



PHYSICAL THERAPY
BOARD OF CALIFORNIA

CALIFORNIA LAWS AND REGULATIONS RELATED TO THE PRACTICE OF PHYSICAL THERAPY

JANUARY 2024

**STATE OF CALIFORNIA
DEPARTMENT OF
CONSUMER AFFAIRS**

**AVIN NEWSOM
GOVERNOR**

**CALIFORNIA LAWS AND REGULATIONS RELATED
TO THE PRACTICE OF PHYSICAL THERAPY
2024 EDITION**



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Introduction

This is the Physical Therapy Board of California March 2024 edition of the Physical Therapy Practice Act comprised of the laws and regulations relating to the practice of physical therapy in California.

Mission

The PTBC's mission is to advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

Vision

The standard for consumer protection in physical therapy.

FOREWORD

As publishers of the *Parker's California Codes*, LexisNexis is pleased to present the 2024 Edition of **California Laws and Regulations Related to the Practice of Physical Therapy**. This volume is a compilation of selected laws and regulations that affect the medical industry. This 2024 edition incorporates all legislation affecting certain codes enacted through 2023 Extra Session Ch 1, 2023 Regular Session Ch. 1-890.

Included in this edition is a Table of Sections Affected which may be utilized to facilitate research into recently enacted legislation affecting these codes. Through the use of state-of-the-art computer software, attorney editors have updated the comprehensive descriptive word index with the enactments of the 2024 legislature.

In its efforts to remain committed to technological advances and responsive to the needs of legal researchers, LexisNexis features the Parker's California Codes in electronic form. For more information about eBooks and other electronic formats, please call our Customer Service department toll-free at 1-800-833-9844.

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January 2024



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BUSINESS & PROFESSIONS CODE

DIVISION 1

DEPARTMENT OF CONSUMER AFFAIRS

HISTORY: Enacted Stats 1937 ch 399. The heading of Division 1, amended to read as above by Stats 1973 ch 77 § 1.

CHAPTER 1

THE DEPARTMENT

HISTORY: Enacted Stats 1937 ch 399.

§ 104. Display of licenses or registrations

All boards or other regulatory entities within the department's jurisdiction that the department determines to be health-related may adopt regulations to require licensees to display their licenses or registrations in the locality in which they are treating patients, and to inform patients as to the identity of the regulatory agency they may contact if they have any questions or complaints regarding the licensee. In complying with this requirement, those boards may take into consideration the particular settings in which licensees practice, or other circumstances which may make the displaying or providing of information to the consumer extremely difficult for the licensee in their particular type of practice.

HISTORY:

Added Stats 1998 ch 991 § 1 (SB1980).

§ 108.5. Witness fees and expenses

In any investigation, proceeding, or hearing that any board, commission, or officer in the department is empowered to institute, conduct, or hold, any witness appearing at the investigation, proceeding, or hearing whether upon a subpoena or voluntarily, may be paid the sum of twelve dollars (\$12) per day for every day in actual attendance at the investigation, proceeding, or hearing and for the witness's actual, necessary, and reasonable expenses and those sums shall be a legal charge against the funds of the respective board, commission, or officer; provided further, that no witness appearing other than at the instance of the board, commission, or officer may be compensated out of the fund.

The board, commission, or officer shall determine the sums due to any witness and enter the amount on its minutes.

HISTORY:

Added Stats 1943 ch 1035 § 1. Amended Stats 1957 ch 1908 § 6; Stats 1970 ch 1061 § 1; Stats 2019 ch 351 § 15 (AB 496), effective January 1, 2020.

§ 114

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§ 114. Reinstatement of expired license of licensee serving in military

(a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or registration without examination or penalty, provided that all of the following requirements are satisfied:

(1) The licensee or registrant's license or registration was valid at the time they entered the California National Guard or the United States Armed Forces.

(2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.

(c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of the applicant's profession while on active duty, then the licensing agency may require the applicant to pass an examination.

(d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which the licensee or registrant is licensed or registered shall be required to maintain their license in good standing even though the licensee or registrant is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which the licensee is prevented from practicing the licensee's profession or vocation shall be excluded from said period of one year.

HISTORY:

Added Stats 1951 ch 185 § 2. Amended Stats 1953 ch 423 § 1; Stats 1961 ch 1253 § 1; Stats 2010 ch 389 § 1 (AB 2500), effective January 1, 2011; Stats 2011 ch 296 § 1 (AB 1023), effective January 1, 2012; Stats 2019 ch 351 § 17 (AB 496), effective January 1, 2020.

SUGGESTED FORMS**Application for Reinstatement of Expired License After Military Service**

To: _____ [specify agency], Department of Consumer Affairs.

The undersigned licensee of _____ [specify agency] hereby applies pursuant to Section 114 of the Business and Professions Code of the State of California for reinstatement of _____ [his or her] license. The applicant declares: 1. The applicant entered active duty on _____ in the United States _____ [specify branch of service]. On such date, applicant held a valid, unexpired _____ [class of license] issued by _____ [specify agency]. Applicant served exclusively with such branch of the

armed forces of the United States until _____ [at which time applicant returned to inactive military service and was discharged therefrom, *or* at which time applicant was released from active duty]. 2. During applicant's period of active military service, the United States was engaged in a war as defined by Section 114.5 of the Business and Professions Code of the State of California. 3. Applicant did not engage in any activity for which _____ [his or her] license would have been required during the aforementioned period.

Wherefore, applicant requests the reinstatement of _____ [his or her] license without reexamination or payment of penalty fees or fees other than the regular renewal fee.

I _____ [certify or declare] under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[Signature]

Supporting Affidavit to Accompany Application for Reinstatement of Expired License After
Military Service

[Venue]

The undersigned, _____, being duly sworn, deposes and says: 1. Affiant entered the armed forces of the United States on _____. 2. At the time of affiant's entrance into the armed forces, _____ [he or she] was the holder of a valid, renewable license to engage in the profession of _____ [specify]. Such license had been issued by _____ [specify board or commission], of the State of California. 3. Affiant's service with the armed forces was with the _____ [specify organization or unit of the armed forces]. 4. Affiant was discharged from the armed forces of the United States on _____, at _____. 5. Affiant seeks a reinstatement of the aforementioned license and such reinstatement is sought in accordance with the provisions of Section 114 of the Business and Professions Code of the State of California.

[Signature and address]

License No. _____.

Dated _____.

[Jurat]

§ 114.3. Waiver of fees and requirements for active duty members of armed forces and national guard

(a) Notwithstanding any other law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for a licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

(1) The licensee or registrant possessed a current and valid license with the board at the time the licensee or registrant was called to active duty.

(2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.

(3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.

(b) For purposes of this section, the phrase "called to active duty" shall have the same meaning as "active duty" as defined in Section 101 of Title 10 of the United States Code and shall additionally include individuals who are on active duty in the California National Guard, whether due to proclamation of a state of insurrection pursuant to Section 143 of the Military and Veterans Code or due to a proclamation of a state extreme emergency or when the California National Guard is otherwise on active duty pursuant to Section 146 of the Military and Veterans Code.

(c)(1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

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(2) If the licensee or registrant will provide services for which the licensee or registrant is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(d) In order to engage in any activities for which the licensee or registrant is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(e) After a licensee or registrant receives notice of the licensee or registrant's discharge date, the licensee or registrant shall notify the board of their discharge from active duty within 60 days of receiving their notice of discharge.

(f) A board may adopt regulations to carry out the provisions of this section.

(g) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

HISTORY:

Added Stats 2012 ch 742 § 1 (AB 1588), effective January 1, 2013. Amended Stats 2019 ch 351 § 18 (AB 496), effective January 1, 2020; Stats 2022 ch 386 § 1 (SB 1237), effective January 1, 2023.

§ 114.5. Military service; Posting of information on Web site about application of military experience and training towards licensure

(a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

(b) If a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's Internet Web site about the ability of veteran applicants to apply military experience and training towards licensure requirements.

HISTORY:

Added Stats 2013 ch 693 § 1 (AB 1057), effective January 1, 2014. Amended Stats 2016 ch 174 § 1 (SB 1348), effective January 1, 2017.

§ 115. Applicability of Section 114

The provisions of Section 114 of this code are also applicable to a licensee or registrant whose license or registration was obtained while in the armed services.

HISTORY:

Added Stats 1951 ch 1577 § 1.

§ 115.4. Licensure process expedited for honorably discharged veterans of Armed Forces

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) Notwithstanding any other law, on and after July 1, 2024, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant is an active duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense Skill-Bridge program as authorized under Section 1143(e) of Title 10 of the United States Code.

(c) A board may adopt regulations necessary to administer this section in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

HISTORY:

Added Stats 2014 ch 657 § 1 (SB 1226), effective January 1, 2015. Amended Stats 2023 ch 348 § 1 (AB 883), effective January 1, 2024.

§ 115.5. Board required to expedite licensure process for certain applicants; Adoption of regulations

(a) A board within the department shall expedite the licensure process and waive the licensure application fee and the initial or original license fee charged by the board for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

(c) This section shall become operative on July 1, 2022.

HISTORY:

Added Stats 2021 ch 367 § 2 (SB 607), effective January 1, 2022, operative July 1, 2022.

§ 118. Effect of withdrawal of application; Effect of suspension, forfeiture, etc., of license

(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking

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the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, “board” includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and “license” includes “certificate,” “registration,” and “permit.”

HISTORY:

Added Stats 1961 ch 1079 § 1.

§ 119. Misdemeanors pertaining to use of licenses

Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in the person’s possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends the person’s license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to the person as being the person’s license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to the person.

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in the person’s possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, “fraudulent” means containing any misrepresentation of fact.

As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration” or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

HISTORY:

Added Stats 1965 ch 1083 § 1. Amended Stats 1990 ch 350 § 1 (SB 2084) (ch 1207 prevails), ch 1207 § 1 (AB 3242); Stats 1994 ch 1206 § 1 (SB 1775); Stats 2000 ch 568 § 1 (AB 2888); Stats 2019 ch 351 § 22 (AB 496), effective January 1, 2020.

§ 121. Practice during period between renewal and receipt of evidence of renewal

No licensee who has complied with the provisions of this code relating to the renewal of the licensee’s license prior to expiration of such license shall be deemed to be engaged illegally in the practice of the licensee’s business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, “license” includes “certificate,” “permit,” “authorization,” and “registration,” or any other indicia giving authorization, by any

agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

HISTORY:

Added Stats 1979 ch 77 § 1. Amended Stats 2019 ch 351 § 24 (AB 496), effective January 1, 2020.

§ 121.5. Application of fees to licenses or registrations lawfully inactive

Except as otherwise provided in this code, the application of delinquency fees or accrued and unpaid renewal fees for the renewal of expired licenses or registrations shall not apply to licenses or registrations that have lawfully been designated as inactive or retired.

HISTORY:

Added Stats 2001 ch 435 § 1 (SB 349).

§ 123. Conduct constituting subversion of licensing examination; Penalties and damages

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency

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administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

(c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

HISTORY:

Added Stats 1989 ch 1022 § 1. Amended Stats 1991 ch 647 § 1 (SB 879).

§ 123.5. Enjoining violations

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

HISTORY:

Added Stats 1983 ch 95 § 2, as B & P C § 497. Amended and renumbered by Stats 1989 ch 1022 § 4.

§ 125. Misdemeanor offenses by licensees

Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to them, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

- (a) Allows their license to be used by that person.
- (b) Acts as their agent or partner.

HISTORY:

Added Stats 1949 ch 308 § 1. Amended Stats 1994 ch 1206 § 2 (SB 1775); Stats 2019 ch 351 § 26 (AB 496), effective January 1, 2020.

§ 125.6. Unlawful discrimination by licensees

(a)(1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person makes any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b)(1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which the person is not qualified to perform.

(c)(1) “Applicant,” as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) “License,” as used in this section, includes “certificate,” “permit,” “authority,” and “registration” or any other indicia giving authorization to engage in a business or profession regulated by this code.

HISTORY:

Added Stats 1974 ch 1350 § 1. Amended Stats 1977 ch 293 § 1; Stats 1980 ch 191 § 1; Stats 1992 ch 913 § 2 (AB 1077); Stats 2007 ch 568 § 2 (AB 14), effective January 1, 2008; Stats 2019 ch 351 § 28 (AB 496), effective January 1, 2020.

§ 128. Sale of equipment, supplies, or services for use in violation of licensing requirements

Notwithstanding any other provision of law, it is a misdemeanor to sell equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services are to be used in the performance of a service or contract in violation of the licensing requirements of this code.

The provisions of this section shall not be applicable to cash sales of less than one hundred dollars (\$100).

For the purposes of this section, “person” includes, but is not limited to, a company, partnership, limited liability company, firm, or corporation.

For the purposes of this section, “license” includes certificate or registration.

A violation of this section shall be punishable by a fine of not less than one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding six months.

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HISTORY:

Added Stats 1971 ch 1052 § 1. Amended Stats 1994 ch 1010 § 1 (SB 2053).

§ 129. Handling of complaints; Reports to Legislature

(a) As used in this section, “board” means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.

(b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on the complainant’s complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on the complainant’s complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board’s functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

(f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

HISTORY:

Added Stats 1972 ch 1041 § 1. Amended Stats 2014 ch 283 § 1 (AB 1843), effective January 1, 2015; Stats 2019 ch 351 § 31 (AB 496), effective January 1, 2020.

§ 136. Notification of change of address; Punishment for failure to comply

(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the

department shall notify the issuing board at its principal office of any change in the person's mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

HISTORY:

Added Stats 1994 ch 26 § 7 (AB 1807), effective March 30, 1994. Amended Stats 2019 ch 351 § 34 (AB 496), effective January 1, 2020.

§ 138. Notice that practitioner is licensed; Evaluation of licensing examination

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

HISTORY:

Added Stats 1998 ch 879 § 1 (SB 2238). Amended Stats 1999 ch 67 § 1 (AB 1105), effective July 6, 1999; Stats 2019 ch 351 § 36 (AB 496), effective January 1, 2020.

§ 140. Disciplinary action; Licensee's failure to record cash transactions in payment of employee wages

Any board, as defined in Section 22, which is authorized under this code to take disciplinary action against a person who holds a license may take disciplinary action upon the ground that the licensee has failed to record and preserve for not less than three years, any and all cash transactions involved in the payment of employee wages by a licensee. Failure to make these records available to an authorized representative of the board may be made grounds for disciplinary action. In any action brought and sustained by the board which involves a violation of this section and any regulation adopted thereto, the board may assess the licensee with the actual investigative costs incurred, not to exceed two thousand five hundred dollars (\$2,500). Failure to pay those costs may result in revocation of the license. Any moneys collected pursuant to this section shall be deposited in the respective fund of the board.

HISTORY:

Added Stats 1984 ch 1490 § 2, effective September 27, 1984.

§ 141. Disciplinary action by foreign jurisdiction; Grounds for disciplinary action by state licensing board

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A

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certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

HISTORY:

Added Stats 1994 ch 1275 § 2 (SB 2101).

§ 142. Authority to synchronize renewal dates of licenses; Abandonment date for application; Delinquency fee

This section shall apply to the bureaus and programs under the direct authority of the director, and to any board that, with the prior approval of the director, elects to have the department administer one or more of the licensing services set forth in this section.

(a) Notwithstanding any other provision of law, each bureau and program may synchronize the renewal dates of licenses granted to applicants with more than one license issued by the bureau or program. To the extent practicable, fees shall be prorated or adjusted so that no applicant shall be required to pay a greater or lesser fee than he or she would have been required to pay if the change in renewal dates had not occurred.

(b) Notwithstanding any other provision of law, the abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application.

(c) Notwithstanding any other provision of law, a delinquency, penalty, or late fee shall be assessed if the renewal fee is not postmarked by the renewal expiration date.

HISTORY:

Added Stats 1998 ch 970 § 2 (AB 2802).

§ 143.5. Provision in agreements to settle certain causes of action prohibited; Adoption of regulations; Exemptions

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

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

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

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

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

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

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

HISTORY:

Added Stats 2012 ch 561 § 1 (AB 2570), effective January 1, 2013.

§ 144. Requirement of fingerprints for criminal record checks; Applicability

(a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) Dental Board of California.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Board.

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- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (14) Medical Board of California.
- (15) California State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Podiatric Medical Board of California.
- (28) Osteopathic Medical Board of California.
- (29) California Architects Board, beginning January 1, 2021.
- (30) Landscape Architects Technical Committee, beginning January 1, 2022.
- (31) Bureau of Household Goods and Services with respect to household movers as described in Chapter 3.1 (commencing with Section 19225) of Division 8.

(c) For purposes of paragraph (26) of subdivision (b), the term “applicant” shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

HISTORY:

Added Stats 1997 ch 758 § 2 (SB 1346). Amended Stats 2000 ch 697 § 1.2 (SB 1046), operative January 1, 2001; Stats 2001 ch 159 § 4 (SB 662), Stats 2001 ch 687 § 2 (AB 1409) (ch 687 prevails); Stats 2002 ch 744 § 1 (SB 1953), Stats 2002 ch 825 § 1 (SB 1952); Stats 2003 ch 485 § 2 (SB 907), Stats 2003 ch 789 § 1 (SB 364), Stats 2003 ch 874 § 1 (SB 363); Stats 2004 ch 909 § 1.2 (SB 136), effective September 30, 2004; Stats 2009 ch 308 § 4 (SB 819), effective January 1, 2010; Stats 2011 ch 448 § 1 (SB 543), effective January 1, 2012; Stats 2015 ch 719 § 1 (SB 643), effective January 1, 2016; Stats 2016 ch 32 § 3 (SB 837), effective June 27, 2016; Stats 2017 ch 775 § 3 (SB 798), effective January 1, 2018; Stats 2018 ch 6 § 1 (AB 106), effective March 13, 2018; Stats 2019 ch 351 § 37 (AB 496), effective January 1, 2020; Stats 2019 ch 376 § 1 (SB 608), effective January 1, 2020; Stats 2019 ch 865 § 1.3 (AB 1519), effective January 1, 2020 (ch 865 prevails); Stats 2020 ch 312 § 5 (SB 1474), effective January 1, 2021; Stats 2021 ch 70 § 3 (AB 141), effective July 12, 2021; Stats 2021 ch 188 § 2 (SB 826), effective January 1, 2022; Stats 2021 ch 630 § 4.5 (AB 1534), effective January 1, 2022 (ch 630 prevails).

§ 144.5. Board authority

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

HISTORY:

Added Stats 2013 ch 516 § 1 (SB 305), effective January 1, 2014.

CHAPTER 7

LICENSEE

HISTORY: Added Stats 1967 ch 1095 § 1.

§ 460. Powers of local governmental entities

(a) No city, county, or city and county shall prohibit a person or group of persons, authorized by one of the agencies in the Department of Consumer Affairs or an entity established pursuant to this code by a license, certificate, or other means to engage in a particular business, from engaging in that business, occupation, or profession or any portion of that business, occupation, or profession.

(b)(1) No city, county, or city and county shall prohibit a healing arts professional licensed with the state under Division 2 (commencing with Section 500) or licensed or certified by an entity established pursuant to this code from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee.

(2) This subdivision shall not be construed to prohibit the enforcement of a local ordinance in effect prior to January 1, 2010, related to any act or procedure that falls within the professionally recognized scope of practice of a healing arts professional licensed under Division 2 (commencing with Section 500).

(c) This section shall not be construed to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a healing arts professional licensed under Division 2 (commencing with Section 500) or licensed or certified by an entity established under this code or a person or group of persons described in subdivision (a).

(d) Nothing in this section shall prohibit any city, county, or city and county from levying a business license tax solely for revenue purposes, nor any city or county from levying a license tax solely for the purpose of covering the cost of regulation.

HISTORY:

Added Stats 1967 ch 1095 § 1. Amended Stats 1971 ch 716 § 24; Stats 2009 ch 16 § 1 (SB 762), effective January 1, 2010; Stats 2014 ch 406 § 1 (AB 1147), effective January 1, 2015.

§ 461. Asking applicant to reveal arrest record prohibited

No public agency, state or local, shall, on an initial application form for any license, certificate or registration, ask for or require the applicant to reveal a record of arrest that did not result in a conviction or a plea of nolo contendere. A violation of this section is a misdemeanor.

This section shall apply in the case of any license, certificate or registration provided for by any law of this state or local government, including, but not limited to, this code, the Corporations Code, the Education Code, and the Insurance Code.

HISTORY:

Added Stats 1975 ch 883 § 1.

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§ 462. Inactive category of licensure

(a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for an inactive category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following provisions:

(1) The holder of an inactive license issued pursuant to this section shall not engage in any activity for which a license is required.

(2) An inactive license issued pursuant to this section shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.

(3) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.

(4) In order for the holder of an inactive license issued pursuant to this section to restore his or her license to an active status, the holder of an inactive license shall comply with all the following:

(A) Pay the renewal fee.

(B) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(c) This section shall not apply to any healing arts board as specified in Section 701.

HISTORY:

Added Stats 1994 ch 26 § 14 (AB 1807), effective March 30, 1994.

§ 464. Retired category of licensure

(a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(3) The holder of a retired license shall not be required to renew that license.

(4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.

(5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

(d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.

HISTORY:

Added Stats 2016 ch 473 § 1 (AB 2859), effective January 1, 2017.

DIVISION 1.5

DENIAL, SUSPENSION AND REVOCATION OF LICENSES

HISTORY: Added Stats 1972 ch 903 § 1.

CHAPTER 1

GENERAL PROVISIONS

HISTORY: Added Stats 1972 ch 903 § 1.

§ 475. Applicability of division

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

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(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 1; Stats 1992 ch 1289 § 5 (AB 2743).

§ 476. Exemptions

(a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1983 ch 721 § 1; Stats 2011 ch 455 § 2 (AB 1424), effective January 1, 2012.

§ 477. "Board"; "License"

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 2; Stats 1983 ch 95 § 1; Stats 1991 ch 654 § 5 (AB 1893).

§ 478. "Application"; "Material"

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

HISTORY:

Added Stats 1992 ch 1289 § 6 (AB 2743).

CHAPTER 2

DENIAL OF LICENSES

HISTORY: Added Stats 1972 ch 903 § 1.

§ 480. Grounds for denial by board; Effect of obtaining certificate of rehabilitation

(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 6 (commencing with Section 6500) of Division 3.
- (ii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iii) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement. Formal discipline that occurred

earlier than seven years preceding the date of application may be grounds for denial of a license only if the formal discipline was for conduct that, if committed in this state by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, would have constituted an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any 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, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any 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 the applicant's 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 website 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.

HISTORY:

Added Stats 2018 ch 995 § 4 (AB 2138), effective January 1, 2019, operative July 1, 2020. Amended Stats 2019 ch 359 § 1 (AB 1521), effective January 1, 2020, operative July 1, 2020; Stats 2019 ch 578 § 2.5 (AB 1076), effective January 1, 2020, operative July 1, 2020 (ch 578 prevails); Stats 2022 ch 453 § 1 (AB 1636), effective January 1, 2023.

§ 480.2. Grounds for denial of license by Bureau for Private Postsecondary Education, State Athletic Commission, and California Horse Racing Board

(a) The Bureau for Private Postsecondary Education, the State Athletic

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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 themselves 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 the application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that the person has been convicted of a felony if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that the person has been convicted of a misdemeanor if the person 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, 1203.41, or 1203.425 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, 1203.41, or 1203.425 of the Penal Code.

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

HISTORY:

Added Stats 2018 ch 995 § 5 (AB 2138), effective January 1, 2019, operative July 1, 2020. Amended Stats 2019 ch 578 § 3 (AB 1076), effective January 1, 2020, operative July 1, 2020.

§ 480.5. Completion of licensure requirements while incarcerated

(a) An individual who has satisfied any of the requirements needed to obtain a license regulated under this division while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing his or her application or a

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denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.

(b) Nothing in this section shall be construed to apply to a petition for reinstatement of a license or to limit the ability of a board to deny a license pursuant to Section 480.

(c) This section shall not apply to the licensure of individuals under the initiative act referred to in Chapter 2 (commencing with Section 1000) of Division 2.

HISTORY:

Added Stats 2014 ch 410 § 1 (AB 1702), effective January 1, 2015.

§ 481. Crime and job-fitness criteria

(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.

HISTORY:

Added Stats 2018 ch 995 § 7 (AB 2138), effective January 1, 2019, operative July 1, 2020.

§ 482. Rehabilitation criteria

(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.

HISTORY:

Added Stats 2018 ch 995 § 9 (AB 2138), effective January 1, 2019, operative July 1, 2020.

§ 483. [Section renumbered 1987.]**HISTORY:**

Added Stats 1986 ch 1205 § 1. Amended and renumbered B & P C § 154.5 by Stats 1987 ch 850 § 8.

