlled substance does not exceed a non-refillable five-day supply of the controlled substance.

6. Can the Board audit CURES to determine physician compliance?

Yes, the CURES Program has the ability to audit the activity of users within the system and the Board has access to this activity.

7. How will the Board know that I did not check CURES and what are the consequences or administrative sanctions of non-compliance with mandatory use?

The Board can receive information about non-compliance through a number of ways. The Board may receive a complaint from a patient, another licensee, or any other source that the physician is not consulting CURES as required. In addition, during the review of any investigation into a physician's care and treatment, the investigator, as part of the investigation process, will ensure CURES was consulted prior to prescribing, ordering, administering, or furnishing controlled substances as required by law.

Failing to consult CURES is a violation of the law and it could result in the issuance of a citation and fine, or could be a cause of action in an accusation that leads to disciplinary action. Disciplinary action could be a public reprimand, suspension, probation, or revocation. Each violation of the law is reviewed on a case-by-case basis.

8. Can a medical assistant or nurse be a delegate as listed in the CURES Program?

The law requires the prescribing physician consult the CURES database. Consistent with DOJ procedures pursuant to Business and Professions Code section 209, a physician may authorize a delegate to order reports from CURES. However, it is important to note that the delegate can only request the Patient Activity Report (PAR). The report will be sent to the physician's dashboard and only the physician can go in and review the PAR. Please remember that a physician may not provide his/her CURES password to anyone.

9. We are "this type" of a facility. Do the physicians in our facility have to run a CURES report prior to prescribing?

It is the Board's recommendation that you review the specific sections of law for each of the facility types and determine if your facility is exempt while the patient is admitted to your facility or if the patient is seen at your facility for a surgical procedure. You may choose to seek legal counsel to assist in your review of the appropriate sections of law.

To assist with your review, here are the specific links for each facility type where an exemption may apply:

Licensed clinic:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=1200

Outpatient setting:

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=2.&title=&part=&chapter=1.3.&article

Health facility:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1250.&lawCode=HSC

County medical facility:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=2.&title=&part=&chapter=2.5.&article=1

Place of practice:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=2.&title=&part=&chapter=4.&article=3.5

- 10. In a teaching clinic, or similar setting, often providers have to write prescriptions for other providers who may be out. If I am writing a prescription for a Schedule II-IV controlled substance, which the record confirms the patient has previously received, will I have to check CURES?**

Yes, each physician is required to consult the CURES database prior to prescribing, ordering, or administering.

- 11. If I am covering for one of the other physician's in my practice and a patient requests a refill, and I fill it, do I need to consult CURES? What if the other physician consulted CURES recently?**

Yes, you must consult CURES unless one of the exemptions apply. Even if the other physician recently consulted CURES, if this is the first time you prescribed to the patient or is over four months from the last time you consulted CURES for this patient for this controlled substance, you must consult CURES.

- 12. If a patient is given a non-refillable 5-day prescription for a Schedule II-IV controlled substance from the surgical unit as part of a surgical procedure, the physician does not have to consult CURES as this is an exception. However, if the patient is seen in follow-up one week later and needs an additional refill of medication for pain control, does the physician have to consult CURES?**

Yes, the physician must consult CURES. The law states that a physician, who previously had an exemption, must consult the CURES database prior to subsequently prescribing a Schedule II-IV controlled substance to the patient and at least once every four months thereafter if the substance remains part of the treatment of the patient.

- 13. If my patient was admitted to a hospital for non-surgical treatment and was receiving a Schedule II-IV controlled substance in the hospital, do I have to consult CURES to prescribe a Schedule II-IV controlled substance at discharge from the hospital or am I exempt if I only prescribe a non-refillable seven-day supply?**

If you have not previously consulted CURES, you would be required to consult CURES at discharge no matter the number of days supplied. The exemption only pertains to controlled substances administered while the patient is admitted to or during emergency transfer between facilities specified in law.

- 14. I am a hospitalist at a facility specified in the law. Am I exempt from checking CURES if I am discharging a surgical patient and the prescription for the Schedule II-IV controlled substance is not more than a five-day supply?**

According to the law, if the prescription is part of the patient's treatment for the surgical procedure, the physician does not need to consult CURES as long as the supply does not exceed a non-refillable five-day supply.

15. What actions should be taken if the physician recognizes excessive prescribing or that the patient may be abusing controlled substances?

The physician needs to follow the standard of care when reviewing the patient's controlled substance history. It is important that the patient receive appropriate care, which could include substance abuse treatment, discussion regarding pain management, titration of controlled substances, etc., depending upon the circumstances.

In addition, if a physician believes another physician is excessively prescribing controlled substances to a patient, the Board recommends that you report that physician to the Board for appropriate action.

16. What is the threshold for determining compliance with this statute? (Given the logistics of a typical practice, it will be impractical that 100% compliance will be achievable.)

The law requires complete compliance unless there is an exemption. The Board will review each violation on a case-by-case basis and take action as appropriate.

17. If a physician is titrating up a medication, for example starts with Oxycontin 5mg and then titrates up to 10mg, is this considered a 'new prescription' and is CURES consultation required with each titration?

No, this is not a new 'controlled substance' as it is still the same drug, just a different dosage and therefore another check is not required for four months if that controlled substance remains a part of the patient's treatment.

18. Some of our clinics are using pharmacists to assist with medication reconciliation and other functions at the time of outpatient visits. As part of this process, the pharmacist will print out a Patient Activity Report (PAR) from CURES (using their own log-on) for any patients that have controlled substances on their active medication list. These printouts are given to the physician for review during the appointment, saving time for the physician. Will this satisfy the "mandatory consultation requirement" and would the physician need to file the CURES report in the chart in case of audit?

The law says the physician must consult the CURES database, which means the physician must log into the database, or access a health information technology system if it is integrated with the CURES database, to view a PAR. This is true even if the physician authorizes a delegate to request a PAR.

19. I write less than ten Schedule II-IV controlled substances a year. Do I have to do anything with the CURES Program?

While you may not prescribe that often, the law requires that if you have a DEA registration that authorizes you to prescribe Schedules II - IV controlled substances, you must be registered in CURES. Here is a link to a website regarding CURES registration
<https://cures.doj.ca.gov/registration/confirmEmailPnDRegistration.xhtml>.

In addition, as of October 2, 2018, the first time you prescribe a Schedule II - IV controlled substance to a patient, you must consult the CURES database prior to prescribing, with limited exemptions. You must also consult CURES every 4 months thereafter if that controlled substance remains a part of the patient's treatment. Here is a link to the website with more information regarding that requirement
http://www.mbc.ca.gov/Licensees/Prescribing/CURES/Mandatory_Use.aspx.

- 20. I am a physician who holds a license in California but I also hold a license in Montana and practice in Montana. Do I have to be registered in CURES and do I have to consult CURES?**
If a physician holds a renewed and current license in California and is authorized to prescribe Schedules II-IV controlled substances in California, they must be registered in the CURES Program. In addition, if the physician is prescribing to a California patient (potentially via telemedicine), the physician would have to consult CURES unless one of the specified exemptions applied.