§ 484. Attestation to good moral character of applicant

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 9.

§ 485. Procedure upon denial

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

- (a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1997 ch 758 § 2.3 (SB 1346).

§ 486. Contents of decision or notice

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

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(a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.

(b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 9.5; Stats 1997 ch 758 § 2.4 (SB 1346).

SUGGESTED FORMS

Notice of Denial of License Application—General Form

To: _____ [applicant]

The _____ [specify appropriate board, bureau, commission, agency or as the case may be] hereby denies _____ [applicant] a _____ [specify type of license] to engage in _____ [specify activity].

The application for a _____ [specify type of license] is denied on the following grounds: _____.

By reason of such denial, _____ [applicant] has the right to a hearing under _____ [Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code of the State of California]. A written request for a hearing must be made within _____ [60] days after service of this notice of denial. Unless a written request for a hearing is received within the above stipulated period of time, a right to a hearing is deemed waived.

The earliest date on which a reapplication can be made is _____. At such time, all competent evidence of rehabilitation presented will be considered upon a reapplication.

Dated _____.

[Signature]

§ 487. Hearing; Time

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 10; Stats 1986 ch 220 § 1, effective June 30, 1986.

SUGGESTED FORMS

Petition for Hearing on Denial of Application for License

[Title of Court and Cause]

Petitioner, _____, requests that the _____ [name of board or agency or as the case may be] of the State of California, set a date for a hearing on the denial of petitioner's application for a license

to _____ [specify], which application for this license was denied by _____ [name of board or agency or as the case may be] on _____ .
[Signature]

§ 488. Hearing request [Repealed]

HISTORY:

Added Stats 2000 ch 568 § 2 (AB 2888). Amended Stats 2018 ch 995 § 10 (AB 2138), effective January 1, 2019, inoperative July 1, 2020, repealed January 1, 2021.

§ 489. Denial of application without a hearing

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

HISTORY:

Added Stats 1955 ch 1151 § 1, as B & P C § 116. Amended Stats 1978 ch 1161 § 2. Renumbered by Stats 1989 ch 1104 § 1. Amended Stats 1997 ch 758 § 2.5 (SB 1346).

CHAPTER 3

SUSPENSION AND REVOCATION OF LICENSES

HISTORY: Added Stats 1972 ch 903 § 1.

§ 490. Grounds for suspension or revocation; Discipline for substantially related crimes; Conviction; Legislative findings

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An 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 Section 1203.4 of the Penal Code.

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(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

HISTORY:

Added Stats 1974 ch 1321 § 13. Amended Stats 1979 ch 876 § 3; Stats 1980 ch 548 § 1; Stats 1992 ch 1289 § 7 (AB 2743); Stats 2008 ch 33 § 2 (SB 797) (ch 33 prevails), effective June 23, 2008, ch 179 § 3 (SB 1498), effective January 1, 2009; Stats 2010 ch 328 § 2 (SB 1330), effective January 1, 2011.

§ 491. Procedure upon suspension or revocation

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

- (a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.
- (b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

HISTORY:

Added Stats 1972 ch 903 § 1. Amended Stats 1974 ch 1321 § 14; Stats 1975 ch 678 § 1.

SUGGESTED FORMS

Petition for Writ of Mandate to Compel State Board to Vacate Order Concerning Revocation or
Suspension of License

[Title of Court and Cause] 1. Petitioner resides at _____ [address], City of _____, County of _____, State of California. 2. Respondent is the State Board of _____, and as such, is the duly constituted authority to administer the laws of the State of California concerning the practice of _____. 3. Respondent, under the laws of the State of California, has exclusive jurisdiction to issue, suspend, and revoke licenses to practice _____ [specify particular business or profession] in the State of California. 4. Under the provisions of _____ [Section or Sections] _____ of the Business and Professions Code of the State of California the respondent has discretion to determine whether a license to practice _____ should be revoked or suspended. 5. Under the provisions of Section _____ of the _____ [specify particular code], respondent is required to hold a hearing for the purpose of making the determination as to the revocation or suspension of the above enumerated type of license. 6. On _____, petitioner was issued a license to practice _____ by the respondent. A copy of this license is attached hereto, marked Exhibit "_____", and incorporated herein by reference. 7. Petitioner possessed this license at all times herein mentioned until _____, when this license was _____ [revoked or suspended] by the respondent as herein set forth. 8. On _____, respondent filed a charge against petitioner accusing the petitioner of _____ [insert particular misconduct]. A copy of this charge is attached hereto, marked Exhibit "_____", and incorporated herein by reference. 9. On _____, at _____ [address], City of _____, County of _____, State of California, a hearing was held to determine the merits of the above described charge against the petitioner. 10. On _____, the hearing officer in charge of the above hearing prepared a decision the essence of which was that the charge against the petitioner was true and that the license of the petitioner to _____ [specify profession] should be _____ [revoked or suspended] for a period of _____ [months or as the case may be]. A copy of this decision is attached hereto, marked Exhibit

“ _____ ”, and incorporated herein by reference.11.On _____, by an order dated _____, the license of the petitioner to _____ *[specify profession]* was _____ *[revoked or suspended]* until _____. A copy of the order _____ *[revoking or suspending]* the license of the petitioner is attached hereto, marked Exhibit “ _____ ”, and incorporated herein by reference.12.Petitioner has performed all conditions precedent to the filing of this petition by _____ *[describe performance of conditions including the exhaustion of administrative remedies]*.13.The order of the respondent _____ *[revoking or suspending]* the license of the petitioner to _____ *[specify profession]* is invalid for the following reasons: _____ *[specify reasons with some particularity]*.14.A transcript of the record of the hearing, containing the evidence received, is attached hereto, marked Exhibit “ _____ ”, and incorporated herein by reference.15.Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law, other than the relief sought in this petition, in that this is the only proceeding in which the petitioner may obtain the rights demanded herein.

Wherefore, petitioner prays:1.That this court issue an alternative writ of mandate commanding the respondent to vacate and set aside the decision and order _____ *[revoking or suspending]* the license of the petitioner or to show cause before this court at a time specified by an order of this court why it has not done so and why a peremptory writ of mandate should not issue;2.That this court issue an order staying the operation of the order _____ *[revoking or suspending]* the license of the petitioner pending the final decision herein;3.That on the return of the alternative writ of mandate and the hearing of this petition, this court issue its peremptory writ of mandate commanding the respondent to set aside its order _____ *[revoking or suspending]* the license of the petitioner; and4.That this court award petitioner cost of this proceeding and such other and further relief as to the court seems just and proper.

[Signature]

[Verification]

§ 492. Effect of completion of drug diversion program on disciplinary action or denial of license

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

HISTORY:

Added Stats 1987 ch 1183 § 1. Amended Stats 1994 ch 26 § 15 (AB 1807), effective March 30, 1994.

§ 493. Evidentiary effect of record of conviction of crime substantially related to licensee's qualifications, functions, and duties

(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.

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(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.

HISTORY:

Added Stats 2018 ch 995 § 13 (AB 2138), effective January 1, 2019, operative July 1, 2020.

CHAPTER 4**PUBLIC REPROVALS**

HISTORY: Added Stats 1977 ch 886 § 1.

§ 495. Public reproof of licentiate or certificate holder for act constituting grounds for suspension or revocation of license or certificate; Proceedings

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

HISTORY:

Added Stats 1977 ch 886 § 1. Amended Stats 1997 ch 220 § 2 (SB 68), effective August 4, 1997.

CHAPTER 5**EXAMINATION SECURITY**

HISTORY: Added Stats 1983 ch 95 § 2.

§ 496. Grounds for denial, suspension, or revocation of license

A board may deny, suspend, revoke, or otherwise restrict a license on the

ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

HISTORY:

Added Stats 1989 ch 1022 § 3.

§ 497. [Section renumbered 1989.]

HISTORY:

Added Stats 1983 ch 95 § 2. Renumbered B & P C § 123.5 by Stats 1989 ch 1022 § 4.

§ 498. Fraud, deceit or misrepresentation as grounds for action against license

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

HISTORY:

Added Stats 1992 ch 1289 § 8 (AB 2743).

§ 499. Action against license based on licentiate's actions regarding application of another

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

HISTORY:

Added Stats 1992 ch 1289 § 9 (AB 2743).

DIVISION 2
HEALING ARTS
CHAPTER 1
GENERAL PROVISIONS

HISTORY: Enacted Stats 1937 ch 399.

ARTICLE 4
FRAUDS OF MEDICAL RECORDS

HISTORY: Enacted Stats 1937 ch 399.

§ 580. Sale or barter of degree, certificate, or transcript

No person, company, or association shall sell or barter or offer to sell or barter any medical degree, podiatric degree, or osteopathic degree, or chiropractic degree, or any other degree which is required for licensure, certifica-

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tion, or registration under this division, or any degree, certificate, transcript, or any other writing, made or purporting to be made pursuant to any laws regulating the licensing and registration or issuing of a certificate to physicians and surgeons, podiatrists, osteopathic physicians, chiropractors, persons lawfully engaged in any other system or mode of treating the sick or afflicted, or to any other person licensed, certified, or registered under this division.

HISTORY:

Enacted Stats 1937. Amended Stats 1939 ch 269 § 1; Stats 1961 ch 215 § 1; Stats 1986 ch 220 § 2, effective June 30, 1986.

SUGGESTED FORMS

Allegation Charging Sale or the Like of Medical Degrees or the Like

The _____ [Grand Jury *or* District Attorney] of the County of _____, State of California, hereby accuses _____ of a felony, that is: A violation of Section 580 of the Business and Professions Code of the State of California, in that on or about _____, in the County of _____, State of California, _____ [he *or* she] did _____ [sell *or* barter *or* offer to sell *or* offer to barter] a _____ [medical *or* podiatric *or* osteopathic *or* chiropractic] degree.

§ 581. Purchase or fraudulent alteration of diplomas or other writings

No person, company, or association shall purchase or procure by barter or by any unlawful means or method, or have in possession any diploma, certificate, transcript, or any other writing with intent that it shall be used as evidence of the holder's qualifications to practice as a physician and surgeon, osteopathic physician, podiatrist, any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000), or to practice as any other licentiate under this division or in any fraud of the law regulating this practice or, shall with fraudulent intent, alter in a material regard, any such diploma, certificate, transcript, or any other writing.

HISTORY:

Enacted Stats 1937. Amended Stats 1937 ch 446; Stats 1961 ch 215 § 1.5; Stats 1984 ch 144 § 5; Stats 1986 ch 220 § 3, effective June 30, 1986.

SUGGESTED FORMS

Allegation Charging Purchase of Fraudulent Alteration of Diploma or the Like

The _____ [Grand Jury *or* District Attorney] of the County of _____ State of California hereby accuses _____ of a felony, that is: A violation of Section 581 of the Business and Professions Code of the State of California, in that on or about _____ [date], in the County of _____, State of California, _____ [he *or* she] did _____ [purchase *or* procure by _____ (barter *or* any unlawful means *or* method) *or* have in _____ (his *or* her) possession] a _____ [diploma *or* certificate *or* transcript *or* writing] with intent that it shall be used as evidence of the holder's qualifications to practice as a _____ [physician and surgeon *or* osteopathic physician *or* podiatrist *or* a _____ (system *or* mode) of treating the sick or afflicted as provided in the State Medical Practice Act in Chapter 5 (commencing with Business and Professions Code Section 2000), relating to the practice of medicine].

§ 582. Use of illegally obtained, altered, or counterfeit diploma, certificate, or transcript

No person, company, or association shall use or attempt to use any diploma,

certificate, transcript, or any other writing which has been purchased, fraudulently issued, illegally obtained, counterfeited, or materially altered, either as a certificate or as to character or color of certificate, to practice as a physician and surgeon, podiatrist, osteopathic physician, or a chiropractor, or to practice any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000) or to practice as any other licensee under this division.

HISTORY:

Enacted Stats 1937. Amended Stats 1961 ch 215 § 2; Stats 1984 ch 144 § 6; Stats 1986 ch 220 § 4, effective June 30, 1986.

SUGGESTED FORMS

Allegation Charging Use of Counterfeit or the Like Diploma or the Like

The _____ [Grand Jury *or* District Attorney] of the County of _____, State of California, hereby accuses _____ of a felony, that is: A violation of Section 582 of the Business and Professions Code of the State of California, in that on or about _____ [date], in the County of _____, State of California, _____ [he *or* she] did _____ [use *or* attempt to use] a _____ [diploma *or* certificate *or* transcript *or* writing] which had been _____ [purchased *or* fraudulently issued *or* illegally obtained *or* counterfeited *or* materially altered], either as a certificate or as to character or color of certificate, to practice as a _____ [physician and surgeon *or* podiatrist *or* osteopathic physician *or* chiropractor *or* other system of mode of treating the sick or afflicted, provided in the State Medical Practice Act, Chapter 5 (commencing with Section 2000), *or* a licensee under Division 2 of the Business and Professions Code.]

§ 583. False statements in documents or writings

No person shall in any document or writing required of an applicant for examination, license, certificate, or registration under this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, willfully make a false statement in a material regard.

HISTORY:

Enacted Stats 1937. Amended Stats 1984 ch 144 § 7; Stats 1986 ch 220 § 5, effective June 30, 1986.

SUGGESTED FORMS

Allegation Charging Misrepresentation in Document or Writing Concerning Application for Practice of Medicine

The _____ [Grand Jury *or* District Attorney] of the County of _____, State of California, hereby accuses _____ of a felony, that is: A violation of Section 583 of the Business and Professions Code of the State of California in that on or about _____ [date], in the County of _____, State of California, _____ [he *or* she] did willfully make a false statement in a material regard in a _____ [document *or* writing] required of an applicant for _____ [examination *or* license *or* certificate *or* registration] under _____ [Division 2 of the Business and Professions Code *or* the Osteopathic Initiative Act *or* the Chiropractic Initiative Act].

§ 584. Violation of examination security; Impersonation

No person shall violate the security of any examination, as defined in subdivision (a) of Section 123, or impersonate, attempt to impersonate, or solicit the impersonation of, another in any examination for a license, certifi-

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cate, or registration to practice as provided in this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or under any other law providing for the regulation of any other system or method of treating the sick or afflicted in this state.

HISTORY:

Enacted Stats 1937. Amended Stats 1984 ch 144 § 8; Stats 1986 ch 220 § 6, effective June 30, 1986; Stats 1989 ch 1022 § 5.

SUGGESTED FORMS

Allegation Charging Violation of Examination Security or the Like During Examination for
Practice of Medicine or the Like

The _____ [Grand Jury *or* District Attorney] of the County of _____, State of California, hereby accuses _____ of a felony, that is: A violation of Section 584 of the Business and Professions Code of the State of California, in that on or about _____ [date], in the County of _____, State of California, _____ [he *or* she] did _____ [violate the security of an examination *or* impersonated *or* attempted to impersonate *or* solicited the impersonation of] another in an examination for a _____ [license *or* certificate *or* registration to practice] as provided in _____ [Division 2 of the Business and Professions Code *or* the Osteopathic Initiative Act *or* the Chiropractic Initiative Act *or* _____ (specify statute) providing for the regulation of a system or method of treating the sick or afflicted in the State of California].

§ 585. Punishment

Any person, company, or association violating the provisions of this article is guilty of a felony and upon conviction thereof shall be punishable by a fine of not less than two thousand dollars (\$2,000) nor more than six thousand dollars (\$6,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. The enforcement remedies provided under this article are not exclusive and shall not preclude the use of any other criminal, civil, or administrative remedy.

HISTORY:

Enacted Stats 1937. Amended Stats 1976 ch 1139 § 1, operative July 1, 1977; Stats 1983 ch 1092 § 2, effective September 27, 1983, operative January 1, 1984; Stats 1986 ch 220 § 7, effective June 30, 1986; Stats 2011 ch 15 § 2 (AB 109), effective April 4, 2011, operative October 1, 2011.

ARTICLE 6

**UNEARNED REBATES, REFUNDS, AND
DISCOUNTS**

HISTORY: Added Stats 1949 ch 899 § 1.

§ 650. Rebates for patient referrals; Consideration between supplier and health facility

(a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or

otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients that is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be authorized only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic, including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code, or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and as subsequently amended.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) Notwithstanding this section or any other law, the payment or receipt of consideration for advertising, wherein a licensee offers or sells services through a third-party advertiser, shall not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or

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otherwise select a licensee. The fee paid to the third-party advertiser shall be commensurate with the service provided by the third-party advertiser. If the licensee determines, after consultation with the purchaser of the service, that the service provided by the licensee is inappropriate for the purchaser or if the purchaser elects not to receive the service for any reason and requests a refund, the purchaser shall receive a refund of the full purchase price as determined by the terms of the advertising service agreement between the third-party advertiser and the licensee. The licensee shall disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if ineligible to receive the service. This subdivision shall not apply to basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code, or essential health benefits, as defined in Section 1367.005 of the Health and Safety Code and Section 10112.27 of the Insurance Code. The entity that provides the advertising shall be able to demonstrate that the licensee consented in writing to the requirements of this subdivision. A third-party advertiser shall make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region. In any advertisement offering a discount price for a service, the licensee shall also disclose the regular, nondiscounted price for that service.

(h) To the extent consistent with federal law, regulations, or guidance, the payment or receipt of consideration for internet-based advertising, appointment booking, or any service that provides information and resources to prospective patients of licensees shall not constitute a referral of a patient if the internet-based service provider does not recommend or endorse a specific licensee to a prospective patient.

(i) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by that imprisonment and a fine of fifty thousand dollars (\$50,000).

HISTORY:

Added Stats 1949 ch 899 § 1. Amended Stats 1971 ch 1568 § 1; Stats 1973 ch 142 § 5, effective June 30, 1973, operative July 1, 1973, ch 924 § 1, operative July 1, 1974; Stats 1975 ch 303 § 1; Stats 1977 ch 1252 § 4, operative July 1, 1978; Stats 1981 ch 610 § 1; Stats 1990 ch 1532 § 1 (SB 2365); Stats 2000 ch 843 § 1 (AB 2594); Stats 2001 ch 728 § 1.4 (SB 724); Stats 2006 ch 698 § 1 (AB 225), ch 772 § 1.5 (AB 2282), effective January 1, 2007; Stats 2007 ch 130 § 1 (AB 299), effective January 1, 2008, ch 483 § 1 (SB 1039), effective January 1, 2008 (ch 483 prevails); Stats 2008 ch 179 § 4 (SB 1498), effective January 1, 2009, ch 290 § 1 (AB 55), effective September 25, 2008 (ch 290 prevails); Stats 2009 ch 140 § 2 (AB 1164), effective January 1, 2010; Stats 2011 ch 15 § 3 (AB 109), effective April 4, 2011, operative October 1, 2011; Stats 2016 ch 360 § 1 (AB 2744), effective January 1, 2017; Stats 2021 ch 439 § 3 (AB 457), effective January 1, 2022.

§ 650.01. Unlawful referrals; Definitions

(a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer a person for laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the

licensee or their immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of their research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for their ongoing services in making refinements to their medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient. A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing, and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means all of the following:

(A) A physician as defined in Section 3209.3 of the Labor Code.

(B) A nurse practitioner practicing pursuant to Section 2837.103 or 2837.104.

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(C) A certified nurse-midwife as described in Article 2.5 (commencing with Section 2746) of Chapter 6, acting within their scope of practice.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation.

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of this

subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(2) If a licensee is under contract with the Department of Corrections or the California Youth Authority, and the patient is an inmate or parolee of either respective department, the requirements of this subdivision shall be satisfied by disclosing financial interests to either the Department of Corrections or the California Youth Authority.

(g) A violation of subdivision (a) shall be a misdemeanor. In the case of a licensee who is a physician and surgeon, the Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. In the case of a licensee who is a certified nurse-midwife, the Board of Registered Nursing shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars (\$5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars (\$15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California, the Board of Registered Nursing, or other appropriate governmental agency.

(h) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995.

HISTORY:

Added Stats 1993 ch 1237 § 2 (AB 919). Amended Stats 1995 ch 221 § 1 (AB 1864), ch 749 § 1 (AB 1177), effective October 10, 1995; Stats 1996 ch 817 § 1 (AB 2443); Stats 2020 ch 88 § 2 (SB 1237), effective January 1, 2021; Stats 2020 ch 265 § 1.5 (AB 890), effective January 1, 2021 (ch 265 prevails).

§ 650.02. Exceptions to referral prohibition

The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee's regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. If an alternative provider commences furnishing the good or service for which a patient was referred pursuant to this subdivision, the licensee shall cease referrals under this subdivision within six months of the time at which the licensee knew or should have known that the alternative provider is furnishing the good or service. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another licensee, a person, or an

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entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

(1) A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).

(4) Ownership of shares in a regulated investment company as defined in Section 851(a) of the federal Internal Revenue Code, if the company had, at the end of the company's most recent fiscal year, or on average during the previous three fiscal years, total assets exceeding seventy-five million dollars (\$75,000,000).

(5) A one-time sale or transfer of a practice or property or other financial interest between a licensee and the recipient of the referral if the sale or transfer is for commercially reasonable terms and the consideration is not affected by either party's referral of any person or the volume of services provided by either party.

(6) A personal services arrangement between a licensee or an immediate family member of the licensee and the recipient of the referral if the arrangement meets all of the following requirements:

(A) It is set out in writing and is signed by the parties.

(B) It specifies all of the services to be provided by the licensee or an immediate family member of the licensee.

(C) The aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement.

(D) A person who is referred by a licensee or an immediate family member of the licensee is informed in writing of the personal services arrangement that includes information on where a person may go to file a complaint against the licensee or the immediate family member of the licensee.

(E) The term of the arrangement is for at least one year.

(F) The compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined

in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

(G) The services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law.

(c)(1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (l) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee's office, or the office of a group practice. Further, the provisions of

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Section 650.01 shall not alter, limit, or expand a licensee's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for Medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) The prohibition of Section 650.01 shall not apply to a request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, or a request by a radiation oncologist for radiation therapy if those services are furnished by, or under the supervision of, the pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician.

(k) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(l) This section shall become operative on January 1, 1995.

HISTORY:

Added Stats 1993 ch 1237 § 3 (AB 919). Amended Stats 1995 ch 221 § 2 (AB 1864); Stats 1996 ch 817 § 2 (AB 2443); Stats 2002 ch 309 § 1 (SB 1907).

§ 651. Dissemination of false or misleading information concerning professional services or products; Permissible advertising

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3)(A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that

does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical

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list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5)(A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician's and surgeon's licensing board prior to January 1, 2019, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid

testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience. A multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2019, shall retain that approval.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician's and surgeon's licensing prior to January 1, 2019, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

(D) A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventive or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this

section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California or a doctor of podiatric medicine licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

HISTORY:

Added Stats 1955 ch 1050 § 1. Amended Stats 1972 ch 1361 § 1; Stats 1979 ch 653 § 2; Stats 1983 ch 691 § 1; Stats 1990 ch 1660 § 1 (SB 2036), operative January 1, 1993; Stats 1992 ch 783 § 1 (AB 2180); Stats 1998 ch 736 § 2 (SB 1981); Stats 1999 ch 631 § 1 (SB 450), ch 856 § 2 (SB 836); Stats 2000 ch 135 § 1 (AB 2539); Stats 2002 ch 313 § 1 (AB 1026); Stats 2011 ch 385 § 1 (SB 540), effective January 1, 2012; Stats 2017 ch 775 § 6 (SB 798), effective January 1, 2018.

§ 651.3. Health care service plan information and advertising; Prohibition against contracting entity deriving profit from plan

(a) Any labor organization, bona fide employee group or bona fide employee association having contracted health care services from a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340 of the Health and Safety Code) may inform its members as to the benefits available and the charges therefor.

(b) Any new or revised written advertising or solicitation, or any form of evidence of coverage adopted by a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340 of the Health and Safety Code) for distribution to members pursuant to subdivision (a) shall comply with the provisions of the Knox-Keene Health Care Service Plan Act of 1975 and the regulations thereunder.

(c) Any labor organization, bona fide employee group or bona fide employee association, contracting for a health care service plan under this section, shall not derive any profit from such plan.

Nothing contained in this section shall be construed as authorizing a provider of medical assistance, including a prepaid health plan, under the Medi-Cal Act or the Waxman-Duffy Prepaid Health Plan Act to advertise in violation of any of the provisions of such acts and regulations developed thereto.

HISTORY:

Added Stats 1961 ch 199 § 1. Amended Stats 1969 ch 1158 § 1; Stats 1970 ch 1271 § 1; Stats 1974 ch 766 § 1; 1975 ch 56 § 1, effective May 3, 1975; Stats 1976 ch 536 § 1; Stats 1978 ch 1161 § 16; Stats 1979 ch 653 § 4; Stats 1981 ch 662 § 1.

§ 652. Violations by licensees

Violation of this article in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his or her license

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by the board by whom he or she is licensed, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and each board shall have all the powers granted therein. However, in the case of a licensee of the State Department of Health Services, the proceedings shall be conducted in accordance with Section 110171 of the Health and Safety Code. In addition, any violation constitutes a misdemeanor as to any and all persons offering, delivering, receiving, accepting, or participating in any rebate, refund, commission, preference, patronage dividend, unearned discount, or consideration, whether or not licensed under this division, and is punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the imprisonment and fine.

HISTORY:

Added Stats 1949 ch 899 § 1. Amended Stats 1976 ch 1125 § 1; Stats 1994 ch 1206 § 5 (SB 1775); Stats 1997 ch 220 § 3 (SB 68), effective August 4, 1997.

§ 652.5. Violation of article

Except as otherwise provided in this article, any violation of this article constitutes a misdemeanor as to any and all persons, whether or not licensed under this division, and is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the imprisonment and fine.

HISTORY:

Added Stats 1969 ch 1158 § 2. Amended Stats 1976 ch 1125 § 2; Stats 1994 ch 1206 § 6 (SB 1775).

§ 653. "Person"

The word "person" as used in this article includes an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

HISTORY:

Added Stats 1949 ch 899 § 1. Amended Stats 1994 ch 1010 § 3 (SB 2053).

§ 654. Licensees' co-ownership arrangements

No person licensed under Chapter 5 (commencing with Section 2000) of this division may have any membership, proprietary interest or coownership in any form in or with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division to whom patients, clients or customers are referred or any profit-sharing arrangements.

HISTORY:

Added Stats 1949 ch 899 § 1. Amended Stats 1963 ch 1303 § 1; Stats 1979 ch 688 § 1.

§ 654.2. Referrals to organization in which licensee or family has significant beneficial interest; Required disclosure statement

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit

payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient, that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.

(b) The disclosure requirements of subdivision (a) may be met by posting a conspicuous sign in an area which is likely to be seen by all patients who use the facility or by providing those patients with a written disclosure statement. Where referrals, billings, or other solicitations are between licensees who contract with multispecialty clinics pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of subdivision (a) may be met by posting a conspicuous disclosure statement at a single location which is a common area or registration area or by providing those patients with a written disclosure statement.

(c) On and after July 1, 1987, persons licensed under this division or under any initiative act referred to in this division shall disclose in writing to any third-party payer for the patient, when requested by the payer, organizations in which the licensee, or any member of the licensee's immediate family, has a significant beneficial interest and to which patients are referred. The third-party payer shall not request this information from the provider more than once a year.

Nothing in this section shall be construed to serve as the sole basis for the denial or delay of payment of claims by third party payers.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(2) "Significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars (\$5,000).

(3) A third-party payer includes any health care service plan, self-insured employee welfare benefit plan, disability insurer, nonprofit hospital service plan, or private group or indemnification insurance program.

A third party payer does not include a prepaid capitated plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 or Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) This section shall not apply to a "significant beneficial interest" which is limited to ownership of a building where the space is leased to the organization at the prevailing rate under a straight lease agreement or to any interest held in publicly traded stocks.

(f)(1) This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or assignment from one

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clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, if the report indicates clearly the name of the laboratory performing the test.

(2) This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

(3) The disclosure requirements of this section shall not be required to be given to any patient, customer, or his or her representative, if the licensee, organization, or entity is providing or arranging for health care services pursuant to a prepaid capitated contract with the State Department of Health Services.

HISTORY:

Added Stats 1984 ch 639 § 1. Amended Stats 1985 ch 1542 § 1; Stats 1986 ch 881 § 1.

§ 654.3. Health care services; Third party credit; Notice; Written treatment plan [Repealed]**HISTORY:**

Added Stats 2014 ch 256 § 2 (SB 1256), effective January 1, 2015. Amended Stats 2019 ch 856 § 1 (SB 639), effective January 1, 2020, inoperative July 1, 2020, repealed January 1, 2021.

ARTICLE 7.5**HEALTH CARE PRACTITIONERS**

HISTORY: Added Stats 1998 ch 1013 § 1.

§ 680. Health care practitioner's disclosure of name and license status

(a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Public Health, or the State Department of Health Care Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Public Health,

and the State Department of Health Care Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, “health care practitioner” means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

HISTORY:

Added Stats 1998 ch 1013 § 1 (AB 1439). Amended Stats 1999 ch 411 § 1 (AB 1433); Stats 2000 ch 135 § 2 (AB 2539); Stats 2012 ch 34 § 2 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 1 (AB 82), effective June 27, 2013.

§ 680.5. Additional disclosures of specified information; Applicability

(a)(1) A health care practitioner licensed under Division 2 (commencing with Section 500) shall communicate to a patient his or her name, state-granted practitioner license type, and highest level of academic degree, by one or both of the following methods:

(A) In writing at the patient’s initial office visit.

(B) In a prominent display in an area visible to patients in his or her office.

(2) An individual licensed under Chapter 6 (commencing with Section 2700) or Chapter 9 (commencing with Section 4000) is not required to disclose the highest level of academic degree he or she holds.

(b) A person licensed under Chapter 5 (commencing with Section 2000) or under the Osteopathic Act, who is certified by (1) an American Board of Medical Specialties member board, (2) a board or association with requirements equivalent to a board described in paragraph (1) approved by that person’s medical licensing authority, or (3) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in the person’s specialty or subspecialty, shall disclose the name of the board or association by either method described in subdivision (a).

(c) A health care practitioner who chooses to disclose the information required by subdivisions (a) and (b) pursuant to subparagraph (A) of paragraph (1) of subdivision (a) shall present that information in at least 24-point type in the following format:

HEALTH CARE PRACTITIONER INFORMATION

1. Name and license
2. Highest level of academic degree
3. Board certification (ABMS/MBC)

(d) This section shall not apply to the following health care practitioners:

(1) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(2) A person who works in a facility licensed under Section 1250 of the Health and Safety Code or in a clinical laboratory licensed under Section 1265.

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(3) A person licensed under Chapter 3 (commencing with Section 1200), Chapter 7.5 (commencing with Section 3300), Chapter 8.3 (commencing with Section 3700), Chapter 11 (commencing with Section 4800), Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990.1), or Chapter 16 (commencing with Section 4999.10).

(e) A health care practitioner, who provides information regarding health care services on an Internet Web site that is directly controlled or administered by that health care practitioner or his or her office personnel, shall prominently display on that Internet Web site the information required by this section.

HISTORY:

Added Stats 2010 ch 436 § 1 (AB 583), effective January 1, 2011. Amended Stats 2011 ch 381 § 5 (SB 146), effective January 1, 2012.

ARTICLE 9

INACTIVE LICENSE

HISTORY: Added Stats 1977 ch 410 § 1, effective August 27, 1977.

§ 700. Legislative intent

It is the intent of the Legislature to establish in this article an inactive category of health professionals' licensure. Such inactive licenses or certificates are intended to allow a person who has a license or certificate in one of the healing arts, but who is not actively engaged in the practice of his or her profession, to maintain licensure or certification in a nonpracticing status.

HISTORY:

Added Stats 1977 ch 410 § 1, effective August 27, 1977.

§ 701. Issuance

(a) As used in this article, "board" refers to any healing arts board, division, or examining committee which licenses or certifies health professionals.

(b) Each healing arts board referred to in this division shall issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.

HISTORY:

Added Stats 1977 ch 410 § 1, effective August 27, 1977. Amended Stats 2018 ch 249 § 1 (AB 1659), effective January 1, 2019.

§ 702. Holder prohibited from engaging in active license activity

The holder of an inactive healing arts license or certificate issued pursuant to this article shall not do any of the following:

(a) Engage in any activity for which an active license or certificate is required.

(b) Represent that he or she has an active license.

HISTORY:

Added Stats 1977 ch 410 § 1, effective August 27, 1977. Amended Stats 2018 ch 249 § 2 (AB 1659), effective January 1, 2019.

§ 703. Renewal; Fees

(a) An inactive healing arts license or certificate issued pursuant to this article shall be renewed during the same time period at which an active license or certificate is renewed. In order to renew a license or certificate issued pursuant to this article, the holder thereof need not comply with any continuing education requirement for renewal of an active license or certificate.

(b) The renewal fee for a license or certificate in an active status shall apply also for renewal of a license or certificate in an inactive status, unless a lower fee has been established by the issuing board.

HISTORY:

Added Stats 1977 ch 410 § 1, effective August 27, 1977. Amended Stats 2018 ch 249 § 3 (AB 1659), effective January 1, 2019.

§ 704. Restoration to active status

In order for the holder of an inactive license or certificate issued pursuant to this article to restore his or her license or certificate to an active status, the holder of an inactive license or certificate shall comply with all the following:

(a) Pay the renewal fee; provided, that the renewal fee shall be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation which provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

(b) If the board requires completion of continuing education for renewers of an active license or certificate, complete continuing education equivalent to that required for a single license renewal period.

HISTORY:

Added Stats 1977 ch 410 § 1, effective August 27, 1977. Amended Stats 1999 ch 631 § 2 (SB 450).

ARTICLE 10.5**UNPROFESSIONAL CONDUCT**

HISTORY: Added Stats 1979 ch 348 § 2.

§ 725. Excessive prescribing or treatment; Treatment for intractable pain

(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

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(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

HISTORY:

Added Stats 1979 ch 348 § 2. Amended Stats 1984 ch 769 § 1; Stats 1998 ch 984 § 1 (AB 2305); Stats 2006 ch 350 § 2 (AB 2198), ch 659 § 1.5 (SB 1475), effective January 1, 2007; Stats 2007 ch 130 § 2 (AB 299), effective January 1, 2008.

§ 726. Commission of act of sexual abuse or misconduct with patient or client

(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.

(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

HISTORY:

Added Stats 1979 ch 955 § 1, as B & P C § 730. Renumbered by Stats 1981 ch 714 § 3. Amended Stats 1983 ch 928 § 1; Stats 1993 ch 1072 § 1 (SB 743); Stats 2015 ch 510 § 3 (AB 179), effective January 1, 2016.

ARTICLE 11**PROFESSIONAL REPORTING**

HISTORY: Added Stats 2d Ex Sess 1975 ch 1 § 2.3. Former Article 11, consisting of §§ 800–803, relating to reporting of malpractice actions, was added Stats 1970 ch 1111 § 1, operative January 1, 1971, and repealed Stats 2d Ex Sess 1975 ch 1 § 2.2.

§ 800. Central files of licensees' individual historical records

(a) The Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the California State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of

California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or the licensee's insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error, or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licensee pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b)(1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c)(1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or the licensee's counsel or representative, may inspect and have copies made of the licensee's complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a summary of the substance of the material. Whichever method is

used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidential status of these records.

HISTORY:

Added Stats 1975 2nd Ex Sess ch 1 § 2.3. Amended Stats 1975 2nd Ex Sess ch 2 § 1.005, effective September 24, 1975, operative December 12, 1975; Stats 1976 ch 1185 § 1; Stats 1980 ch 1313 § 1; Stats 1987 ch 721 § 1; Stats 1989 ch 354 § 1, ch 886 § 10 (ch 354 prevails); Stats 1991 ch 359 § 5 (AB 1332), ch 1091 § 1 (AB 1487) (ch 359 prevails); Stats 1994 ch 26 § 15.5 (AB 1807), effective March 30, 1994; Stats 1995 ch 60 § 6 (SB 42), effective July 6, 1995, and ch 5 § 1 (SB 158), ch 708 § 1.5 (SB 609), ch 796 § 1 (SB 45) (ch 708 prevails), effective January 1, 1996; Stats 1997 ch 759 § 9 (SB 827); Stats 1999 ch 252 § 1 (AB 352), ch 655 § 2 (SB 1308); Stats 2002 ch 1085 § 1 (SB 1950), ch 1150 § 2.5 (SB 1955); Stats 2006 ch 659 § 2 (SB 1475), effective January 1, 2007; Stats 2009 ch 308 § 9 (SB 819), effective January 1, 2010; Stats 2010 ch 505 § 1 (SB 700), effective January 1, 2011; Stats 2012 ch 332 § 1 (SB 1236), effective January 1, 2013; Stats 2015 ch 426 § 5 (SB 800), effective January 1, 2016; Stats 2017 ch 775 § 9 (SB 798), effective January 1, 2018; Stats 2018 ch 858 § 2 (SB 1482), effective January 1, 2019; Stats 2019 ch 849 § 1 (SB 425), effective January 1, 2020; Stats 2021 ch 630 § 14 (AB 1534), effective January 1, 2022.

§ 801. Insurers' reports of malpractice settlements or arbitration awards; Insured's written consent to settlement

(a) Except as provided in Section 801.01 and subdivisions (b), (c), (d), and (e) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Sciences as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that

person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 6 (commencing with Section 2700) shall send a complete report to the Board of Registered Nursing as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(f) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

(g) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

(h) For purposes of this section, "insurer" means the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or his or her counsel, if the licensee does not possess professional liability insurance.

(3) A state or local governmental agency, including, but not limited to, a joint powers authority, that self-insures the licensee. As used in this

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paragraph, “state governmental agency” includes, but is not limited to, the University of California.

HISTORY:

Added Stats 1975 2nd Ex Sess ch 1 § 2.3. Amended Stats 1979 ch 923 § 1; Stats 1989 ch 398 § 1, ch 886 § 11 (ch 398 prevails); Stats 1991 ch 359 § 6 (AB 1332), ch 1091 § 2 (AB 1487) (ch 359 prevails); Stats 1994 ch 468 § 1 (AB 559), ch 1206 § 8 (SB 1775); Stats 1995 ch 5 § 2 (SB 158); Stats 1997 ch 359 § 1 (AB 103); Stats 2002 ch 1085 § 2 (SB 1950); Stats 2004 ch 467 § 1 (SB 1548); Stats 2006 ch 223 § 3 (SB 1438) (ch 223 prevails), effective January 1, 2007, ch 538 § 2 (SB 1852); Stats 2009 ch 308 § 10 (SB 819), effective January 1, 2010; Stats 2011 ch 381 § 6 (SB 146), effective January 1, 2012; Stats 2017 ch 520 § 1 (SB 799), effective January 1, 2018.

§ 801.1. Report of settlement or arbitration award where state or local government acts as self-insurer in cases of negligence, error, omission in practice, or rendering of unauthorized services resulting in death or personal injury

(a) Every state or local governmental agency that self-insures a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person’s negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every state or local governmental agency that self-insures a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person’s negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

HISTORY:

Added Stats 1995 ch 708 § 2 (SB 609). Amended Stats 2002 ch 1085 § 3 (SB 1950); Stats 2006 ch 223 § 5 (SB 1438), effective January 1, 2007; Stats 2011 ch 381 § 7 (SB 146), effective January 1, 2012.

§ 802. Reports of malpractice settlements or arbitration awards involving uninsured licensees; Penalties for noncompliance

(a) Every settlement, judgment, or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from an agency specified in subdivision (a) of Section

800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

(b) Every settlement, judgment, or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10), respectively, who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if he or she is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the marriage and family therapist, clinical social worker, or professional clinical counselor or claimant (or, if represented by counsel, his or her counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

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HISTORY:

Added Stats 1975 2nd Ex Sess ch 1 § 2.3. Amended Stats 1979 ch 923 § 2; Stats 1989 ch 398 § 2; Stats 1997 ch 359 § 2 (AB 103); Stats 2001 ch 728 § 1.5 (SB 724); Stats 2002 ch 1085 § 4 (SB 1950); Stats 2005 ch 674 § 4 (SB 231), effective January 1, 2006; Stats 2006 ch 223 § 6 (SB 1438), effective January 1, 2007; Stats 2011 ch 381 § 8 (SB 146), effective January 1, 2012.

ARTICLE 12

INSURANCE FRAUD

HISTORY: Added Stats 1978 ch 174 § 1, effective May 31, 1978.

§ 810. Grounds for disciplinary action against health care professional

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with their professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

(c)(1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the

Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the California State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

HISTORY:

Added Stats 1978 ch 174 § 1, effective May 31, 1978. Amended Stats 1991 ch 116 § 1 (SB 1218); Stats 1997 ch 758 § 2.6 (SB 1346); Stats 2003 ch 595 § 1 (SB 359), ch 659 § 1.5 (AB 747); Stats 2004 ch 333 § 1 (AB 2835); Stats 2017 ch 775 § 16 (SB 798), effective January 1, 2018; Stats 2021 ch 630 § 15 (AB 1534), effective January 1, 2022.

ARTICLE 12.5

MENTAL ILLNESS OR PHYSICAL ILLNESS

HISTORY: Added Stats 1982 ch 1183 § 1.

§ 820. Examination of licentiate for mental illness or physical illness affecting competency

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability

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to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

HISTORY:

Added Stats 1982 ch 1183 § 1. Amended Stats 1989 ch 1104 § 1.7.

§ 821. Effect of licentiate's failure to comply with order for examination

The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

HISTORY:

Added Stats 1982 ch 1183 § 1.

§ 821.5. [Section repealed 2010.]**HISTORY:**

Added Stats 1996 ch 644 § 1 (AB 1974), effective September 19, 1996. Repealed Stats 2009 ch 307 § 3 (SB 821), effective January 1, 2010. The repealed section related to formal investigation of a physician and surgeon's ability to practice medicine safely based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care.

§ 821.6. [Section repealed 2010.]**HISTORY:**

Added Stats 1996 ch 644 § 2 (AB 1974), effective September 19, 1996. Repealed Stats 2009 ch 307 § 4 (SB 821), effective January 1, 2010. The repealed section related to regulations to implement the monitoring responsibility of the diversion program administrator.

§ 822. Action by licensing agency

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

HISTORY:

Added Stats 1982 ch 1183 § 1.

SUGGESTED FORMS

Petition by Dentist for Termination of License Suspension—License Suspended on Grounds of Mental Illness or Physical Illness Affecting Competency—Unconditional Release from Medical Facility

To: The Board of Dental Examiners of California
[Caption]

The petition of the undersigned respectfully represents: 1. Petitioner's license to practice dentistry was suspended by operation of law on _____. 2. _____ [Set forth facts regarding the determination of petitioner's insanity and his confinement for treatment]. 3. On _____, petitioner received a certificate of _____ [specify type of discharge] from _____ [institution, rehabilitation center or as the case may be]. A copy of the certificate of discharge is attached, marked Exhibit "_____", and by reference made part hereof. 4. Petitioner's discharge from _____ [institution, rehabilitation center or as the case may be] was an unconditional release pursuant to _____ [Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code]. 5. Petitioner is now completely recovered and restored to mental health. Petitioner believes that with due regard to the public interest, Petitioner's right to practice dentistry may be safely reinstated.

Wherefore, petitioner requests that upon payment of all fees required, petitioner's suspension from the active practice of dentistry be terminated without further terms and conditions as prescribed by Section 823 of the Business and Professions Code of the State of California.

Dated _____.

[Signature]

§ 823. Reinstatement of licentiate

Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.

(c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.

(d) Requiring the licentiate to undergo continuing treatment.

(e) Restricting or limiting the extent, scope or type of practice of the licentiate.

HISTORY:

Added Stats 1982 ch 1183 § 1.

§ 824. Options open to licensing agency when proceeding against licentiate

The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

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HISTORY:

Added Stats 1982 ch 1183 § 1.

§ 825. “Licensing agency”

As used in this article with reference to persons holding licenses as physicians and surgeons, “licensing agency” means a panel of the Division of Medical Quality.

HISTORY:

Added Stats 1982 ch 1183 § 1. Amended Stats 1993 ch 1267 § 9 (SB 916).

§ 826. Format of proceedings under Sections 821 and 822; Rights and powers

The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the rights and powers granted therein.

HISTORY:

Added Stats 1982 ch 1183 § 1.

§ 827. Authority of licensing agency to convene in closed session

Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the licensing agency may convene in closed session to consider any evidence relating to the licentiate’s mental or physical illness obtained pursuant to the proceedings under Section 820. The licensing agency shall only convene in closed session to the extent that it is necessary to protect the privacy of a licentiate.

HISTORY:

Added Stats 1982 ch 1183 § 1.

§ 828. Determination of insufficient evidence to bring action against licentiate; Effect on records of proceedings

If the licensing agency determines, pursuant to proceedings conducted under Section 820, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, then all licensing agency records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted to determine the licentiate’s fitness to practice during a period of five years from the date of the determination by the licensing agency of the proceeding pursuant to Section 820, then the licensing agency shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licentiate by the licensing agency, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.

HISTORY:

Added Stats 1982 ch 1183 § 1.

CHAPTER 1.5

EXEMPTION FROM LICENSURE

HISTORY: Added Stats 1989 ch 97 § 2, effective July 7, 1989. Former Chapter 1.5, entitled “Continuing Education”, consisting of §§ 900–905, was added Stats 1971 ch 1516 § 1 and repealed Stats 1974 ch 923 § 1.

§ 900. Requirements for exemption; Immunity from liability

(a) Nothing in this division applies to a health care practitioner licensed in another state or territory of the United States who offers or provides health care for which he or she is licensed, if the health care is provided only during a state of emergency as defined in subdivision (b) of Section 8558 of the Government Code, which emergency overwhelms the response capabilities of California health care practitioners and only upon the request of the Director of the Emergency Medical Services Authority.

(b) The director shall be the medical control and shall designate the licensure and specialty health care practitioners required for the specific emergency and shall designate the areas to which they may be deployed.

(c) Health care practitioners shall provide, upon request, a valid copy of a professional license and a photograph identification issued by the state in which the practitioner holds licensure before being deployed by the director.

(d) Health care practitioners deployed pursuant to this chapter shall provide the appropriate California licensing authority with verification of licensure upon request.

(e) Health care practitioners providing health care pursuant to this chapter shall have immunity from liability for services rendered as specified in Section 8659 of the Government Code.

(f) For the purposes of this section, “health care practitioner” means any person who engages in acts which are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

(g) For purposes of this section, “director” means the Director of the Emergency Medical Services Authority who shall have the powers specified in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

HISTORY:

Added Stats 1989 ch 97 § 2, effective July 7, 1989. Amended Stats 2010 ch 270 § 1 (AB 2699), effective January 1, 2011.

CHAPTER 5

MEDICINE

HISTORY: Added Stats 1980 ch 1313 § 2. Former Chapter 5, also entitled “Medicine”, consisting of §§ 2000–2528.3, was added Stats 1937 ch 414 and repealed Stats 1980 chs 1313, 1314.

ARTICLE 3

LICENSE REQUIRED AND EXEMPTIONS

HISTORY: Added Stats 1980 ch 1313 § 2.

§ 2051. Authorization of certificate

The physician’s and surgeon’s certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.

HISTORY:

Added Stats 1980 ch 1313 § 2.

§ 2052. Practice without certificate

(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy provided by law.

HISTORY:

Added Stats 1980 ch 1313 § 2. Amended Stats 2002 ch 1085 § 14 (SB 1950); Stats 2011 ch 15 § 11 (AB 109), effective April 4, 2011, operative October 1, 2011.

§ 2068. Nutritional advice

This chapter shall not be construed to prohibit any person from providing nutritional advice or giving advice concerning proper nutrition. However, this section confers no authority to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or physical or

mental conditions or to state that any product might cure any disease, disorder, or condition in violation of any provision of law.

For purposes of this section the terms “providing nutritional advice or giving advice concerning proper nutrition” means the giving of information as to the use and role of food and food ingredients, including dietary supplements.

Any person in commercial practice providing nutritional advice or giving advice concerning proper nutrition shall post in an easily visible and prominent place the following statement in his or her place of business:

“NOTICE”

“State law allows any person to provide nutritional advice or give advice concerning proper nutrition—which is the giving of advice as to the role of food and food ingredients, including dietary supplements. This state law does NOT confer authority to practice medicine or to undertake the diagnosis, prevention, treatment, or cure of any disease, pain, deformity, injury, or physical or mental condition and specifically does not authorize any person other than one who is a licensed health practitioner to state that any product might cure any disease, disorder, or condition.”

The notice required by this section shall not be smaller than 8½ inches by 11 inches and shall be legibly printed with lettering no smaller than ½ inch in length, except the lettering of the word “NOTICE” shall not be smaller than 1 inch in length.

HISTORY:

Added Stats 1980 ch 1313 § 2.

ARTICLE 12

ENFORCEMENT

HISTORY: Added Stats 1980 ch 1313 § 2.

§ 2234. Unprofessional conduct

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1),

including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

(h) Any action of the licensee, or another person acting on behalf of the licensee, intended to cause their patient or their patient's authorized representative to rescind consent to release the patient's medical records to the board or the Department of Consumer Affairs, Health Quality Investigation Unit.

(i) Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

HISTORY:

Added Stats 1980 ch 1313 § 2. Amended Stats 1983 ch 398 § 2; Stats 1996 ch 902 § 3 (SB 2098); Stats 2002 ch 1085 § 21 (SB 1950); Stats 2011 ch 115 § 1 (AB 1127), effective January 1, 2012; Stats 2013 ch 399 § 2 (SB 670), effective January 1, 2014; Stats 2019 ch 456 § 58 (SB 786), effective January 1, 2020; Stats 2019 ch 849 § 4.5 (SB 425), effective January 1, 2020 (ch 849 prevails); Stats 2023 ch 294 § 17 (SB 815), effective January 1, 2024.

SUGGESTED FORMS

Petition to Suspend Physician's Certificate To Practice Medicine—Submission of Fraudulent Claim Forms to Governmental Agency

To: _____ [Appropriate Board, Committee, or Division]

[Caption]

Petitioner, _____, who is _____ [specify position] of _____ [specify state agency], respectfully shows: 1. Respondent _____ holds a certificate to practice medicine in the State of California, and resides at _____ [address], in the City of _____, County of _____, State of California. 2. On _____, respondent submitted claim forms and reports bearing respondent's signature to the _____ [medical service] for _____ [specify medical care] performed on specified dates in respondent's office located at _____ [address], in the City of _____, County of _____, State of California, on _____ [names]. None of the _____ [specify medical care] was ever performed. 3. _____ [If applicable, set forth further facts supporting submission of false claim forms]. 4. Section 2234 of the Business and Professions Code of the State of California authorizes the Division of Medical Quality to take appropriate action against any licensee who is charged with unprofessional conduct. Respondent engaged in such unprofessional conduct by submitting false and fraudulent claim forms.

Wherefore, petitioner prays that the certificate issued to respondent to practice medicine in the State of California be suspended as prescribed by law for the reasons set forth above.

Dated _____.

[Signature]

Request for Administrative Record of Revocation of Physician's Certificate

[Title of Administrative Proceedings]

To: _____ [Appropriate Board, Committee, or Division]

Request for Administrative Record _____ *[Petitioner]*, requests that you prepare and deliver to _____ *[petitioner]* the record in the above administrative proceedings, including the following matters: 1. All pleadings. 2. All notices, decisions, and orders issued by the _____ [Board, Committee, or Division]. 3. The proposed decision of the hearing officer. 4. The final order or decision of the _____ [Board, Committee, or Division]. 5. A reporter's transcript of all proceedings. 6. The written evidence. 7. All exhibits, including those admitted or rejected. 8. Any and all papers in the proceedings not specified above.

Dated _____ .

[Signature]

Notice of Appeal From Administrative Order Revoking Physician's Certificate—Request for Transcript

To: _____ [Appropriate Board, Committee, or Division]

[Caption]

Notice is hereby given: 1. The above-named certificate holder hereby appeals to the _____ Court of _____ County, State of California, from the order entered by the _____ [Board, Committee, or Division] on _____, revoking _____ [his or her] certificate to practice medicine within the State of California. 2. The appeal is based on the following grounds: _____. 3. The certificate holder hereby requests a transcript of the proceedings had in this matter, together with a copy of the findings of the _____ [Board, Committee, or Division] be transmitted to the clerk of the above-entitled court.

Dated _____ .

[Signature]

Petition for Writ of Mandamus to Vacate Revocation of Physician's Certificate

[Title of Court and Cause]

_____, petitioner herein, petitions this court for writ of mandamus pursuant to Section 1094.5 of the Code of Civil Procedure of the State of California, directed to respondent _____ [appropriate Board, Committee, or Division] of California, and by this verified petition represents as follows: 1. Petitioner graduated from _____ *[medical school]*, located in the City of _____, State of _____, and received a certificate to practice medicine in the State of California in the year _____. For over _____ years, petitioner has practiced medicine in the State of California, and during those years has specialized in _____. A copy of petitioner's certificate is attached, marked Exhibit "____," and by reference made part hereof. 2. Respondent, _____ [appropriate Board, Committee, or Division] of California, hereinafter called "respondent," is the duly constituted authority for the regulation and control of the practice of medicine in the State of California. 3. On _____, a medical investigator for respondent presented to respondent a petition praying for the revocation of petitioner's certificate. 4. _____ *[Specify grounds set forth by medical investigator for revocation of petitioner's certificate]*. 5. The aforementioned accusation and a notice thereof was served on petitioner and within _____ days thereafter a hearing was held in _____ County before _____. On _____, pursuant to the hearing, _____ recommended a proposed order revoking petitioner's certificate effective _____. 6. On _____, respondent adopted the recommendation, making the order revoking petitioner's certificate effective on _____. A transcript of the proceedings and a copy of the final determination by respondent are attached, marked Exhibits "____," and "____," respectively, and by reference made part hereof. Respondent was given written notice by petitioner on _____, that this suit would be filed and that application would be made for an order staying respondent's order of revocation. 7. Respondent's decision is invalid under Section 1094.5 of the Code of Civil Procedure of the State of California in that _____ *[set forth allegations showing invalidity of respondent's decision]*. 8. _____ *[If applicable, set forth further facts establishing an abuse of discretion by respondent, or that the findings are not supported by the evidence or as the case may be]*. 9. Pending this suit attacking the validity of the revocation of petitioner's certificate, petitioner cannot lawfully pursue the profession for which petitioner is qualified by education, experience, and ability, without subjecting petitioner to criminal liability in the State of California. Petitioner cannot obtain other gainful employment adequate to support petitioner's family. By reason of respondent's order, petitioner has suffered, and will continue to suffer, substantial damage for which petitioner has

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no plain, speedy, and adequate remedy in the ordinary course of law.¹⁰ Petitioner has exhausted all available administrative remedies required to be pursued prior to filing this petition, as follows: _____.

Wherefore, petitioner prays: 1. That this court issue an alternative writ of mandate, a copy of which is attached, such writ being made returnable within some brief period, ordering that respondent's decision be stayed, and ordering respondent to show cause why an order should not be granted further staying that decision; 2. That this court, on hearing this petition and on consideration of any return filed thereto, issue its peremptory writ of mandate commanding respondent to set aside its decision revoking petitioner's certificate to practice medicine; 3. For costs; and 4. For such further relief as the court may deem just and equitable.

[Signature]

Judgment Vacating Revocation of Physician's Certificate

[Title of Court and Cause]

An alternative writ of mandate and order to show cause having issued herein on _____, in the above-entitled matter, and having come before me for hearing on _____, appearing as attorney for petitioner and _____ appearing as attorney for respondent, and the court having _____ [heard the testimony or referred certain questions of fact to a jury and such verdict having been filed herein on _____, or referred certain questions of fact to referee _____, who having filed his report therein on _____], and having examined the proofs offered by the respective parties, and the court being fully advised in the premises _____ [and it appearing that a peremptory writ of mandate should issue and that petitioner has no plain, speedy, or other adequate remedy in the ordinary course of law];

It is hereby ordered that a peremptory writ of mandate in due form be issued requiring respondent to _____ [set aside the _____ (order or decision) of _____, revoking petitioner's certificate to practice medicine in the State of California or reconsider this matter in light of the opinion and judgment of this court.] This matter is hereby remanded to _____ [Board, Committee, or Division or as the case may be] of California for proceedings in accordance with this judgment and the peremptory writ of mandate.

_____ [Add provision for costs.]

_____ [Add provision for damages.]

The clerk of this court is hereby directed to issue the writ of mandate, and further orders respondent to make known to this court on _____, at ____ o'clock ____ .m., how respondent has executed this writ and to have with respondent at such time this writ.

Dated _____.

[Signature]

§ 2237. Drug related conviction

(a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

HISTORY:

Added Stats 1980 ch 1313 § 2. Amended Stats 1984 ch 1635 § 1.

§ 2238. Violation of statute regulating drugs

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

HISTORY:

Added Stats 1980 ch 1313 § 2. Amended Stats 1984 ch 1635 § 2.

§ 2239. Excessive use of drugs or alcohol

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

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

HISTORY:

Added Stats 1980 ch 1313 § 2. Amended Stats 1984 ch 1635 § 3; Stats 1998 ch 878 § 10 (SB 2239).

§ 2274. Unauthorized use of medical designation

(a) The use by any licensee of any certificate, of any letter, letters, word, words, term, or terms either as a prefix, affix, or suffix indicating that he or she is entitled to engage in a medical practice for which he or she is not licensed constitutes unprofessional conduct.

(b) Nothing in this section shall be construed to prohibit a physician and surgeon from using the designations specified in this section if he or she has been issued a retired license under Section 2439.

HISTORY:

Added Stats 1980 ch 1313 § 2. Amended Stats 2004 ch 695 § 10 (SB 1913).

§ 2289. Impersonation of another practitioner

The impersonation of another licensed practitioner or permitting or allowing another person to use his or her certificate to engage in the practice of medicine or podiatric medicine constitutes unprofessional conduct.

§ 2290.5 BUSINESS & PROFESSIONS CODE

HISTORY:

Added Stats 1980 ch 1313 § 2.

§ 2290.5. Telehealth; Patient consent; Hospital privileges and approval of credentials for providers of telehealth services

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

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means any of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.

(C) A qualified autism service provider or qualified autism service professional certified by a national entity pursuant to Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.

(D) An associate clinical social worker functioning pursuant to Section 4996.23.2.

(E) An associate professional clinical counselor or clinical counselor trainee functioning pursuant to Section 4999.46.3.

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

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

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

(b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) This section does not preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

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

(e) This section does not alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

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

(g) All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services.

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

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

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

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

HISTORY:

Added Stats 2011 ch 547 § 4 (AB 415), effective January 1, 2012. Amended Stats 2014 ch 404 § 1 (AB 809), effective September 18, 2014; Stats 2015 ch 50 § 1 (AB 250), effective January 1, 2016; Stats 2018 ch 743 § 2.5 (AB 93), effective January 1, 2019; Stats 2018 ch 703 § 21 (SB 1491), effective January 1, 2019 (ch 743 prevails); Stats 2019 ch 865 § 55 (AB 1519), effective January 1, 2020; Stats 2019 ch 867 § 1.5 (AB 744), effective January 1, 2020 (ch 867 prevails); Stats 2021 ch 647 § 2 (SB 801), effective January 1, 2022; Stats 2022 ch 520 § 1 (AB 1759), effective January 1, 2023.

CHAPTER 5.7 PHYSICAL THERAPY

HISTORY: Added Stats 1953 ch 1826 § 1.

ARTICLE 1 ADMINISTRATION AND GENERAL PROVISIONS

HISTORY: Added Stats 1953 ch 1826 § 1. The heading of Article 1, which formerly read "Administration," amended to read as above by Stats 2013 ch 389 § 2 (SB 198), effective January 1, 2014.

§ 2600. Citation

This chapter may be cited as the Physical Therapy Practice Act.

HISTORY:

Added Stats 1968 ch 1284 § 3.

§ 2601. Definitions

For the purpose of this chapter, the following terms shall have the following meanings, unless otherwise specified:

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(a) “Board” means the Physical Therapy Board of California.

(b) “Physical therapist” means a person who is licensed pursuant to this chapter to practice physical therapy.

(c) “Physical therapist assistant” means a person who is licensed pursuant to this chapter to assist in the provision of physical therapy under the supervision of a licensed physical therapist. “Physical therapy assistant” and “physical therapist assistant” shall be deemed identical and interchangeable terms.

(d) “Physical therapist technician” and “physical therapy aide,” as described in Section 2630.4, shall be deemed identical and interchangeable terms.

(e) “Physiotherapy” shall be synonymous with “physical therapy.”

HISTORY:

Added Stats 2013 ch 389 § 4 (SB 198), effective January 1, 2014.

§ 2602. Physical Therapy Board of California [Repealed effective January 1, 2027]

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

(b) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2651. Renumbered by Stats 1968 ch 1284 § 5. Amended Stats 1975 ch 826 § 2; Stats 1990 ch 1087 § 2 (SB 2512); Stats 1994 ch 908 § 13 (SB 2036); Stats 1996 ch 829 § 4 (AB 3473); Stats 1998 ch 991 § 3 (SB 1980); Stats 2002 ch 1150 § 8 (SB 1955); Stats 2006 ch 658 § 45 (SB 1476), effective January 1, 2007, inoperative July 1, 2013, repealed January 1, 2014; Stats 2012 ch 332 § 22 (SB 1236), effective January 1, 2013, repealed January 1, 2014; Stats 2013 ch 389 § 5 (SB 198), effective January 1, 2014, repealed January 1, 2018; Stats 2017 ch 454 § 18 (AB 1706), effective January 1, 2018, repealed January 1, 2022; Stats 2020 ch 312 § 22 (SB 1474), effective January 1, 2021, repealed January 1, 2023; Stats 2022 ch 509 § 1 (SB 1438), effective January 1, 2023, repealed January 1, 2027.

§ 2602.1. Priority of board; Protection of the public

Protection of the public shall be the highest priority for the Physical Therapy Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

HISTORY:

Added Stats 2002 ch 107 § 9 (AB 269).

§ 2603. Board members

The members of the board shall consist of four physical therapists, only one of whom shall be involved in physical therapy education, and three public members.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2652. Amended Stats 1961 ch 1821 § 15; Amended and renumbered by Stats 1968 ch 1284 § 6; Amended Stats 1976 ch 1189 § 9.5; Stats 1980 ch 676 § 14; Stats 1990 ch 1087 § 3 (SB 2512); Stats 1996 ch 829 § 5 (AB 3473); Stats 1998 ch 991 § 4 (SB 1980); Stats 2013 ch 389 § 6 (SB 198), effective January 1, 2014.

§ 2603.5. Qualifications of board members

(a) The physical therapist members of the board shall be appointed from persons having all of the following qualifications:

- (1) Be a resident of California.
- (2) Possess a valid and unrestricted license in California issued pursuant to this chapter.
- (3) Have been licensed pursuant to this chapter and practicing in California for at least five years prior to appointment to the board.

(b)(1) The public members of the board shall have both of the following qualifications:

- (A) Be appointed from persons having all of the qualifications as set forth in Chapter 6 (commencing with Section 450) of Division 1.
- (B) Be a resident of California.
- (2) No public member of the board shall be, nor have been, any of the following:
 - (A) An officer or faculty member of any college, school, or institution involved in physical therapy education.
 - (B) A licentiate of the Medical Board of California or of any board under this division or of any board referred to in Section 1000 or 3600.

HISTORY:

Added Stats 2013 ch 389 § 7 (SB 198), effective January 1, 2014.

§ 2604. Appointment of board members; Term; Vacancies; Election of president, vice president; Removal

The members of the board shall be appointed for a term of four years, expiring on the first day of June of each year.

The Governor shall appoint one of the public members and the four physical therapist members of the board qualified as provided in Sections 2603 and 2603.5. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member qualified as provided in Section 2603.5.

No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually, the board shall elect one of its members as president and one of its members as vice president.

The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2653. Amended Stats 1959 ch 1217 § 1; Stats 1961 ch 1821 § 16; Amended and Renumbered by Stats 1968 ch 1284 § 7; Amended Stats 1971 ch 838 § 2; Stats 1976 ch 1189 § 9.5; Stats 1982 ch 676 § 8; Stats 1990 ch 1087 § 4 (SB 2512); Stats 1994 ch 26 § 46 (AB 1807), effective March 30, 1994; Stats 1996 ch 829 § 6 (AB 3473); Stats 1998 ch 991 § 5 (SB 1980); Stats 2013 ch 389 § 8 (SB 198), effective January 1, 2014.

§ 2605**BUSINESS & PROFESSIONS CODE****§ 2605. Powers and duties of board**

The board shall do all of the following:

- (a) Evaluate the qualifications of applicants for licensure.
- (b) Provide for the examinations of physical therapists and physical therapist assistants and establish a passing score for each examination.
- (c) Issue all licenses for the practice of physical therapy in California. Except as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as a “physical therapist” or “physical therapist assistant” licensed by the Physical Therapy Board of California.
- (d) Suspend and revoke licenses and otherwise enforce the provisions of this chapter.
- (e) Administer a continuing competency program.
- (f) Participate, as a member, in the Delegate Assembly, and in applicable committee meetings, of the Federation of State Boards of Physical Therapy.
- (g) Publish, at least annually, a newsletter that includes, but is not limited to, actions taken by the board, disciplinary actions, and relevant statutory and regulatory changes.
- (h) Provide for the timely orientation and training of new professional and public member appointees to the board directly related to board licensing and disciplinary functions and board rules, policies, and procedures.
- (i) Adopt and administer a program of education in matters relevant to the regulation of physical therapy.

HISTORY:

Added Stats 2013 ch 389 § 10 (SB 198), effective January 1, 2014.

§ 2606. Compensation and expenses

Each member of the board shall receive a per diem and expenses as provided in Section 103.

HISTORY:

Added Stats 1959 ch 1645 § 8, as B & P C § 2655. Renumbered by Stats 1968 ch 1284 § 9. Amended Stats 1996 ch 829 § 9 (AB 3473).

§ 2607. Employees; Contracts for services

The board may employ, subject to law, such clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

The board may enter into contracts for services necessary for enforcement of this chapter and may as necessary select and contract with physical therapy consultants who are licensed physical therapists to assist it in its programs on an intermittent basis. Notwithstanding any other provision of law, the board may contract with these consultants on a sole source basis. For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the board shall be considered a public employee.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2656. Renumbered by Stats 1968 ch 1284 § 10. Amended Stats 1971 ch 716 § 36; Stats 1975 ch 826 § 3; Stats 1990 ch 1087 § 6 (SB 2512); Stats 1996 ch 829 § 10 (AB 3473); Stats 2013 ch 389 § 11 (SB 198), effective January 1, 2014.

§ 2607.5. Executive officer; Employment of investigators, legal counsel, physical therapy consultants; Attorney General as legal counsel [Repealed effective January 1, 2027]

(a) The board may employ an executive officer exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and may also employ investigators, legal counsel, physical therapist consultants, and other assistance as it may deem necessary to carry out this chapter. The board may fix the compensation to be paid for services and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating physical therapy practice activities.

(b) The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and their services shall be a charge against it.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

HISTORY:

Added Stats 1984 ch 47 § 16, effective March 21, 1984. Amended Stats 1994 ch 908 § 14 (SB 2036); Stats 1996 ch 829 § 11 (AB 3473); Stats 1998 ch 991 § 6 (SB 1980); Stats 2002 ch 1150 § 9 (SB 1955); Stats 2007 ch 587 § 4 (SB 1049), effective October 13, 2007; Stats 2012 ch 332 § 23 (SB 1236), effective January 1, 2013, repealed January 1, 2014. The repealed section related to appointment of executive officer; powers and duties; Stats 2013 ch 389 § 12 (SB 198), effective January 1, 2014, repealed January 1, 2018; Stats 2017 ch 454 § 19 (AB 1706), effective January 1, 2018, repealed January 1, 2022; Stats 2020 ch 312 § 23 (SB 1474), effective January 1, 2021, repealed January 1, 2023; Stats 2022 ch 509 § 2 (SB 1438), effective January 1, 2023, repealed January 1, 2027.

§ 2608. Procedures governing enforcement proceedings

The procedure in all matters and proceedings relating to the denial, suspension, revocation, or probationary restriction of licenses issued by the board under this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2657. Amended and Renumbered by Stats 1968 ch 1284 § 11; Stats 2013 ch 389 § 13 (SB 198), effective January 1, 2014.

§ 2608.5. Inspection of, reports from, facilities providing physical therapy care; Inspection of patient records

Each member of the board, or any licensed physical therapist appointed by the board, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in subdivision (u) of Section 2660.

HISTORY:

Added Stats 1971 ch 838 § 5. Amended Stats 1980 ch 1313 § 7; Stats 1994 ch 956 § 1 (AB 2836); Stats 1996 ch 829 § 12 (AB 3473); Stats 2013 ch 389 § 14 (SB 198), effective January 1, 2014.

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§ 2611. Board meetings; Quorum

The board shall meet at least three times each calendar year, meeting at least once each calendar year in northern California and once each calendar year in southern California. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place as the board may designate. Four members of the board shall constitute a quorum for the transaction of business.

HISTORY:

Added Stats 1971 ch 838 § 6. Amended Stats 1979 ch 907 § 1; Stats 1996 ch 829 § 14 (AB 3473); Stats 2013 ch 389 § 16 (SB 198), effective January 1, 2014.

§ 2612. Compliance with Bagley-Keene Open Meeting Act

The board shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

HISTORY:

Added Stats 1971 ch 838 § 7. Amended Stats 1990 ch 1087 § 8 (SB 2512); Stats 1993 ch 589 § 4 (AB 2211); Stats 1996 ch 829 § 15 (AB 3473); Stats 2013 ch 389 § 17 (SB 198), effective January 1, 2014.

§ 2613. Commissioner on examination

The board may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as a commissioner on examination. A commissioner on examination need not be a member of the board but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he or she were a member of the board.

HISTORY:

Added Stats 1971 ch 838 § 8. Amended Stats 1996 ch 829 § 16 (AB 3473).

§ 2614. Hearings; Decision

The board shall hear all matters, including, but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If a contested case is heard by the board the hearing officer who presided at the hearing shall be present during the board's consideration of the case and, if requested, shall assist and advise the board. The board shall issue its decision pursuant to Section 11517 of the Government Code.

HISTORY:

Added Stats 1971 ch 838 § 9. Amended Stats 1975 ch 826 § 5; Stats 1990 ch 1087 § 9 (SB 2512); Stats 1996 ch 829 § 17 (AB 3473); Stats 2013 ch 389 § 18 (SB 198), effective January 1, 2014.

§ 2615. Adoption of regulations

The board shall adopt those regulations as may be necessary to effectuate this chapter. In adopting regulations the board shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

HISTORY:

Added Stats 1975 ch 826 § 6. Amended Stats 1990 ch 1087 § 10 (SB 2512); Stats 1996 ch 829 § 18 (AB 3473); Stats 2013 ch 389 § 19 (SB 198), effective January 1, 2014.

§ 2618. [Section repealed 1967.]

HISTORY:

Added Stats 1957 ch 1532 § 3. Repealed Stats 1967 ch 1667 § 4, operative July 1, 1969. The repealed section related to suspension of right to practice on commitment for or adjudication of insanity or mental illness.

ARTICLE 2

SCOPE OF REGULATION AND EXEMPTIONS

HISTORY: Added Stats 1953 ch 1826 § 1. The heading of Article 2, which formerly read “General Provisions,” amended to read as above by Stats 2013 ch 389 § 20 (SB 198), effective January 1, 2014.

§ 2620. “Physical therapy”

(a) Physical therapy means the art and science of physical or corrective rehabilitation or of physical or corrective treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, light, water, electricity, sound, massage, and active, passive, and resistive exercise, and shall include physical therapy evaluation, treatment planning, instruction and consultative services. The practice of physical therapy includes the promotion and maintenance of physical fitness to enhance the bodily movement related health and wellness of individuals through the use of physical therapy interventions. The use of roentgen rays and radioactive materials, for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term “physical therapy” as used in this chapter, and a license issued pursuant to this chapter does not authorize the diagnosis of disease.

(b) Nothing in this section shall be construed to restrict or prohibit other healing arts practitioners licensed or registered under this division from practice within the scope of their license or registration.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2660. Amended Stats 1963 ch 561 § 2; Amended and Renumbered by Stats 1968 ch 1284 § 14; Amended Stats 1972 ch 381 § 1; Stats 2004 ch 117 § 1 (SB 1485).

§ 2620.1. Direct physical therapy treatment

(a) In addition to receiving those services authorized by Section 2620, a person may initiate physical therapy treatment directly from a licensed physical therapist if the treatment is within the scope of practice of physical therapists, as defined in Section 2620, and all of the following conditions are met:

- (1) If, at any time, the physical therapist has reason to believe that the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a physical therapist or the patient is not progressing

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toward documented treatment goals as demonstrated by objective, measurable, or functional improvement, the physical therapist shall refer the patient to a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California or to a person licensed to practice dentistry, podiatric medicine, or chiropractic.

(2) The physical therapist shall comply with Section 2633, and shall disclose to the patient any financial interest they have in treating the patient and, if working in a physical therapy corporation, shall comply with Article 6 (commencing with Section 650) of Chapter 1.

(3) With the patient's written authorization, the physical therapist shall notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient.

(4) The physical therapist shall not continue treating the patient beyond 45 calendar days or 12 visits, whichever occurs first, without receiving, from a person holding a physician and surgeon's certificate from the Medical Board of California or the Osteopathic Medical Board of California or from a person holding a certificate to practice podiatric medicine from the Podiatric Medical Board of California and acting within their scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care. Approval of the physical therapist's plan of care shall include an in-person or telehealth patient examination and evaluation of the patient's condition, as determined by the physician and surgeon or podiatrist, and, if indicated, testing by the physician and surgeon or podiatrist.

(b) The conditions in paragraph (4) of subdivision (a) do not apply to a physical therapist under either of the following circumstances:

(1) When the physical therapist is only providing wellness physical therapy services to a patient as described in subdivision (a) of Section 2620.

(2) Pursuant to Section 56363 of the Education Code or Section 7572 of the Government Code, when the physical therapist is providing physical therapy services as part of an individualized family service plan or an individualized education plan pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the individual receiving those services does not have a medical diagnosis.

(c)(1) This section does not expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(2) This section does not restrict or alter the scope of practice of any other health care professional.

(d) Nothing in this section shall be construed to require a health care service plan, insurer, workers' compensation insurance plan, employer, or state program to provide coverage for direct access to treatment by a physical therapist.

(e) When a person initiates physical therapy treatment services directly, pursuant to this section, the physical therapist shall not perform physical therapy treatment services without first providing the following notice to the patient, orally and in writing, in at least 14-point type and signed by the patient:

Direct Physical Therapy Treatment Services

You are receiving direct physical therapy treatment services from an individual who is a physical therapist licensed by the Physical Therapy Board of California.

Under California law, you may continue to receive direct physical therapy treatment services for a period of up to 45 calendar days or 12 visits, whichever occurs first, after which time a physical therapist may continue providing you with physical therapy treatment services only after receiving, from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California, or from a person holding a certificate to practice podiatric medicine from the Podiatric Medical Board of California and acting within their scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care and that an in-person or telehealth patient examination and evaluation was conducted by the physician and surgeon or podiatrist.

Patient's Signature/Date

HISTORY:

Added Stats 2013 ch 620 § 4 (AB 1000), effective January 1, 2014. Amended Stats 2018 ch 761 § 2 (AB 2423), effective January 1, 2019; Stats 2022 ch 509 § 3 (SB 1438), effective January 1, 2023.

§ 2620.3. Application of topical medications

A physical therapist licensed pursuant to this chapter may apply topical medications as part of the practice of physical therapy as defined in Section 2620 if he or she complies with regulations duly adopted by the board pursuant to this section and the Administrative Procedure Act. The board shall adopt regulations implementing this section after meeting and conferring with the Medical Board of California and the California State Board of Pharmacy specifying those topical medications applicable to the practice of physical therapy and protocols for their use. Nothing in this section shall be construed to authorize a physical therapist to prescribe medications.

HISTORY:

Added Stats 1979 ch 907 § 4. Amended Stats 1994 ch 956 § 2 (AB 2836); Stats 1996 ch 829 § 19 (AB 3473).

§ 2620.5. Authority of physical therapists to penetrate tissues for purpose of evaluating neuromuscular performance as part of practice of physical therapy; Certification

A physical therapist may, upon specified authorization of a physician and surgeon, perform tissue penetration for the purpose of evaluating neuromuscular performance as a part of the practice of physical therapy, as defined in Section 2620, provided the physical therapist is certified by the board to perform the tissue penetration and evaluation and provided the physical therapist does not develop or make diagnostic or prognostic interpretations of the data obtained. Any physical therapist who develops or makes a diagnostic or prognostic interpretation of this data is in violation of the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2), and may be subject to all of the sanctions and penalties set forth in that act.

The board, after meeting and conferring with the Division of Licensing of the Medical Board of California, shall do all of the following:

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(a) Adopt standards and procedures for tissue penetration for the purpose of evaluating neuromuscular performance by certified physical therapists.

(b) Establish standards for physical therapists to perform tissue penetration for the purpose of evaluating neuromuscular performance.

(c) Certify physical therapists meeting standards established by the board pursuant to this section.

HISTORY:

Added Stats 2000 ch 427 § 1 (SB 1600).

§ 2620.7. Patient records

(a) Patient records shall be documented as required in regulations promulgated by the board.

(b) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached 18 years of age, and not in any case less than seven years.

HISTORY:

Added Stats 1996 ch 830 § 1 (SB 1962). Amended Stats 2002 ch 1150 § 10 (SB 1955); Stats 2013 ch 389 § 21 (SB 198), effective January 1, 2014.

§ 2621. Authorized practices

Nothing in this chapter shall be construed as authorizing a physical therapist to practice medicine, surgery, or any other form of healing except as authorized by Section 2620.

HISTORY:

Added Stats 1968 ch 1284 § 15.

§ 2622. Management of patient care; Supervision of physical therapy assistants; Use of physical therapy aide

(a) A physical therapist shall be responsible for managing all aspects of the care of each patient as set forth in regulations promulgated by the board.

(b) A physical therapist shall not supervise more than two physical therapist assistants at one time to assist the physical therapist in his or her practice of physical therapy.

(c) A physical therapist may utilize the services of one aide engaged in patient-related tasks to aid the physical therapist in his or her practice of physical therapy.

HISTORY:

Added Stats 2013 ch 389 § 23 (SB 198), effective January 1, 2014.

§ 2623. Code of professional conduct; Rules and standards adopted by board

The board may, by regulation, prescribe, amend, or repeal any rules contained within a code of professional conduct appropriate to the establishment and maintenance of integrity and dignity in the profession of physical therapy. Every licensee of the board shall be governed and controlled by the rules and standards adopted by the board.

HISTORY:

Added Stats 2013 ch 389 § 24 (SB 198), effective January 1, 2014.

§ 2630. Practice of physical therapy without physical therapist license

It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked physical therapist license issued under this chapter, except as authorized by subdivisions (c), (d), (e), and (g) of Section 2630.5.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2665. Amended Stats 1955 ch 1284 § 1; Stats 1957 ch 39 § 1, ch 1533 § 1; Stats 1961 ch 1278 § 2, operative October 1, 1961; Amended and Renumbered by Stats 1968 ch 1284 § 17; Amended Stats 1971 ch 838 § 10; Stats 1973 ch 503 § 1; Stats 1980 ch 1313 § 8; Stats 1981 ch 629 § 2; Stats 1994 ch 956 § 3 (AB 2836); Stats 1996 ch 829 § 21 (AB 3473); Stats 2013 ch 389 § 26 (SB 198), effective January 1, 2014.

§ 2630.3. Licensed physical therapist assistant

(a) A licensed physical therapist assistant holding a valid, unexpired, and unrevoked physical therapist assistant license may assist in the provision of physical therapy services only under the supervision of a physical therapist licensed by the board. A licensed physical therapist shall at all times be responsible for the extent, kind, quality, and documentation of all physical therapy services provided by the physical therapist assistant.

(b) It is unlawful for any person or persons to hold himself or herself out as a physical therapist assistant, unless at the time of so doing the person holds a valid, unexpired, and unrevoked physical therapist assistant license issued under this chapter, except as authorized in subdivisions (f) and (g) of Section 2630.5.

(c) Physical therapist assistants shall not be independently supervised by a physical therapist license applicant, as defined in Section 2639, or a physical therapist student, as defined in Section 2633.7.

(d) A physical therapist assistant shall not perform any evaluation of a patient or prepare a discharge summary. The supervising physical therapist shall determine which elements of the treatment plan, if any, shall be assigned to the physical therapist assistant. Assignment of patient care shall be commensurate with the competence of the physical therapist assistant.

HISTORY:

Added Stats 2013 ch 389 § 27 (SB 198), effective January 1, 2014.

§ 2630.4. Physical therapy aide

(a) A “physical therapy aide” is an unlicensed person, at least 18 years of age, who aids a licensed physical therapist consistent with subdivision (b).

(b) The aide shall at all times be under the supervision of the physical therapist. An aide shall not independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the supervision of an aide by a physical therapist.

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(c) Physical therapy aides shall not be independently supervised by a physical therapist license applicant, as defined in Section 2639, or a physical therapist student, as defined in Section 2633.7.

(d) This section does not prohibit the administration by a physical therapy aide of massage, external baths, or normal exercise not a part of a physical therapy treatment.

HISTORY:

Added Stats 2013 ch 389 § 28 (SB 198), effective January 1, 2014.

§ 2630.5. Exemptions from physical therapist licensure requirements

The following persons are exempt from the licensure requirements of this chapter when engaged in the following activities:

(a) A regularly matriculated physical therapist student undertaking a course of professional instruction in an approved entry-level physical therapy education program or enrolled in a program of supervised clinical education under the direction of an approved physical therapy education program as described in Section 2651. These physical therapist students may perform physical therapy as a part of their course of study.

(b) A regularly matriculated physical therapist assistant student undertaking a course of instruction in an approved physical therapy education program or enrolled in a program of supervised clinical education under the direction of an approved physical therapy education program as described in Section 2651. These physical therapist assistant students may perform physical therapy techniques as a part of their course of study.

(c) A physical therapist who holds a valid and unrestricted license in another jurisdiction of the United States or who is credentialed to practice physical therapy in another country if that person is researching, demonstrating, or providing physical therapy in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year.

(d) A physical therapist located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed physical therapist of this state, or when he or she is an invited guest of the American Physical Therapy Association or one of its components, or an invited guest of an approved physical therapy school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if, at the time of the consultation, lecture, or demonstration, he or she holds a valid and unrestricted physical therapist license in the state or country in which he or she resides. The physical therapist shall not open an office, appoint a place to meet patients, receive calls from patients within the limits of this state, give orders, or have ultimate authority over the care of a physical therapy patient who is located within this state.

(e) A physical therapist who holds a valid and unrestricted license in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person, by contract or employment, is providing physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations, or performing arts com-

panies temporarily practicing, competing, or performing in the state for no more than 60 days in a calendar year.

(f) A physical therapist assistant who holds a valid and unrestricted license in another jurisdiction of the United States and is assisting a physical therapist engaged in activities described in subdivision (c), (d), or (e).

(g) A physical therapist or physical therapist assistant who has a valid and unrestricted license in a jurisdiction of the United States who is forced to leave his or her residence in a state other than California due to a governmentally declared emergency. This exemption applies for no more than 60 days following the declaration of the emergency. In order to be eligible for this exemption, the physical therapist or physical therapist assistant shall notify the board of his or her intent to practice in this state and provide a valid mailing address, telephone number, and email address.

HISTORY:

Added Stats 2013 ch 389 § 29 (SB 198), effective January 1, 2014.

§ 2633. Titles authorized for use by licensed physical therapist

(a) A person holding a license as a physical therapist issued by the board may use the title “physical therapist” or the letters “P.T.” or any other words, letters, or figures that indicate that the person using same is a licensed physical therapist. No other person shall be so designated or shall use the term licensed or registered physical therapist, licensed or registered physiotherapist, licensed or registered physical therapy technician, or the letters “L.P.T.,” “R.P.T.,” or “P.T.”

(b) A licensed physical therapist who has received a doctoral degree in physical therapy (DPT) or, after adoption of the regulations described in subdivision (d), a doctoral degree in a related health science may do the following:

(1) In a written communication, use the initials DPT, PhD, or EdD, as applicable, following the licensee’s name.

(2) In a written communication, use the title “Doctor” or the abbreviation “Dr.” preceding the licensee’s name, if the licensee’s name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.

(3) In a spoken communication while engaged in the practice of physical therapy, use the title “doctor” preceding the person’s name, if the speaker specifies that he or she is a physical therapist.

(c) A doctoral degree described in subdivision (b) shall be granted by an institution accredited by the Western Association of Schools and Colleges or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.

(d) The board shall define, by regulation, the doctoral degrees that are in a related health science for purposes of subdivision (b).

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2667. Amended and Renumbered by Stats 1968 ch 1284 § 20; Amended Stats 1969 ch 1185 § 1; Stats 1994 ch 956 § 4 (AB 2836); Stats 1996 ch 829 § 23 (AB 3473); Stats 2006 ch 222 § 1 (AB 2868), effective January 1, 2007.

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§ 2633.5. Titles authorized for use by licensed physical therapist assistant

(a) Only a person licensed as a physical therapist assistant by the board may use the title “physical therapist assistant” or “physical therapy assistant” or the letters “PTA” or any other words, letters, or figures that indicate that the person is a physical therapist assistant licensed pursuant to this chapter.

(b) The license of a physical therapist assistant shall not authorize the use of the prefix “LPT,” “RPT,” “PT,” or “Dr.,” or the title “physical therapist,” “therapist,” “doctor,” or any affix indicating or implying that the physical therapist assistant is a physical therapist or doctor.

HISTORY:

Added Stats 2013 ch 389 § 31 (SB 198), effective January 1, 2014.

§ 2633.7. Identification as “physical therapist student” or “physical therapist assistant student”

During a period of clinical practice described in Section 2650 or in any similar period of observation of related educational experience involving recipients of physical therapy, a person so engaged shall be identified only as a “physical therapist student” or a “physical therapist assistant student,” as authorized by the board in its regulations.

HISTORY:

Added Stats 2013 ch 389 § 32 (SB 198), effective January 1, 2014.

§ 2634. Investigation of applicants

The board may investigate each and every applicant for a license, before a license is issued, in order to determine whether or not the applicant has in fact the qualifications required by this chapter.

HISTORY:

Added Stats 1953 ch 1826 § 1 as § 2669. Amended Stats 1957 ch 1533 § 3; Amended and Renumbered by Stats 1968 ch 1284 § 21; Amended Stats 1994 ch 956 § 5 (AB 2836); Stats 1996 ch 829 § 24 (AB 3473).

ARTICLE 3

QUALIFICATIONS AND REQUIREMENTS FOR LICENSURE

HISTORY: Added Stats 1953 ch 1826 § 1. Heading added Stats 2013 ch 389 § 33 (SB 198), effective January 1, 2014. Former Article 3 heading, “Licensing of Practitioners,” was added Stats 1953 ch 1826 § 1 and repealed January 1, 2014, by Stats 2013 ch 389 § 25 (SB 198).

§ 2635. Qualifications

Every applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, not addicted to alcohol or any controlled substance, have successfully completed the education and training required by Section 2650, and not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2670. Amended Stats 1957 ch 1533 § 4; Amended and Renumbered by Stats 1968 ch 1284 § 22; Amended Stats 1971 ch 838 § 13, ch 1748 § 5; Stats 1976 ch 1187 § 7; Stats 1978 ch 1161 § 162; Stats 1994 ch 956 § 6 (AB 2836).

§ 2636. Required examinations; Conduct of examinations

(a) Except as otherwise provided in this chapter, no person shall receive a license under this chapter without first successfully passing the following examinations, where success is determined based on the examination passing standard set by the board:

(1) An examination under the direction of the board to demonstrate the applicant's knowledge of the laws and regulations related to the practice of physical therapy in California. The examination shall reasonably test the applicant's knowledge of these laws and regulations.

(2) The physical therapy examination for the applicant's licensure category. The examination for licensure as a physical therapist shall test entry-level competence to practice physical therapy. The examination for licensure as a physical therapist assistant shall test entry-level competence to practice as a physical therapist assistant in the technical application of physical therapy services.

(b) An applicant may take the examinations for licensure as a physical therapist or for licensure as a physical therapist assistant after the applicant has met the educational requirements for that particular category of licensure.

(c) The examinations required by the board for a license under this chapter may be conducted by the board or by a public or private organization specified by the board. The examinations may be conducted under a uniform examination system and, for that purpose, the board may make arrangements with organizations furnishing examination materials as may, in its discretion, be desirable.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2671. Amended Stats 1957 ch 1533 § 5; Amended and Renumbered by Stats 1968 ch 1284 § 23; Amended Stats 1994 ch 26 § 47 (AB 1807), effective March 30, 1994, ch 956 § 7 (AB 2836); Stats 1996 ch 829 § 25 (AB 3473); Stats 2008 ch 301 § 2 (AB 2111), effective January 1, 2009; Stats 2013 ch 389 § 34 (SB 198), effective January 1, 2014.

SUGGESTED FORMS

Petition for Writ of Mandate to Compel Physical Therapy Board to Admit Petitioner to
Examination for Physical Therapy

[Title of Court and Cause] 1. Petitioner resides at _____ [address], City of _____, County of _____, State of California. 2. Respondent is the Physical Therapy Board within the Division of Licensing of the Medical Board of the State of California and as such is the duly constituted authority to administer the provisions of the Business and Professions Code of the State of California relating to the examination of physical therapists. 3. On _____, petitioner filed an application with respondent for the issuance of a license as a physical therapist in the State of California, pursuant to the provisions of the Business and Professions Code of the State of California. The application was in proper form and contained a full and correct statement of all matters required to be contained therein. 4. At all times herein mentioned, petitioner was fully qualified to take the examination in California, inasmuch as petitioner _____ [state all qualifications outlined in the Business and Professions Code]. 5. By reason thereof, petitioner is entitled to be admitted to the examination and the refusal of the respondent to so admit petitioner to the examination constitutes an arbitrary and

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wrongful violation of its duties, in that petitioner has fully complied with all requirements for admission to the examination and is, therefore, entitled under the provisions of the Business and Professions Code of the State of California to be admitted to the examination for physical therapists in the State of California.6.Petitioner has performed all conditions precedent to the filing of this petition by _____ *[insert all conditions precedent, including the exhaustion of administrative remedies]*.7.Petitioner has made due demand of respondent that petitioner be admitted to the examination, but the demand of petitioner has been refused and the respondent does now refuse to admit petitioner to the examination.8.At all times mentioned herein, respondent has been able to admit petitioner to the examination, but notwithstanding this ability and in spite of the demand by petitioner that petitioner be admitted to the examination, respondent continues to refuse to so admit petitioner.9.Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law, other than the relief sought in this petition, in that this is the only proceeding in which petitioner may obtain the rights demanded herein.

Wherefore, petitioner prays:1.That this court issue an alternative writ of mandate commanding respondent to admit petitioner to the next regularly scheduled examination for the licensing of physical therapists in the State of California, or to show cause before this court at a time specified by an order of this court why it has not done so and why a peremptory writ of mandate should not issue;2.That on the return of the alternative writ of mandate and the hearing of this petition, this court issue its peremptory writ of mandate commanding the respondent to admit petitioner to the above named examination; and3.That this court award petitioner the costs of this proceeding and such further and other relief as to this court seems just and proper.

[Signature]

[Verification]

§ 2636.5. License without written examination; Performance as physical therapist, physical therapist assistant

(a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of application licensed as a physical therapist or physical therapist assistant in a state, district, or territory of the United States having, in the opinion of the board, requirements for licensing equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for licensing that is, in the opinion of the board, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist or physical therapist assistant education program approved by the board, or has met the requirements of Section 2653.

(3) He or she files an application with the board and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state may be required to file a statement of past work activity.

(c) An applicant who has filed a physical therapy application under this section with the board for the first time may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist or physical therapist assistant, as appropriate, under the supervision of a physical therapist licensed in this state.

During this period the applicant shall identify himself or herself only as a “physical therapist license applicant” or “physical therapist assistant license applicant,” as appropriate.

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639, all privileges under this section shall terminate upon notice by the board. An applicant may

only qualify once to perform as a physical therapist license applicant or physical therapist assistant license applicant.

HISTORY:

Added Stats 1970 ch 1088 § 1. Amended Stats 1975 ch 826 § 9; Stats 1977 ch 1055 § 2; Stats 1978 ch 572 § 3; Stats 1979 ch 907 § 2; Stats 1994 ch 956 § 8 (AB 2836); Stats 1996 ch 829 § 27 (AB 3473), ch 830 § 2.5 (SB 1962); Stats 2013 ch 389 § 35 (SB 198), effective January 1, 2014.

§ 2638. Retaking licensing examination

Any applicant for licensure as a physical therapist or physical therapist assistant who fails to pass the examination required by the board may retake the licensing examination and shall pay the reexamination fee.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2673. Renumbered by Stats 1968 ch 1284 § 26. Amended Stats 1971 ch 838 § 16; Stats 1978 ch 572 § 4; Stats 1994 ch 956 § 9 (AB 2836); Stats 1996 ch 829 § 29 (AB 3473); Stats 2013 ch 389 § 36 (SB 198), effective January 1, 2014.

§ 2639. Practice after award of license applicant status

(a)(1) Every graduate of an approved physical therapy education program who has filed a complete application, as defined in regulation, for licensure with the board and has been awarded either physical therapist license applicant status or physical therapist assistant license applicant status shall practice under the supervision of a licensed physical therapist pursuant to this chapter for no more than 120 days pending the results of the first licensing examination administered. If the applicant passes the examination, the physical therapist license applicant status or physical therapist assistant license applicant status shall remain in effect until a regular renewable license is issued, or licensure is denied, by the board. A supervising physical therapist shall document receipt of the letter authorizing the physical therapist license applicant status or physical therapist assistant license applicant status and record the expiration date of that status in the employee record. A supervising physical therapist shall require the applicant to provide documentation of the license issued at the conclusion of the physical therapist license applicant status or physical therapist assistant license applicant status. During this period the applicant shall identify himself or herself only as “physical therapist license applicant” or “physical therapist assistant license applicant,” as appropriate.

(2) A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internship required for graduation from the education program.

(b) A physical therapist license applicant who has been awarded license applicant status may perform as a physical therapist if he or she is under the supervision of a physical therapist licensed by the board. A physical therapist assistant license applicant who has been awarded license applicant status may perform as a physical therapist assistant if he or she is under the supervision of a physical therapist licensed by the board. The applicant shall comply with any requirements applicable to the license for which he or she applied. An applicant may not perform in those capacities if he or she fails the first examination attempt.

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HISTORY:

Added Stats 2013 ch 389 § 38 (SB 198), effective January 1, 2014.

§ 2639.1. Application for licensure as physical therapist assistant by person having training or experience equivalent to approved physical therapist assistant education program

A person having, in the opinion of the board, training or experience, or a combination of training and experience, equivalent to that obtained in an approved physical therapist assistant education program and who meets the requirements of Section 2635 may apply for licensure as a physical therapist assistant.

HISTORY:

Added Stats 2013 ch 389 § 39 (SB 198), effective January 1, 2014.

ARTICLE 4 RENEWAL OF LICENSES

HISTORY: Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014. Former Article 4, entitled "Educational Standards," consisting of §§ 2650–2653, was added Stats 1953 ch 1826 § 1, and amended and renumbered Article 5 by Stats 2013 ch 389 § 42 (SB 198), effective January 1, 2014.

§ 2644. Expiration; Renewal of unexpired license

(a) Every license issued under this chapter shall expire at 12 a.m. on the last day of the birth month of the licensee during the second year of a two-year term, if not renewed.

(b) To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the board, pay the prescribed renewal fee, and submit proof of the completion of continuing competency required by the board pursuant to Section 2649. The licensee shall disclose on his or her license renewal application any misdemeanor or other criminal offense for which he or she has been found guilty or to which he or she has pleaded guilty or no contest.

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

SUGGESTED FORMS

Petition for Writ of Mandate to Compel Division of Licensing of California Medical Board to Issue Physical Therapy License

[Title of Court and Cause] 1. Petitioner resides at _____ [address], City of _____, County of _____, State of California. 2. Respondent is the Division of Licensing of the Medical Board of the State of California, and as such is the duly constituted authority to administer the provisions of the Business and Professions Code of the State of California relating to the licensing of physical therapists in the State of California. 3. On _____, petitioner filed an application with respondent for the issuance of a license for the practice of physical therapy in the State of California, pursuant to the provisions of the Business and Professions Code of the State of California. The application was in proper form and contained a full and correct statement of all matters required to be contained

therein.4.On _____, petitioner was examined by the Physical Therapy Board within the jurisdiction of the Division of Licensing of the Medical Board of the State of California, and by written instrument, dated _____, a copy of which is attached hereto, marked Exhibit "____," and incorporated herein by reference, petitioner was informed by respondent that petitioner had been successful in passing the examination and that they had recommended to respondent that petitioner be issued a license to practice physical therapy in the State of California.5.At all times mentioned herein, petitioner was fully qualified to be issued a license as a physical therapist in the State of California, inasmuch as petitioner _____ *[state all qualifications outlined in the Business and Professions Code]*.6.Petitioner is entitled to be issued a license as a physical therapist in the State of California, and the refusal of respondent to so issue the license constitutes an arbitrary and wrongful violation of its duties, in that petitioner has fully complied with all requirements for the issuance of a license and is, therefore, entitled under the provisions of the Business and Professions Code of the State of California to be issued a license to practice physical therapy in the State of California.7.Petitioner has performed all conditions precedent to the filing of this petition by _____ *[insert all conditions precedent, including the exhaustion of administrative remedies]*.8.Petitioner has made due demand of respondent that petitioner be issued the above mentioned license, but the demand of petitioner has been refused and respondent does now refuse to issue a license to petitioner to practice physical therapy in the State of California.9.At all times mentioned herein respondent has been able to issue a license to petitioner, but notwithstanding this ability and in spite of the demand by petitioner that petitioner be issued a license, respondent continues to refuse to so issue a license.10.Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law, other than the relief sought in this petition, in that this is the only proceeding in which petitioner may obtain the rights demanded herein.

Wherefore, petitioner prays:1.That this court issue an alternative writ of mandate commanding the respondent to issue a license to petitioner to practice physical therapy in the State of California, or to show cause before this court at a time specified by an order of this court why it has not done so and why a peremptory writ of mandate should not issue;2.That on the return of the alternative writ of mandate and the hearing of this petition, this court issue its peremptory writ of mandate commanding respondent to issue a license for the practice of physical therapy in the State of California to petitioner; and3.That this court award petitioner the costs of this proceeding and such further and other relief as to this court seems just and proper.

[Signature]

[Verification]

§ 2645. Notice of renewal

At least 60 days before the expiration of any license, the board shall mail to each licensee under this chapter, at the latest address furnished by the licensee to the board, a notice stating the amount of the renewal fee and the date on which it is due, and that failure to pay it on or before the due date shall result in expiration of the license.

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

§ 2646. Renewal of expired license

A license that has expired may be renewed at any time within five years after its expiration by applying for renewal as set forth in Section 2644. Renewal under this section shall be effective on the date on which the renewal application is filed, on the date on which the renewal fee or accrued renewal fees are paid, or on the date on which the delinquency fee and penalty fee, if any, are paid, whichever last occurs. A renewed license shall continue in effect through the expiration date set forth in Section 2644 that next occurs after the effective date of the renewal, at which time it shall expire and become invalid if it is not so renewed.

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

§ 2647**BUSINESS & PROFESSIONS CODE****§ 2647. Failure to renew expired license**

A person who fails to renew his or her license within five years after its expiration may not renew it, and it shall not be reissued, reinstated, or restored thereafter. However, the person may apply for a new license if he or she satisfies the requirements set forth in Article 3 (commencing with Section 2635).

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

§ 2648. Exemption from renewal fee while engaged in training or active service in U.S. military or U.S. Public Health Service

(a) A licensee is exempt from the payment of the renewal fee while engaged in full-time training or active service in the United States Army, Navy, Air Force, Marines, or Coast Guard, or in the United States Public Health Service.

(b) A person exempted from the payment of the renewal fee by this section shall not engage in any practice of, or assistance in the provision of, physical therapy not related to his or her military service and shall become liable for payment of the fee for the current renewal period upon his or her discharge from full-time active service and shall have a period of 60 days after becoming liable within which to pay the renewal fee before the delinquency fee is required. Any person who is discharged from active service within 60 days of the end of the renewal period is exempt from the payment of the renewal fee for that period.

(c) The time spent in full-time active service or training shall not be included in the computation of the five-year period for renewal and reinstatement of licensure provided in Section 2646.

(d) A person exempt from renewal fees under this section shall not be exempt from meeting the requirements of Section 2649.

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

§ 2648.3. Waiver of renewal fee based on inability to practice due to disability

A licensee who demonstrates to the satisfaction of the board that he or she is unable to practice, or assist in the provision of, physical therapy due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the board and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice, or assist in the provision of, physical therapy. A licensee whose renewal fee has been waived pursuant to this section shall not engage in the practice of, or assist in the provision of, physical therapy unless and until the licensee pays the current renewal fee and does either of the following:

(a) Establishes to the satisfaction of the board, on a form prescribed by the board and signed under penalty of perjury, that the licensee's disability either no longer exists or does not affect his or her ability to practice, or assist in the provision of, physical therapy safely.

(b) Signs an agreement, on a form prescribed by the board and signed under penalty of perjury, to limit his or her practice of, or assistance in the

provision of, physical therapy in the manner prescribed by his or her reviewing physician.

(c) A person exempt from renewal fees under this section shall not be exempt from meeting the requirements of Section 2649.

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

§ 2648.5. Waiver of renewal fee for California resident providing voluntary, unpaid physical therapy services

(a) The renewal fee shall be waived for licensees residing in California who certify to the board that license renewal is for the sole purpose of providing voluntary, unpaid physical therapy services.

(b) A person exempt from renewal fees under this section shall not be exempt from meeting the requirements of Section 2649.

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014.

§ 2648.7. Exemption from renewal fee for licensee applying for retired license status; Prohibition against practice by licensee in retired status [Repealed]

HISTORY:

Added Stats 2013 ch 389 § 41 (SB 198), effective January 1, 2014. Amended Stats 2017 ch 456 § 20 (AB 176), effective January 1, 2018, repealed January 1, 2019.

§ 2649. Continuing education; Administration

(a) A person renewing his or her license shall submit proof satisfactory to the board that, during the preceding two years, he or she has completed the required number of continuing education hours established by regulation by the board, or such other proof of continuing competency as the board may establish by regulation. Required continuing education shall not exceed 30 hours every two years.

(b) The board shall adopt and administer regulations including, but not limited to, continuing education intended to ensure the continuing competency of persons licensed pursuant to this chapter. The board may establish different requirements for physical therapists and physical therapist assistants. The board may not require the completion of an additional postsecondary degree or successful completion of an examination as a condition of renewal, but may recognize these as demonstrative of continuing competency. This program shall include provisions requiring random audits of licensees in order to ensure compliance.

(c) The administration of this section may be funded through professional license fees, continuing education provider fees, and recognized approval agency fees. The fees shall not exceed the amounts necessary to cover the actual costs of administering this section.

HISTORY:

Added Stats 2006 ch 540 § 1 (AB 120), effective January 1, 2007 as B & P C § 2676. Amended and renumbered Stats 2013 ch 389 § 73 (SB 198), effective January 1, 2014.

ARTICLE 5

EDUCATIONAL STANDARDS

HISTORY: Added Stats 1953 ch 1826 § 1, as Article 4. Renumbered by Stats 2013 ch 389 § 42 (SB 198), effective January 1, 2014. Former Article 5, entitled “Suspension, Revocation and Reinstatement of License,” consisting of §§ 2660–2661.7, was added Stats 1953 ch 1826 § 1 and amended and renumbered Article 6 by Stats 2013 ch 389 § 53 (SB 198), effective January 1, 2014.

§ 2650. Educational requirements

(a) The physical therapist education requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board and shall have completed a professional education program including academic course work and clinical internship in physical therapy.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada and shall include a combination of didactic and clinical experiences. The clinical experience shall include at least 18 weeks of full-time experience with a variety of patients.

(b) The physical therapist assistant educational requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist assistant shall be a graduate of a physical therapist assistant program of an accredited postsecondary institution or institutions approved by the board, and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded an associate degree.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the CAPTE of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada or another body as may be approved by the board by regulation and shall include a combination of didactic and clinical experiences.

HISTORY:

Added Stats 2013 ch 389 § 44 (SB 198), effective January 1, 2014. Amended Stats 2015 ch 426 § 20 (SB 800), effective January 1, 2016.

§ 2651. Approval of physical therapist and physical therapist assistant education programs

The board shall approve only those physical therapist and physical therapist assistant education programs that prove to the satisfaction of the board that they comply with the minimum physical therapist or physical therapist assistant educational requirements set forth in this chapter and adopted by the board pursuant to this chapter. Physical therapist and physical therapist assistant education programs that are accredited by the Commission on

Accreditation in Physical Therapy Education of the American Physical Therapy Association, Physiotherapy Education Accreditation Canada, or such other body as may be approved by the board by regulation shall be deemed approved by the board unless the board determines otherwise. This chapter shall not prohibit the board from disapproving any foreign physical therapist or physical therapist assistant educational program or from denying an applicant if, in the opinion of the board, the instruction received by the applicant or the courses offered by the program were not equivalent to that which is required by this chapter.

HISTORY:

Added Stats 1968 ch 1284 § 31. Amended Stats 1971 ch 837 § 3; Stats 1975 ch 826 § 11; Stats 1977 ch 1055 § 5; Stats 1994 ch 956 § 13 (AB 2836); Stats 1996 ch 829 § 33 (AB 3473); Stats 1997 ch 213 § 2 (SB 833); Stats 2013 ch 389 § 47 (SB 198), effective January 1, 2014.

§ 2653. Graduate of physical therapist education program not approved by board and not located in U.S.

An applicant for a license as a physical therapist who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States shall do all of the following:

(a) Furnish documentary evidence satisfactory to the board, that he or she has completed a professional degree in a physical therapist educational program substantially equivalent at the time of his or her graduation to that issued by a board approved physical therapist education program. The professional degree must entitle the applicant to practice as a physical therapist in the country where the diploma was issued. The applicant shall meet the educational requirements set forth in paragraph (2) of subdivision (a) of Section 2650. The board may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the board.

(b)(1) Except as provided in paragraph (2), demonstrate proficiency in English by achieving a score specified by the board on the Test of English as a Foreign Language administered by the Educational Testing Services or other means as may be specified by the board by regulation.

(2) An applicant shall be exempt from the requirement under paragraph (1) if the applicant has been awarded a bachelor's degree or higher in a physical therapist educational program from a college, university, or professional training school in Australia, any part of Canada other than Quebec, Ireland, New Zealand, the United Kingdom, the United States, or another English-speaking country specified by the board.

(c) Complete nine months of clinical service in a location approved by the board under the supervision of a physical therapist licensed by a United States jurisdiction, in a manner satisfactory to the board. The applicant shall have passed the written examination required in Section 2636 prior to commencing the period of clinical service. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service, the applicant shall be identified as a physical therapist license applicant. If an applicant fails to complete the

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required period of clinical service, the board may, for good cause shown, allow the applicant to complete another period of clinical service.

HISTORY:

Added Stats 2013 ch 389 § 50 (SB 198), effective January 1, 2014. Amended Stats 2017 ch 454 § 21 (AB 1706), effective January 1, 2018.

§ 2654. Eligibility of graduate of non-approved, non-U.S. physical therapist education program to take physical therapist assistant examination

If an applicant who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States does not qualify to take the physical therapist examination, his or her education may be evaluated by the board and the applicant may be eligible to take the physical therapist assistant examination.

HISTORY:

Added Stats 2013 ch 389 § 51 (SB 198), effective January 1, 2014.

ARTICLE 6

ENFORCEMENT

HISTORY: Added Stats 1953 ch 1826 § 1, as Article 5. The heading of Article 5, which formerly read “Suspension, Revocation and Reinstatement of License,” amended and renumbered to read as above by Stats 2013 ch 389 § 53 (SB 198), effective January 1, 2014. Former Article 6, entitled “Offenses and Enforcement,” consisting of §§ 2670–2672, was added Stats 1953 ch 1826 § 1, and amended and renumbered Article 8 by Stats 2013 ch 389 § 70 (SB 198), effective January 1, 2014.

§ 2660. Unprofessional conduct constituting grounds for citation, discipline, denial, suspension or revocation of license, or issuance of probationary license

Unprofessional conduct constitutes grounds for citation, discipline, denial of a license, or issuance of a probationary license. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), issue a citation, impose discipline, deny a license, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license issued under this chapter for unprofessional conduct that includes, in addition to other provisions of this chapter, but is not limited to, the following:

- (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter, any regulations duly adopted under this chapter, or the Medical Practice Act (Chapter 5 (commencing with Section 2000)).
- (b) Advertising in violation of Section 17500.
- (c) Obtaining or attempting to obtain a license by fraud or misrepresentation.
- (d) Practicing or offering to practice beyond the scope of practice of physical therapy.

(e) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(f) Unlawful possession or use of, or conviction of a criminal offense involving, a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9, as follows:

(1) Obtaining or possessing in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administering to himself or herself, or furnishing or administering to another, any controlled substance or any dangerous drug.

(2) Using any controlled substance or any dangerous drug.

(3) Conviction of a criminal offense involving the consumption or self-administration of, or the possession of, or falsification of a record pertaining to, any controlled substance or any dangerous drug, in which event the record of the conviction is conclusive evidence thereof.

(g) Failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(h) Gross negligence or repeated acts of negligence in practice or in the delivery of physical therapy care.

(i) Aiding or abetting any person to engage in the unlawful practice of physical therapy.

(j) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

(l) The commission of verbal abuse or sexual harassment.

(m) Engaging in sexual misconduct or violating Section 726.

(n) Permitting a physical therapist assistant or physical therapy aide under one's supervision or control to perform, or permitting the physical therapist assistant or physical therapy aide to hold himself or herself out as competent to perform, professional services beyond the level of education, training, and experience of the physical therapist assistant or aide.

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(o) The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice physical therapy issued by that state, or the revocation, suspension, or restriction of the authority to practice physical therapy by any agency of the federal government.

(p) Viewing a completely or partially disrobed patient in the course of treatment if the viewing is not necessary to patient evaluation or treatment under current standards.

(q) Engaging in any act in violation of Section 650, 651, or 654.2.

(r) Charging a fee for services not performed.

(s) Misrepresenting documentation of patient care or deliberate falsifying of patient records.

(t) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients.

(u) The willful, unauthorized violation of professional confidence.

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

(w) Habitual intemperance.

(x) Failure to comply with the provisions of Section 2620.1.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2685. Amended Stats 1957 ch 1533 § 6; Amended and renumbered by Stats 1968 ch 1284 § 33; Amended Stats 1970 ch 1318 § 2.5; Stats 1971 ch 838 § 18; Stats 1975 ch 826 § 16; Stats 1976 ch 1187 § 18; Stats 1977 ch 1055 § 9; Stats 1978 ch 572 § 7; Stats 1979 ch 907 § 3; Stats 1990 ch 1087 § 16 (SB 2512); Stats 1992 ch 1350 § 3 (SB 1813); Stats 1994 ch 26 § 53 (AB 1807), effective March 30, 1994; Stats 1996 ch 829 § 49 (AB 3473); Stats 1997 ch 759 § 14 (SB 827); Stats 2002 ch 1150 § 11 (SB 1955); Stats 2008 ch 301 § 7 (AB 2111), effective January 1, 2009; Stats 2013 ch 389 § 54 (SB 198), effective January 1, 2014, ch 620 § 5.5 (AB 1000), effective January 1, 2014; Stats 2014 ch 71 § 5 (SB 1304), effective January 1, 2015.

§ 2660.1. Presumption regarding consent to sexual activity

A patient, client, or customer of a licentiate under this chapter is conclusively presumed to be incapable of giving free, full, and informed consent to any sexual activity which is a violation of Section 726.

HISTORY:

Added Stats 1992 ch 1289 § 19 (AB 2743).

§ 2660.2. Denial of license; Probationary license; Public letter of reprimand in lieu of refusing license

(a) The board may refuse a license to any applicant guilty of unprofessional conduct or sexual activity referred to in Section 2660.1. The board may, in its sole discretion, issue a public letter of reprimand or may issue a probationary license to any applicant for a license who is guilty of unprofessional conduct but who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

- (3) Restriction of the type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of physical therapy.

(b) The applicant shall have the right to appeal the denial, or the issuance with terms and conditions, of any license in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

(c) In lieu of refusing a license, the board may, upon stipulation or agreement by the licensee, issue a public letter of reprimand after it has conducted an investigation or inspection as provided for in this chapter. The public letter of reprimand may include a requirement for specified training or education, and cost recovery for investigative costs. The board shall notify the licensee of its intention to issue the letter 30 days before the intended issuance date of the letter. The licensee shall indicate in writing at least 15 days prior to the letter's intended issuance date whether he or she agrees to the issuance of the letter. The board, at its option, may extend the time within which the licensee may respond to its notification. If the licensee does not agree to the issuance of the letter, the board shall not issue the letter and may proceed to file the accusation. The board may use a public letter of reprimand only for minor violations, as defined by the board, committed by the applicant. A public letter of reprimand issued pursuant to this section shall be disclosed by the board to an inquiring member of the public and shall be posted on the board's Internet Web site.

HISTORY:

Added Stats 2002 ch 1150 § 12 (SB 1955). Amended Stats 2013 ch 389 § 55 (SB 198), effective January 1, 2014.

§ 2660.3. Public letter of reprimand in lieu of filing or prosecuting formal accusation

In lieu of filing or prosecuting a formal accusation against a licensee, the board may, upon stipulation or agreement by the licensee, issue a public letter of reprimand after it has conducted an investigation or inspection as provided for in this chapter. The public letter of reprimand may include a requirement for specified training or education, and cost recovery for investigative costs. The board shall notify the licensee of its intention to issue the letter 30 days before the intended issuance date of the letter. The licensee shall indicate in writing at least 15 days prior to the letter's intended issuance date whether he or she agrees to the issuance of the letter. The board, at its option, may extend the time within which the licensee may respond to its notification. If the licensee does not agree to the issuance of the letter, the board shall not issue the letter and may proceed to file the accusation. The board may use a public letter of reprimand only for minor violations, as defined by the board, committed by the licensee. A public letter of reprimand issued pursuant to this

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section shall be disclosed by the board to an inquiring member of the public and shall be posted on the board's Internet Web site.

HISTORY:

Added Stats 2008 ch 301 § 8 (AB 2111), effective January 1, 2009. Amended Stats 2009 ch 140 § 10 (AB 1164), effective January 1, 2010; Stats 2013 ch 389 § 56 (SB 198), effective January 1, 2014.

§ 2660.4. Failure to comply with request for medical records of patient

A licensee who fails or refuses to comply with a request from the board for the medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the records have not been produced after the 15th day, unless the licensee is unable to provide the records within this time period for good cause.

HISTORY:

Added Stats 2013 ch 389 § 57 (SB 198), effective January 1, 2014.

§ 2660.5. Denial of license in specified circumstances

The board shall deny a physical therapist license or physical therapist assistant license to an applicant who is required to register pursuant to Section 290 of the Penal Code. This section does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

HISTORY:

Added Stats 2006 ch 658 § 46 (SB 1476), effective January 1, 2007. Amended Stats 2013 ch 389 § 58 (SB 198), effective January 1, 2014.

§ 2660.7. Conduct subverting licensing examination

In addition to the penalties prescribed by Section 123, if the board determines that an applicant for licensure or a licensee has engaged, or has attempted to engage, in conduct that subverts or undermines the integrity of the examination process as described in Section 123, the board may disqualify the applicant from taking the examination or may deny his or her application for licensure or may revoke the license of the licensee.

HISTORY:

Added Stats 2008 ch 301 § 9 (AB 2111), effective January 1, 2009.

§ 2660.8. Disciplinary action after hearing by Medical Quality Hearing Panel, or default or stipulation with board

A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

- (a) Have his or her license revoked upon order of the board.

- (b) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
- (c) Be placed on probation and required to pay the costs of probation monitoring upon order of the board.
- (d) Be publicly reprimanded by the board.
- (e) Be required to surrender his or her license based on an order of the board.
- (f) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

HISTORY:

Added Stats 2013 ch 389 § 59 (SB 198), effective January 1, 2014.

§ 2661. What deemed conviction

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The board may order discipline of the licensee in accordance with Section 2660 or the board may take action as authorized in Section 2660.2 on an application when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

HISTORY:

Added Stats 1957 ch 1533 § 7, as B & P C § 2688. Renumbered by Stats 1968 ch 1284 § 34. Amended Stats 1975 ch 826 § 17; Stats 1976 ch 1187 § 20; Stats 1978 ch 1161 § 168; Stats 1990 ch 1087 § 17 (SB 2512); Stats 1996 ch 829 § 50 (AB 3473); Stats 2013 ch 389 § 60 (SB 198), effective January 1, 2014.

§ 2661.5. Order for payment of investigation and prosecution costs

- (a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.
- (b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.
- (c) When the payment directed in an order for payment of costs is not made by the licensee, the board may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.
- (d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.
- (e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license or approval of any person who has failed to pay all of the costs ordered under this section.

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(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license or approval of any person who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

HISTORY:

Added Stats 1991 ch 855 § 1 (SB 483). Amended Stats 1996 ch 829 § 51 (AB 3473).

§ 2661.6. Probation monitoring program

(a) The board shall establish a probation monitoring program to monitor probationary licenses.

(b) The program may employ nonpeace officer staff to perform its probation monitoring.

(c) The program shall be funded with moneys in the Physical Therapy Fund.

HISTORY:

Added Stats 2002 ch 1150 § 13 (SB 1955).

§ 2661.7. Petition for reinstatement of license or modification of penalty

(a) A person whose license has been revoked or suspended, or who has been placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or approval revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination or one year for modification of a condition of probation of three years or more.

(3) At least one year for reinstatement of a license revoked for mental or physical illness, or for modification of a condition, or termination of probation of less than three years.

(b) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physical therapists licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(c) The petition may be heard by the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The board or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities

during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the board or the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(e) The administrative law judge designated in Section 11371 of the Government Code when hearing a petition for reinstating a license, or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner. The board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

(g) Nothing in this section shall be deemed to alter Sections 822 and 823.

HISTORY:

Added Stats 1996 ch 830 § 10 (SB 1962). Amended Stats 1998 ch 970 § 8 (AB 2802); Stats 2013 ch 389 § 61 (SB 198), effective January 1, 2014.

ARTICLE 7

SUBSTANCE ABUSE REHABILITATION PROGRAM

HISTORY: Added Stats 1990 ch 1087 § 18 (SB 2512) as Article 5.5. The heading of Article 5.5, which formerly read "Diversion Program," amended and renumbered to read as above by Stats 2013 ch 389 § 62 (SB 198), effective January 1, 2014. Former Article 7, entitled "Fiscal Administration," consisting of §§ 2680-2689, was added Stats 1953 ch 1826 § 1, and amended and renumbered Article 9 by Stats 2013 ch 389 § 74 (SB 198), effective January 1, 2014.

§ 2662. Legislative intent

It is the intent of the Legislature that the board shall seek ways and means to identify and rehabilitate physical therapists and physical therapist assistants whose competency is impaired due to abuse of dangerous drugs or alcohol so that they may be treated and returned to the practice of physical therapy in a manner which will not endanger the public health and safety.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1996 ch 829 § 52 (AB 3473).

§ 2663. Establishment and administration of substance abuse rehabilitation program

The board shall establish and administer a substance abuse rehabilitation program, hereafter referred to as the rehabilitation program, for the rehabilitation of physical therapists and physical therapist assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more rehabilitation

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evaluation committees to assist it in carrying out its duties under this article. Any rehabilitation evaluation committee established by the board shall operate under the direction of the rehabilitation program manager, as designated by the executive officer of the board. The program manager has the primary responsibility to review and evaluate recommendations of the committee.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1996 ch 829 § 53 (AB 3473); Stats 2008 ch 548 § 14 (SB 1441), effective January 1, 2009; Stats 2013 ch 389 § 63 (SB 198), effective January 1, 2014.

§ 2664. Rehabilitation evaluation committee

(a) Any rehabilitation evaluation committee established by the board shall have at least three members. In making appointments to a rehabilitation evaluation committee, the board shall consider the appointment of persons who are either recovering from substance abuse and have been free from substance abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.

(b) Appointments to a rehabilitation evaluation committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a rehabilitation evaluation committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each rehabilitation evaluation committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), relating to public meetings, a rehabilitation evaluation committee may convene in closed session to consider matters relating to any physical therapist or physical therapist assistant applying for or participating in a rehabilitation program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A rehabilitation evaluation committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a rehabilitation evaluation committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1993 ch 589 § 5 (AB 2211); Stats 1996 ch 829 § 54 (AB 3473); Stats 2013 ch 389 § 64 (SB 198), effective January 1, 2014.

§ 2665. Duties and responsibilities of rehabilitation evaluation committee

Each rehabilitation evaluation committee has the following duties and responsibilities:

(a) To evaluate physical therapists and physical therapist assistants who request participation in the rehabilitation program and to make recommendations. In making recommendations, the committee shall consider any recommendations from professional consultants on the admission of applicants to the rehabilitation program.

(b) To review and designate treatment facilities to which physical therapists and physical therapist assistants in the rehabilitation program may be referred.

(c) To receive and review information concerning physical therapists and physical therapist assistants participating in the program.

(d) Calling meetings as necessary to consider the requests of physical therapists and physical therapist assistants to participate in the rehabilitation program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(e) To consider whether each participant in the rehabilitation program may with safety continue or resume the practice of physical therapy.

(f) To set forth in writing the terms and conditions of the rehabilitation agreement that is approved by the program manager for each physical therapist and physical therapist assistant participating in the program, including treatment, supervision, and monitoring requirements.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the rehabilitation program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the rehabilitation program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a rehabilitation evaluation committee shall be considered a public employee. No board or rehabilitation evaluation committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1996 ch 829 § 55 (AB 3473); Stats 1998 ch 970 § 9 (AB 2802); Stats 2008 ch 548 § 15 (SB 1441), effective January 1, 2009; Stats 2013 ch 389 § 65 (SB 198), effective January 1, 2014.

§ 2666. Criteria for acceptance into rehabilitation program; Causes for termination from program

(a) Criteria for acceptance into the rehabilitation program shall include all of the following:

(1) The applicant shall be licensed as a physical therapist or as a physical therapist assistant by the board and shall be a resident of California.

(2) The applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner that may affect his or her ability to practice physical therapy safely or competently.

(3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.

(4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.

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(5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.

(6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

Any applicant may be denied participation in the program if the board, the program manager, or a rehabilitation evaluation committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

(b) A participant may be terminated from the program for any of the following reasons:

(1) The participant has successfully completed the treatment program.

(2) The participant has failed to comply with the treatment program designated for him or her.

(3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).

(4) It is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of physical therapy by that individual creates too great a risk to the public health, safety, and welfare, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physical therapist or physical therapy assistant who requests participation in a rehabilitation program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.

The rehabilitation evaluation committee shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physical therapist or physical therapist assistant in the program, and the possible results of noncompliance with the program.

(c) In addition to the criteria and causes set forth in subdivision (a), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1994 ch 26 § 54 (AB 1807), effective March 30, 1994; Stats 1996 ch 829 § 56 (AB 3473); Stats 2008 ch 548 § 16 (SB 1441), effective January 1, 2009; Stats 2013 ch 389 § 66 (SB 198), effective January 1, 2014.

§ 2667. Confidentiality of records

All board and rehabilitation evaluation committee records and records of proceedings and participation of a physical therapist or physical therapist assistant in a program shall be confidential and are not subject to discovery or subpoena.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1996 ch 829 § 57 (AB 3473); Stats 2013 ch 389 § 67 (SB 198), effective January 1, 2014.

§ 2668. Fee for participation in program

(a) A fee to cover the actual cost of administering the program shall be charged for participation in the program. If the board contracts with any other entity to carry out this article, at the discretion of the board, the fee may be collected and retained by that entity.

(b) If the board contracts with any other entity to carry out this section, the executive officer of the board, or his or her designee, shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or non-compliance by the participant.

(c) Subdivision (a) shall apply to all new participants entering into the board's rehabilitation program on or after January 1, 2007. Subdivision (a) shall apply on and after January 1, 2008, to participants currently enrolled as of December 31, 2007.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1996 ch 829 § 58 (AB 3473); Stats 2006 ch 658 § 47 (SB 1476), effective January 1, 2007; Stats 2013 ch 389 § 68 (SB 198), effective January 1, 2014.

§ 2669. Participation in program no defense to disciplinary action

Participation in a rehabilitation program shall not be a defense to any disciplinary action that may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physical therapist or physical therapist assistant who is terminated unsuccessfully from the program. That disciplinary action may not include as evidence any confidential information.

HISTORY:

Added Stats 1990 ch 1087 § 18 (SB 2512). Amended Stats 1996 ch 829 § 59 (AB 3473); Stats 2013 ch 389 § 69 (SB 198), effective January 1, 2014.

ARTICLE 8**OFFENSES AGAINST THIS CHAPTER**

HISTORY: Added Stats 1953 ch 1826 § 1, as Article 6. The heading of Article 6, which formerly read "Offenses and Enforcement," amended and renumbered to read as above by Stats 2013 ch 389 § 70 (SB 198), effective January 1, 2014. Former Article 8, entitled "Physical Therapy Corporations," consisting of §§ 2690–2696, was added Stats 1980 ch 1314 § 10, and amended and renumbered Article 10 by Stats 2013 ch 389 § 79 (SB 198), effective January 1, 2014. Former Article 8, entitled "Physical Therapy Corporations," consisting of §§ 2690–2696, was added Stats 1969 ch 1440 § 2 and repealed Stats 1980 ch 1314 § 9.

§ 2670. Penalty for violations

Any person who violates any of the provisions of this chapter shall be guilty

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of a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment in a county jail not exceeding six months, or by both.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2690. Renumbered by Stats 1968 ch 1284 § 35. Amended Stats 1983 ch 1092 § 9, effective September 27, 1983, operative January 1, 1984.

§ 2672. Injunction or other order restraining conduct

Whenever any person has engaged or is about to engage in any acts or practices that constitute or will constitute an offense against this chapter, the superior court of any county, on application of the board, or 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

HISTORY:

Added Stats 1971 ch 838 § 1. Amended Stats 1975 ch 826 § 18; Stats 1978 ch 1161 § 169; Stats 1982 ch 517 § 9; Stats 1994 ch 956 § 29 (AB 2836); Stats 1996 ch 829 § 60 (AB 3473); Stats 2013 ch 389 § 71 (SB 198), effective January 1, 2014.

ARTICLE 9**FISCAL ADMINISTRATION**

HISTORY: Added Stats 1953 ch 1826 § 1, as Article 7. Renumbered by Stats 2013 ch 389 § 74 (SB 198), effective January 1, 2014.

§ 2680. Records of proceedings; Register of licensees

The board shall keep a record of its proceedings under this chapter, and a register of all persons licensed under it. The register shall show the name of every living licensee, his or her last known place of residence, and the date and number of his or her license as a physical therapist. The board shall compile a list of physical therapists authorized to practice physical therapy in the state. Any interested person is entitled to obtain a copy of that list upon application to the board and payment of such amount as may be fixed by the board which amount shall not exceed the cost of the list so furnished.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2692. Amended Stats 1961 ch 1278 § 8, operative October 1, 1961; Amended and renumbered by Stats 1968 ch 1284 § 36; Amended Stats 1977 ch 1055 § 10; Stats 1990 ch 1087 § 19 (SB 2512); Stats 1996 ch 829 § 61 (AB 3473).

§ 2681. Monthly collection report and payment

Within 10 days after the beginning of each calendar month the board shall report to the State Controller the amount and source of all collections made from persons licensed or seeking to be licensed under this chapter and at the same time pay all such sums into the State Treasury, where they shall be credited to the Physical Therapy Fund.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2693. Amended Stats 1961 ch 1278 § 9, operative October 1, 1961; Amended and renumbered by Stats 1968 ch 1284 § 37.

§ 2682. Physical Therapy Fund

There is in the State Treasury the Physical Therapy Fund. All collections from persons licensed or seeking to be licensed shall be paid by the board into the Physical Therapy Fund after reporting to the Controller at the beginning of each month the amount and source of the collections. All money in the Physical Therapy Fund shall be available, upon appropriation by the Legislature, for the exclusive purpose of executing this chapter.

HISTORY:

Added Stats 1953 ch 1826 § 1, as B & P C § 2694. Amended Stats 1961 ch 1278 § 10, operative October 1, 1961; Amended and renumbered by Stats 1968 ch 1284 § 38; Amended Stats 1969 ch 1440 § 1; Stats 1990 ch 1087 § 20 (SB 2512); Stats 1996 ch 829 § 62 (AB 3473); Stats 2013 ch 389 § 75 (SB 198), effective January 1, 2014; Stats 2017 ch 454 § 22 (AB 1706), effective January 1, 2018.

§ 2687. Disposition of fees, fines, and forfeitures

All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time, the entire amount of these collections shall be paid into the State Treasury and shall be credited to the Physical Therapy Fund.

This fund shall be for the use of the board to pay all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

HISTORY:

Added Stats 1976 ch 1187 § 22. Amended Stats 1996 ch 829 § 65 (AB 3473); Stats 2005 ch 74 § 7 (AB 139), effective July 19, 2005.

§ 2688. Physical therapy licensing fees

(a)(1) The fee for an application for licensure as a physical therapist submitted to the board prior to March 1, 2009, shall be seventy-five dollars (\$75). The fee for an application submitted under Section 2653 to the board prior to March 1, 2009, shall be one hundred twenty-five dollars (\$125).

(2) The fee for an application for licensure as a physical therapist submitted to the board on or after March 1, 2009, shall be one hundred twenty-five dollars (\$125). The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of an application fee under this subdivision, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(b) The examination and reexamination fees for the physical therapist examination, physical therapist assistant examination, and the examination to demonstrate knowledge of the California rules and regulations related to the practice of physical therapy shall be the actual cost to the board of the development and writing of, or purchase of the examination, and grading of each written examination, plus the actual cost of administering each examination. The board, at its discretion, may require the licensure applicant to pay the fee for the examinations required by Section 2636 directly to the organization conducting the examination.

(c)(1) The fee for a physical therapist license issued prior to March 1, 2009, shall be seventy-five dollars (\$75).

(2) The fee for a physical therapist license issued on or after March 1, 2009, shall be one hundred dollars (\$100).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision, but in no event shall the fee to issue the license exceed one hundred fifty dollars (\$150).

(d)(1) The fee to renew a physical therapist license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical therapist license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(e)(1) The fee for application and for issuance of a physical therapist assistant license shall be seventy-five dollars (\$75) for an application submitted to the board prior to March 1, 2009.

(2) The fee for application and for issuance of a physical therapist assistant license shall be one hundred twenty-five dollars (\$125) for an application submitted to the board on or after March 1, 2009. The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(f)(1) The fee to renew a physical therapist assistant license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical therapist assistant license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h)(1) The duplicate wall certificate fee shall be fifty dollars (\$50). The duplicate renewal receipt fee amount shall be fifty dollars (\$50).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing duplicates, but in no event shall that fee exceed one hundred dollars (\$100).

(i)(1) The endorsement or letter of good standing fee shall be sixty dollars (\$60).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing an endorsement or letter, but in no event shall the fee amount exceed one hundred dollars (\$100).

HISTORY:

Added Stats 1996 ch 830 § 12 (SB 1962), operative January 1, 1999. Amended Stats 1998 ch 970 § 10 (AB 2802), operative January 1, 1999; Stats 2008 ch 301 § 10 (AB 2111), effective January 1, 2009; Stats 2017 ch 454 § 23 (AB 1706), effective January 1, 2018.

§ 2688.5. Report to legislative committees regarding fee increase [Repealed]**HISTORY:**

Added Stats 1994 ch 26 § 57 (AB 1807), effective March 30, 1994. Amended Stats 1996 ch 829 § 67 (AB 3473). Repealed Stats 2017 ch 454 § 24 (AB 1706), effective January 1, 2018.

§ 2689. Fees relating to certification for performance of electromyographical testing

(a) The board may establish by regulation suitable application and renewal fees of not more than two hundred dollars (\$200), for persons certified to perform electromyographical testing pursuant to Section 2620.5, based upon the cost of operating the certification program. The application fee shall be paid by the applicant at the time the application is filed and the renewal fee shall be paid as provided in Section 2644.

(b) The board shall charge an examination and reexamination fee of five hundred dollars (\$500) to applicants who are examined and who have been found to otherwise meet the board's standards for certification.

HISTORY:

Added Stats 1978 ch 572 § 10. Amended Stats 1989 ch 1030 § 2; Stats 1996 ch 829 § 68 (AB 3473); Stats 2017 ch 454 § 25 (AB 1706), effective January 1, 2018.

ARTICLE 10**PHYSICAL THERAPY CORPORATIONS**

HISTORY: Added Stats 1980 ch 1314 § 10, as Article 8. Renumbered by Stats 2013 ch 389 § 79 (SB 198), effective January 1, 2014.

§ 2690. Definition; Governing agency

A physical therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physical therapists are in compliance with the Moscone-Knox Professional Corporation Act, this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a physical therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Physical Therapy Board of California.

HISTORY:

Added Stats 1980 ch 1314 § 10. Amended Stats 1989 ch 886 § 51; Stats 1990 ch 1087 § 23 (SB 2512); Stats 1996 ch 829 § 69 (AB 3473).

§ 2691. Violation as unprofessional conduct

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate any

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provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

HISTORY:

Added Stats 1980 ch 1314 § 10.

§ 2692. Conduct of practice

A physical therapy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter.

HISTORY:

Added Stats 1980 ch 1314 § 10.

§ 2693. Name

The name of a physical therapy corporation and any name or names under which it may render professional services shall contain the words “physical therapy” or “physical therapist”, and wording or abbreviations denoting corporate existence.

HISTORY:

Added Stats 1980 ch 1314 § 10.

§ 2694. Shareholders, directors and officers to be licensees

Except as provided in Section 13403 of the Corporations Code, each shareholder, director and officer of a physical therapy corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

HISTORY:

Added Stats 1980 ch 1314 § 10.

§ 2695. Accrual of income to shareholder while disqualified prohibited

The income of a physical therapy corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the physical therapy corporation.

HISTORY:

Added Stats 1980 ch 1314 § 10.

§ 2696. Regulation by committee

The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a physical therapy corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the

corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that a physical therapy corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

HISTORY:

Added Stats 1980 ch 1314 § 10. Amended Stats 1996 ch 829 § 70 (AB 3473).

Bus. & Prof. Code

CORPORATIONS CODE

TITLE 1

CORPORATIONS

DIVISION 3

CORPORATIONS FOR SPECIFIC PURPOSES

PART 4

PROFESSIONAL CORPORATIONS

HISTORY: Added Stats 1968 ch 1375 § 9.

§ 13400. Citation of part

This part shall be known and may be cited as the “Moscone-Knox Professional Corporation Act.”

HISTORY:

Added Stats 1968 ch 1375 § 9.

§ 13401. Definitions

As used in this part:

(a) “Professional services” means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) “Professional corporation” means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Podiatric Medical Board of California, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the Board of Registered Nursing, the State Board of Optometry, or the California Board of

Occupational Therapy shall not be required to obtain a certificate of registration in order to render those professional services.

(c) “Foreign professional corporation” means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) “Licensed person” means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which the person is, or intends to become, an officer, director, shareholder, or employee.

(e) “Disqualified person” means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which they are an officer, director, shareholder, or employee is or was rendering.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1970 ch 1110 § 3, operative July 1, 1971; Stats 1977 ch 1126 § 3; Stats 1979 ch 472 § 2; Stats 1980 ch 1314 § 16; Stats 1981 ch 383 § 2; Stats 1985 ch 220 § 2, ch 1578 § 2; Stats 1987 ch 571 § 7; Stats 1988 ch 1448 § 28.5; Stats 1989 ch 886 § 82; Stats 1991 ch 566 § 20 (AB 766); Stats 1992 ch 1289 § 50 (AB 2743); Stats 1993 ch 910 § 2 (SB 687), ch 955 § 5.3 (SB 312); Stats 1994 ch 26 § 225 (AB 1807), effective March 30, 1994 (ch 26 prevails), ch 1010 § 66.1 (SB 2053); Stats 1995 ch 60 § 43 (SB 42), effective July 6, 1995; Stats 1997 ch 168 § 8 (AB 348); Stats 1999 ch 657 § 34 (AB 1677); Stats 2000 ch 197 § 4 (SB 1636), ch 836 § 51 (SB 1554); Stats 2004 ch 695 § 51 (SB 1913); Stats 2006 ch 564 § 17 (AB 2256), effective January 1, 2007; Stats 2015 ch 516 § 3 (AB 502), effective January 1, 2016; Stats 2017 ch 775 § 107 (SB 798), effective January 1, 2018; Stats 2018 ch 858 § 61 (SB 1482), effective January 1, 2019; Stats 2022 ch 290 § 6 (AB 2671), effective January 1, 2023; Stats 2023 ch 131 § 24 (AB 1754), effective January 1, 2024.

§ 13401.3. “Professional services”

As used in this part, “professional services” also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code).

HISTORY:

Added Stats 2000 ch 508 § 1 (SB 1967). Amended Stats 2001 ch 597 § 1 (AB 1706).

§ 13401.5. Licensees as shareholders, officers, directors, or employees

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

regulating the designated professional corporation. This section does not limit employment by a professional corporation designated in this section to only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

- (a) Medical corporation.
 - (1) Licensed doctors of podiatric medicine.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.
 - (6) Licensed clinical social workers.
 - (7) Licensed physician assistants.
 - (8) Licensed chiropractors.
 - (9) Licensed acupuncturists.
 - (10) Naturopathic doctors.
 - (11) Licensed professional clinical counselors.
 - (12) Licensed physical therapists.
 - (13) Licensed pharmacists.
 - (14) Licensed midwives.
 - (15) Licensed occupational therapists.
- (b) Podiatric medical corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
 - (8) Licensed physical therapists.
- (c) Psychological corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.
 - (6) Licensed clinical social workers.
 - (7) Licensed chiropractors.
 - (8) Licensed acupuncturists.
 - (9) Naturopathic doctors.
 - (10) Licensed professional clinical counselors.
 - (11) Licensed midwives.
- (d) Speech-language pathology corporation.
 - (1) Licensed audiologists.
- (e) Audiology corporation.
 - (1) Licensed speech-language pathologists.
- (f) Nursing corporation.

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

- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (11) Licensed midwives.
- (l) Acupuncture corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed optometrists.
 - (6) Licensed marriage and family therapists.
 - (7) Licensed clinical social workers.
 - (8) Licensed physician assistants.
 - (9) Licensed chiropractors.
 - (10) Naturopathic doctors.
 - (11) Licensed professional clinical counselors.
 - (12) Licensed midwives.
- (m) Naturopathic doctor corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed physician assistants.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Licensed physical therapists.
 - (8) Licensed doctors of podiatric medicine.
 - (9) Licensed marriage and family therapists.
 - (10) Licensed clinical social workers.
 - (11) Licensed optometrists.
 - (12) Licensed professional clinical counselors.
 - (13) Licensed midwives.
- (n) Dental corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Dental assistants.
 - (3) Registered dental assistants.
 - (4) Registered dental assistants in extended functions.
 - (5) Registered dental hygienists.
 - (6) Registered dental hygienists in extended functions.
 - (7) Registered dental hygienists in alternative practice.
- (o) Professional clinical counselor corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Licensed clinical social workers.
 - (4) Licensed marriage and family therapists.
 - (5) Registered nurses.

- (6) Licensed chiropractors.
- (7) Licensed acupuncturists.
- (8) Naturopathic doctors.
- (9) Licensed midwives.
- (p) Physical therapy corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed acupuncturists.
 - (4) Naturopathic doctors.
 - (5) Licensed occupational therapists.
 - (6) Licensed speech-language therapists.
 - (7) Licensed audiologists.
 - (8) Registered nurses.
 - (9) Licensed psychologists.
 - (10) Licensed physician assistants.
 - (11) Licensed midwives.
- (q) Registered dental hygienist in alternative practice corporation.
 - (1) Registered dental assistants.
 - (2) Licensed dentists.
 - (3) Registered dental hygienists.
 - (4) Registered dental hygienists in extended functions.
- (r) Licensed midwifery corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed marriage and family therapists.
 - (5) Licensed clinical social workers.
 - (6) Licensed physician assistants.
 - (7) Licensed chiropractors.
 - (8) Licensed acupuncturists.
 - (9) Licensed naturopathic doctors.
 - (10) Licensed professional clinical counselors.
 - (11) Licensed physical therapists.
- (s) Occupational therapy corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed acupuncturists.
 - (4) Naturopathic doctors.
 - (5) Licensed physical therapists.
 - (6) Licensed speech-language therapists.
 - (7) Licensed audiologists.
 - (8) Registered nurses.
 - (9) Licensed psychologists.
 - (10) Licensed physician assistants.
 - (11) Licensed midwives.
 - (12) Licensed clinical social workers.
 - (13) Licensed marriage and family therapists.
 - (14) Licensed occupational therapy assistants.

HISTORY:

Added Stats 1980 ch 1314 § 17.1. Amended Stats 1981 ch 621 § 5; Stats 1982 ch 1304 § 3, ch 1315

§ 1; Stats 1983 ch 1026 § 23, ch 1084 § 1; Stats 1988 ch 507 § 1; Stats 1990 ch 1691 § 1 (AB 3324); Stats 1994 ch 26 § 226 (AB 1807), effective March 30, 1994, ch 815 § 2 (SB 1279); Stats 1997 ch 758 § 84 (SB 1346); Stats 1998 ch 175 § 1 (AB 2120); Stats 2002 ch 1013 § 75 (SB 2026); Stats 2003 ch 485 § 6 (SB 907), ch 549 § 4 (AB 123); Stats 2004 ch 183 § 50 (AB 3082); Stats 2011 ch 381 § 18 (SB 146), effective January 1, 2012; Stats 2013 ch 620 § 6 (AB 1000), effective January 1, 2014; Stats 2015 ch 516 § 4 (AB 502), effective January 1, 2016; Stats 2016 ch 484 § 53 (SB 1193), effective January 1, 2017; Stats 2017 ch 775 § 108 (SB 798), effective January 1, 2018; Stats 2022 ch 290 § 7 (AB 2671), effective January 1, 2023.

§ 13402. Corporation rendering services other than pursuant to this part; Conduct of business by corporation not professional corporation

(a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.

(b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1985 ch 1578 § 3; Stats 1988 ch 919 § 13.

§ 13403. General Corporation Law; Applicability

The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in conflict with or inconsistent with the provisions of this part. A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as the president and treasurer of the corporation. The other officers of the corporation in such situation need not be licensed persons. A professional corporation which has only two shareholders need have only two directors who shall be such shareholders. The two shareholders between them shall fill the offices of president, vice president, secretary and treasurer.

A professional medical corporation may establish in its articles or bylaws the manner in which its directors are selected and removed, their powers, duties, and compensation. Each term of office may not exceed three years. Notwithstanding the foregoing, the articles or bylaws of a professional medical corporation with more than 200 shareholders may provide that directors who are officers of the corporation or who are responsible for the management of all medical services at one or more medical centers may have terms of office, as directors, of up to six years; however, no more than 50 percent of the members of the board, plus one additional member of the board, may have six-year terms of office.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1979 ch 711 § 12; Stats 1980 ch 36 § 1.

§ 13404. Formation; Certificate of registration

A corporation may be formed under the General Corporation Law or pursuant to subdivision (b) of Section 13406 for the purposes of qualifying as a professional corporation in the manner provided in this part and rendering professional services. The articles of incorporation of a professional corporation shall contain a specific statement that the corporation is a professional corporation within the meaning of this part. Except as provided in subdivision (b) of Section 13401, no professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which such corporation is or proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code or the Chiropractic Act expressly authorizing such professional services to be rendered by a professional corporation.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1970 ch 1110 § 4, operative July 1, 1971; Stats 1980 ch 1314 § 18; Stats 1993 ch 955 § 6 (SB 312).

SUGGESTED FORMS

Articles of Incorporation—Professional Corporation

Articles of Incorporation of _____ [name], a Professional Corporation 1.The name of this corporation is _____. 2.The purpose of this corporation is to engage in the profession of _____ [specify] and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations. 3.The corporation is a professional corporation within the meaning of Part 4 of Division 3 of Title 1 of the Corporations Code of the State of California. 4.The name of the corporation's initial agent for service of process is _____, who may be served at _____ [address]. 5.The corporation is authorized to issue only one class of shares of stock. The total number of shares that this corporation is authorized to issue is _____. 6. _____ [If applicable, add: No capital stock shall be issued to anyone other than an individual who is duly licensed to render the same specific professional services or related professional services that the corporation was organized to perform]. 7. _____ [If applicable, add: No shareholder shall enter into a voting trust agreement or any other type of agreement vesting another person (other than another licensed person who is a shareholder of this corporation) with the authority to exercise the voting power of any of his stock].
Dated _____.

[Signature of incorporator]

[Typed name of incorporator]

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

[Signature]

Bylaws of Professional Corporation

Bylaws of _____ [corporation]

Article One. Offices

The principal executive office of the corporation is located at _____ [address], in the City of _____, County of _____, State of California. The corporation may have such other offices as the business of the corporation may require from time to time.

Article Two. Shares and Shareholders

Section One. *Eligible Shareholders.* Shares of the corporation shall be issued only to persons duly licensed by law to _____ [practice the profession of _____ or perform the services of _____] in the State of California.

Section Two. *Certificates.* The shares of the corporation shall be represented by certificates signed by the _____ [president and secretary]. Each certificate shall be issued in numerical order from the shares certificate book, and a full record of each certificate as issued shall be entered on the stub thereof. Each certificate shall contain an appropriate legend setting forth the restrictions on sale and transfer provided for in Sections Three and Four of this article.

Section Three. *Transfer.* Transfers of shares of the corporation shall be made only on the corporation books by the shareholder of record thereof or by his duly authorized attorney in fact. The corporation and/or its shareholders are authorized to enter into a separate buy-sell agreement for the purchase of outstanding shares of the corporation. Any such agreement shall be deemed a part of these bylaws and shall be attached hereto and incorporated herein. Any transfer of shares shall be subject to the terms of the separate buy-sell agreement.

Section Four. *Deceased or Disqualified Shareholders.* Shares of a deceased shareholder or of a shareholder who is disqualified from holding shares in this corporation under the provisions of the _____ [Moscone-Knox Professional Corporation Act] shall be either redeemed by the corporation or purchased by the remaining shareholders of the corporation. The price and terms upon which the shares of such deceased or disqualified shareholder are redeemed or purchased shall be subject to a separate agreement, executed pursuant hereto, and shall be deemed a part of these bylaws.

Article Three. Shareholders' Meetings

Section One. *Annual Meetings.* Meetings of shareholders shall be held annually on the _____ [first Monday or as the case may be] in the month of _____ at _____ o'clock _____ .m., unless such day should fall on a legal holiday. In such event, the meeting shall be held at the same hour and place of the next succeeding business day that is not a legal holiday.

Section Two. *Special Meetings.* Special meetings of the shareholders may be called by the president or the board of directors, or upon written request of holders of _____ percent of the outstanding shares entitled to vote at such special meeting.

Section Three. *Notice of Meeting.* Notice of any regular or special meeting of the shareholders shall specify the place, date, and hour of the meeting, and the objects thereof. Written notice of the meeting shall be given to each shareholder of record and shall be delivered personally to the shareholder at his address as it appears on the record of shareholders of the corporation not less than _____ [10] days nor more than _____ [40] days before any such meeting.

Section Four. *Quorum.* The presence of the holders of _____ [a majority] of the shares at a meeting shall constitute a quorum of the shareholders for all purposes unless the presence of a larger number is required by law. However, if such quorum is not present or represented at any shareholders' meeting, the holders of a majority of the voting shares represented at the meeting shall have the power to adjourn the meeting from time to time. At such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

Section Five. *Voting.* Every shareholder shall be entitled to one vote for each share outstanding in his name on the record of the shareholders. All corporate action, except actions regulated by statute, shall be determined by a majority vote of the shareholders present in person or by proxy. No shareholder shall enter into a voting trust agreement or any other type of agreement vesting another person (other than another licensed person who is a shareholder of this corporation) with the authority to exercise the voting power of any of his shares of stock.

Section Six. *Informal Action by Shareholders.* Any action required or permitted to be taken at a shareholders' meeting may be effected without a meeting if a written consent thereto, setting forth the action taken, is signed by all of the shareholders entitled to vote on such action.

Article Four. Board of Directors

Section One. *Number and Qualifications.* The board of directors of the corporation shall consist of _____ [number] persons, each of whom shall be duly licensed or otherwise legally qualified in the State of California to render the professional service for which the corporation is organized. In the event that a director becomes disqualified to render such service in the State of California, he shall cease being a director on the effective date of such disqualification, and his office as director shall be considered vacant.

Section Two. *Manner of Election: Term of Office.* Directors shall be elected at the annual meeting of shareholders. The term of office of each director shall be until the next annual meeting of shareholders and the election of his successor in office.

Section Three. *Vacancies.* Any vacancy occurring in the board of directors by death, resignation, disqualification, or otherwise shall be filled by majority vote of the remaining directors at a special meeting that shall be called for that purpose within _____ days after the vacancy occurs. The

successor thus chosen shall hold office until the next succeeding annual meeting of shareholders and until a qualified successor has been elected.

Section Four. Powers and Duties. The board of directors shall have control and management of the affairs and business of the corporation. Subject to the limitations of the articles of incorporation, these bylaws, the California General Corporation Law, and the Moscone-Knox Professional Corporation Act regarding corporate action that must be authorized or approved by the corporation's shareholders, all corporate powers shall be exercised by or under the authority of the board of directors.

Section Five. Meetings. Without notice or call, the board of directors shall hold an organizational meeting immediately following each annual meeting of the shareholders. The board of directors may by resolution provide for the holding of additional regular meetings without notice other than such resolution. Special meetings of the board may be called by the president, vice president, or any _____ [number] directors.

Section Six. Notice. No notice of regular meetings need be given. Notice of special meetings shall be given by the secretary by at least one of the following methods:

(a) Actual notice in person or by telephone to each director at least _____ days in advance of the date set for the meeting; or

(b) Notice by mail or telegraph sent to each director at least _____ days prior to the date set for the meeting. Written or telegraphic notices shall be sufficient if sent, charges prepaid, to each respective director at his last address known to the secretary as shown by the records of the corporation. Notice of any particular meeting may be given to some directors in one manner and to the remaining directors in a different manner.

Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except when a director attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section Seven. Quorum. A majority _____ [plus _____ (number)] of the authorized number of directors shall constitute a quorum of the board of directors for the transaction of business. All action taken by the board shall be approved by a vote of the majority of the directors present at a meeting at which a quorum is present.

Section Eight. Informal Action by Directors. Any action required or permitted to be taken at a meeting of the board of directors may be taken without a meeting if a written consent, setting forth the action taken, is signed by all the directors entitled to vote on the subject matter thereof.

Article Five. Officers

Section One. Officers and Qualifications. The officers of the corporation shall include a president, vice president, secretary, treasurer, and such other officers as the board of directors may determine. One person may hold two or more offices. All officers must be duly licensed or otherwise legally qualified in the State of California to render the professional service for which the corporation is organized.

Section Two. Election and Term of Office. All officers of the corporation shall be elected annually by the board of directors at its organizational meeting held immediately following the annual meeting of shareholders. Each officer shall hold office until he resigns, is removed from office, or is otherwise disqualified to serve, or his successor is elected and qualified.

Section Three. Removal. Any officer may be removed during his term by vote of a majority _____ [plus _____ (number)] of the board of directors whenever, in the board's judgment, his removal would serve the best interests of the corporation. Any officer who becomes disqualified to _____ [practice the profession of _____ or perform the services of _____] in the State of California shall cease being an officer on the effective date of such disqualification.

Section Four. Vacancies. Vacancies in offices shall be filled by election of the board of directors at any time for unexpired terms.

Section Five. Powers and Duties. The officers of the corporation shall have such powers and duties as generally pertain to their respective offices, and such other powers as may be conferred by the board of directors, subject to limitations as the board may from time to time prescribe.

Article Six. Amendments

These bylaws may be amended or repealed, or added to, or new bylaws may be adopted, at any meeting of the board of directors of the corporation by a majority vote of the directors present at the meeting.

Adopted by the board of directors on _____, at _____ [location].

[Signatures]

[Caution:] The articles and provisions thereto are illustrative and do not necessarily encompass all factors to be considered in drafting such instruments. Careful attention should be given to the applicable statutes and to the regulations of the licensing boards for the particular professions to ascertain requirements for name style. Counsel should check B & P C provisions to determine whether

a professional corporation can be utilized. If there is no authority for professional corporations for a specified profession, a general business corporation should be formed (see forms set forth under § 202). Considerable time and trouble can be saved for counsel, client, and the state agencies involved if any questions regarding incorporation are resolved by consultation with the offices of the Secretary of State and the Commissioner of Corporations.]

§ 13404.5. Certificate of registration to transact intrastate business; Liability of shareholders

(a) A foreign professional corporation may qualify as a foreign corporation to transact intrastate business in this state in accordance with Chapter 21 (commencing with Section 2100) of Division 1. A foreign professional corporation shall be subject to the provisions of the General Corporation Law applicable to foreign corporations, except where those provisions are in conflict with or inconsistent with the provisions of this part. The statement and designation filed by the foreign professional corporation pursuant to Section 2105 shall contain a specific statement that the corporation is a foreign professional corporation within the meaning of this part.

(b) No foreign professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which that corporation proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code expressly authorizing those professional services to be rendered by a foreign professional corporation.

(c) If the California board, commission, or other agency that prescribes the rules or regulations governing a particular profession either now or hereafter requires that the shareholders of the professional corporation bear any degree of personal liability for the acts of the corporation, either by personal guarantee or in some other form that the governing agency prescribes, the shareholders of a foreign corporation that has been qualified to do business in this state in the same profession shall, as a condition of doing business in this state, be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, as is prescribed by the governing agency for shareholders of a California professional corporation rendering services in the same profession.

(d) Each application by a foreign professional corporation to qualify to do business in this state shall contain the following statement:

“The shareholders of the undersigned foreign professional corporation shall be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, in California as is from time to time prescribed by the agency governing the profession in this state for shareholders in a California professional corporation rendering services in the same profession. This application accordingly constitutes a submission to the jurisdiction of the courts of California to the same extent, but only to the same extent, as applies to the shareholders of a California professional corporation in the same profession. The foregoing submission to jurisdiction is a condition of qualification to do business in this state.”

HISTORY:

Added Stats 1993 ch 910 § 3 (SB 687).

§ 13405. License requirement for persons rendering professional services; Employment of nonlicensed personnel

(a) Subject to the provisions of Section 13404, a professional corporation may lawfully render professional services in this state, but only through employees who are licensed persons. The corporation may employ persons not so licensed, but such persons shall not render any professional services rendered or to be rendered by that corporation in this state. A professional corporation may render professional services outside of this state, but only through employees who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. Nothing in this section is intended to prohibit the rendition of occasional professional services in another jurisdiction as an incident to the licensee's primary practice, so long as it is permitted by the governing agency that regulates the particular profession in the jurisdiction. Nothing in this section is intended to prohibit the rendition of occasional professional services in this state as an incident to a professional employee's primary practice for a foreign professional corporation qualified to render professional services in this state, so long as it is permitted by the governing agency that regulates the particular profession in this state.

(b) Subject to Section 13404.5, a foreign professional corporation qualified to render professional services in this state may lawfully render professional services in this state, but only through employees who are licensed persons, and shall render professional services outside of this state only through persons who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. The foreign professional corporation may employ persons in this state who are not licensed in this state, but those persons shall not render any professional services rendered or to be rendered by the corporation in this state.

(c) Nothing in this section or in this part is intended to, or shall, augment, diminish or otherwise alter existing provisions of law, statutes or court rules relating to services by a California attorney in another jurisdiction, or services by an out-of-state attorney in California. These existing provisions, including, but not limited to, admission pro hac vice and the taking of depositions in a jurisdiction other than the one in which the deposing attorney is admitted to practice, shall remain in full force and effect.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1993 ch 910 § 4 (SB 687).

§ 13406. Professional corporations; Stock; Financial statements; Voting; Nonprofit law corporations

(a) Subject to the provisions of subdivision (b), shares of capital stock in a professional corporation may be issued only to a licensed person or to a person who is licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and any shares issued in violation of this restriction shall be void. Unless there is a public offering of securities by a professional corporation or by a foreign professional corporation in this state, its financial statements shall be treated by the Commissioner of Financial Protection and Innovation as confidential, except to the extent that such statements shall be subject to subpoena in connection with any judicial or

administrative proceeding, and may be admissible in evidence therein. A shareholder of a professional corporation or of a foreign professional corporation qualified to render professional services in this state shall not enter into a voting trust, proxy, or any other arrangement vesting another person (other than another person who is a shareholder of the same corporation) with the authority to exercise the voting power of any or all of the shareholder's shares, and any purported voting trust, proxy, or other arrangement shall be void.

(b) A professional law corporation may be incorporated as a nonprofit public benefit corporation under the Nonprofit Public Benefit Corporation Law under either of the following circumstances:

(1) The corporation is a qualified legal services project or a qualified support center within the meaning of subdivisions (a) and (b) of Section 6213 of the Business and Professions Code.

(2) The professional law corporation otherwise meets all of the requirements and complies with all of the provisions of the Nonprofit Public Benefit Corporation Law, as well as all of the following requirements:

(A) All of the members of the corporation, if it is a membership organization as described in the Nonprofit Corporation Law, are persons licensed to practice law in California.

(B) All of the members of the professional law corporation's board of directors are persons licensed to practice law in California.

(C) Seventy percent of the clients to whom the corporation provides legal services are lower income persons as defined in Section 50079.5 of the Health and Safety Code, and to other persons who would not otherwise have access to legal services.

(D) The corporation shall not enter into contingency fee contracts with clients.

(c) A professional law corporation incorporated as a nonprofit public benefit corporation that is a recipient in good standing as defined in subdivision (c) of Section 6213 of the Business and Professions Code shall be deemed to have satisfied all of the filing requirements of a professional law corporation under Sections 6161.1, 6162, and 6163 of the Business and Professions Code.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1993 ch 910 § 5 (SB 687), ch 955 § 7.5 (SB 312); Stats 2019 ch 143 § 35 (SB 251), effective January 1, 2020; Stats 2022 ch 452 § 62 (SB 1498), effective January 1, 2023.

§ 13407. Transfer of shares; Restriction; Purchase by corporation; Suspension or revocation of certificate

Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a professional corporation, and any transfer in violation of this restriction shall be void, except as provided herein.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a licensed person, within 90 days following the date of disqualification, or within six months following the date of death of the shareholder, as the case may be, then the certificate of registration of the corporation may be suspended or revoked by the governmental agency regulating the profession in which the corporation is engaged. In the event of such a suspension or revocation, the corporation shall cease to render professional services in this state.

Notwithstanding any provision in this part, upon the death or incapacity of a dentist, any individual named in subdivision (a) of Section 1625.3 of the Business and Professions Code may employ licensed dentists and dental assistants and charge for their professional services for a period not to exceed 12 months from the date of death or incapacity of the dentist. The employment of licensed dentists and dental assistants shall not be deemed the practice of dentistry within the meaning of Section 1625 of the Business and Professions Code, provided that all of the requirements of Section 1625.4 of the Business and Professions Code are met. If an individual listed in Section 1625.3 of the Business and Professions Code is employing licensed persons and dental assistants, then the shares of a deceased or incapacitated dentist shall be transferred as provided in this section no later than 12 months from the date of death or incapacity of the dentist.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1993 ch 910 § 6 (SB 687); Stats 2007 ch 433 § 4 (SB 387), effective January 1, 2008.

§ 13408. Specification of grounds for suspension or revocation of certificate

The following shall be grounds for the suspension or revocation of the certificate of registration of a professional corporation or a foreign professional corporation qualified to render professional services in this state: (a) if all shareholders who are licensed persons of such corporation shall at any one time become disqualified persons, or (b) if the sole shareholder shall become a disqualified person, or (c) if such corporation shall knowingly employ or retain in its employment a disqualified person, or (d) if such corporation shall violate any applicable rule or regulation adopted by the governmental agency regulating the profession in which such corporation is engaged, or (e) if such corporation shall violate any statute applicable to a professional corporation or to a foreign professional corporation, or (f) any ground for such suspension or revocation specified in the Business and Professions Code relating to the profession in which such corporation is engaged. In the event of such suspension or revocation of its certificate of registration such corporation shall cease forthwith to render professional services in this state.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1993 ch 910 § 7 (SB 687).

§ 13408.5. Fee splitting, kickbacks, or similar practices

A professional corporation shall not be formed so as to cause any violation of law, or any applicable rules and regulations, relating to fee splitting, kickbacks, or other similar practices by physicians and surgeons or psychologists, including, but not limited to, Section 650 or subdivision (e) of Section 2960 of the Business and Professions Code. A violation of any such provisions shall be grounds for the suspension or revocation of the certificate of registration of the professional corporation. The Commissioner of Financial Protection and Innovation or the Director of the Department of Managed Health Care may refer any suspected violation of those provisions to the governmental agency regulating the profession in which the corporation is, or proposes to be engaged.

HISTORY:

Added Stats 1977 ch 1126 § 4. Amended Stats 1999 ch 525 § 9 (AB 78), operative July 1, 2000; Stats 2000 ch 857 § 7 (AB 2903); Stats 2019 ch 143 § 36 (SB 251), effective January 1, 2020; Stats 2022 ch 452 § 63 (SB 1498), effective January 1, 2023.

§ 13409. Name of corporation; Provisions governing

(a) Subject to Section 201, a professional corporation may adopt any name permitted by a law expressly applicable to the profession in which the corporation is engaged or by a rule or regulation of the governmental agency regulating that profession. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the professional corporation complies with the requirements of this section and of the law governing the profession in which that professional corporation is engaged. The statements of fact in those affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

(b) Subject to Section 201, a foreign professional corporation qualified to render professional services in this state may transact intrastate business in this state by any name permitted by a law expressly applicable to the profession in which the corporation is engaged, or by a rule or regulation of the governmental agency regulating the rendering of professional services in this state by the corporation. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the foreign professional corporation qualified to render professional services in this state complies with the requirements of this section and of the law governing the profession in which the foreign professional corporation qualified to render professional services in this state proposes to engage in this state. The statements of fact in those affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1976 ch 641 § 42, effective January 1, 1977; Stats 1993 ch 910 § 8 (SB 687); Stats 2020 ch 361 § 12 (SB 522), effective January 1, 2021.

§ 13410. Disciplinary rules and regulations

(a) A professional corporation or a foreign professional corporation qualified to render professional services in this state shall be subject to the applicable

rules and regulations adopted by, and all the disciplinary provisions of the Business and Professions Code expressly governing the practice of the profession in this state, and to the powers of, the governmental agency regulating the profession in which such corporation is engaged. Nothing in this part shall affect or impair the disciplinary powers of any such governmental agency over licensed persons or any law, rule or regulation pertaining to the standards for professional conduct of licensed persons or to the professional relationship between any licensed person furnishing professional services and the person receiving such services.

(b) With respect to any foreign professional corporation qualified to render professional services in this state, each such governmental agency shall adopt rules, regulations, and orders as appropriate to restrict or prohibit any disqualified person from doing any of the following:

- (1) Being a shareholder, director, officer, or employee of the corporation.
- (2) Rendering services in any profession in which he or she is a disqualified person.
- (3) Participating in the management of the corporation.
- (4) Sharing in the income of the corporation.

HISTORY:

Added Stats 1968 ch 1375 § 9. Amended Stats 1993 ch 910 § 10 (SB 687).

PENAL CODE

PART 4

PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

HISTORY: Added Stats 1953 ch 1385 § 1 p 2964.

TITLE 1

INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2

CONTROL OF CRIMES AND CRIMINALS

HISTORY: Added Stats 1953 ch 70 § 1.

ARTICLE 2

REPORTS OF INJURIES

HISTORY: Added Stats 1953 ch 34 § 1. Heading of Article 2, consisting of §§ 11160–11163.6, was amended Stats 1993 ch 992 § 1.

§ 11160. Injuries required to be reported; Method of reporting; Team reports; Internal procedures

(a) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services for a physical condition to a patient whom the health practitioner knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) A person suffering from a wound or other physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm.

(2) A person suffering from a wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility

operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4), and adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" does not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" includes any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machine-gun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261 or former Section 262.

(15) Procuring a person to have sex with another person, in violation of Section 266, 266a, 266b, or 266c.

(16) Child abuse or endangerment, in violation of Section 273a or 273d.

(17) Abuse of spouse or cohabitant, in violation of Section 273.5.

(18) Sodomy, in violation of Section 286.

(19) Lewd and lascivious acts with a child, in violation of Section 288.

(20) Oral copulation, in violation of Section 287 or former Section 288a.

(21) Sexual penetration, in violation of Section 289.

(22) Elder abuse, in violation of Section 368.

(23) An attempt to commit any crime specified in paragraphs (1) to (22), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) A supervisor or administrator shall not impede or inhibit the reporting duties required under this section and a person making a report pursuant to this section shall not be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require an employee required to make a report under this article to disclose the employee's identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

(i) For purposes of this section only, "employed by a local government agency" includes an employee of an entity under contract with a local government agency to provide medical services.

HISTORY:

Added Stats 1993 ch 992 § 3 (AB 1652). Amended Stats 1994 1st Ex Sess 1993–1994 ch 19 § 2 (ABX1-74), effective November 30, 1994; Stats 2000 ch 287 § 20 (SB 1955); Stats 2002 ch 249 § 2 (SB 580); Stats 2003 ch 229 § 15 (AB 1757); Stats 2010 ch 618 § 206 (AB 2791), effective January 1, 2011; Stats 2013 ch 352 § 418 (AB 1317), effective September 26, 2013, operative July 1, 2013; Stats 2018 ch 164 § 1 (AB 1973), effective January 1, 2019; Stats 2018 ch 423 § 111 (SB 1494), effective January 1, 2019 (ch 164 prevails); Stats 2019 ch 497 § 207 (AB 991), effective January 1, 2020; Stats 2021 ch 626 § 63 (AB 1171), effective January 1, 2022.

ARTICLE 2.5

CHILD ABUSE AND NEGLECT REPORTING ACT

HISTORY: Added Stats 1980 ch 1071 § 4, effective January 1, 1981. Heading of Article 2.5, which formerly read "Child Abuse Reporting," amended to read as above by Stats 1987 ch 1444 § 1, effective January 1, 1988.

§ 11166. Duty to report; Mandated reporters; Punishment for violation

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified, and a report shall be prepared and sent by fax or electronic transmission, even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, the mandated reporter shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which the mandated reporter filed the report. A mandated reporter who files a one-time automated written report because the mandated reporter was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time

report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the statewide child welfare information system. The department shall work with stakeholders to modify reporting forms and the statewide child welfare information system as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the statewide child welfare information system is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) This section does not supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals the mandated reporter's failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d)(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of the clergy member's church, denomination, or organization, has a duty to keep those communications secret.

(2) This subdivision does not modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3)(A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in the clergy member's professional capacity or within the scope of the clergy member's employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e)(1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of that person's professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of reasonably suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) A commercial computer technician who has knowledge of or observes, within the scope of the technician's professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of reasonably suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, the mandated reporter makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom the person knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in the person's private capacity and not in the person's professional capacity or within the scope of the person's employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or reasonably suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i)(1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. An internal policy shall not direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee's identity to the employer.

(3) Reporting the information regarding knowledge of or reasonably suspected child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j)(1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or reasonably suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child that relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse,

which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send by fax or electronic transmission a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.

(3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or reasonably suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or reasonably suspected instance of child abuse or neglect reported to it that is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send by fax or electronic transmission a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

HISTORY:

Added Stats 1980 ch 1071 § 4. Amended Stats 1981 ch 435 § 2, effective September 12, 1981; Stats 1982 ch 905 § 2; Stats 1984 ch 1423 § 9, effective September 26, 1984; Stats 1986 ch 1289 § 2; Stats 1987 ch 1459 § 20; Stats 1988 ch 269 § 1, ch 1580 § 2; Stats 1990 ch 1603 § 3 (SB 2669), operative July 1, 1991; Stats 1992 ch 459 § 3 (SB 1695); Stats 1993 ch 510 § 1.5 (SB 665); Stats 1996 ch 1080 § 10 (AB 295), ch 1081 § 3.5 (AB 3354); Stats 2000 ch 916 § 16 (AB 1241); Stats 2001 ch 133 § 5 (AB 102), effective July 31, 2001; Stats 2002 ch 936 § 2 (AB 299), effective September 27, 2002; Stats 2004 ch 823 § 17 (AB 20), ch 842 § 7.5 (SB 1313); Stats 2005 ch 42 § 1 (AB 299), ch 713 § 3 (AB 776), effective January 1, 2006; Stats 2006 ch 701 § 3 (AB 525), effective January 1, 2007; Stats 2007 ch 393 § 3 (AB 673), effective January 1, 2008; Stats 2010 ch 123 § 1 (AB 2380), effective January 1, 2011; Stats 2012 ch 517 § 2 (AB 1713), effective January 1, 2013, ch 521 § 2.5 (AB 1817), effective January 1, 2013 (ch 521 prevails), ch 728 § 131 (SB 71), effective January 1, 2013; Stats 2013 ch 76 § 165 (AB 383), effective January 1, 2014; Stats 2015 ch 425 § 4 (SB 794), effective January 1, 2016; Stats 2016 ch 850 § 5 (AB 1001), effective January 1, 2017; Stats 2019 ch 27 § 16 (SB 80), effective June 27, 2019; Stats

2022 ch 50 § 10 (SB 187), effective June 30, 2022; Stats 2022 ch 770 § 2 (AB 2085), effective January 1, 2023.

Penal Code

FAMILY CODE

DIVISION 17

SUPPORT SERVICES

HISTORY: Added Stats 1999 ch 478 § 1.

CHAPTER 2

CHILD SUPPORT ENFORCEMENT

ARTICLE 2

COLLECTIONS AND ENFORCEMENT

§ 17520. Consolidated lists of persons; License renewals; Review procedures; Report to Legislature; Rules and regulations; Forms; Use of information; Suspension or revocation of driver's license; Severability

(a) As used in this section:

(1) "Applicant" means a person applying for issuance or renewal of a license.

(2) "Board" means an entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Wildlife, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the federal Social Security Act.

(4) “Compliance with a judgment or order for support” means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) “License” includes membership in the State Bar of California, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. “License” also includes any driver’s license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) “Licensee” means a person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver’s license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. “Licensee” also means a person holding a driver’s license issued by the Department of Motor Vehicles, a person holding a commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, a person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, “licensee” includes an individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the federal Social Security Act against whom a support order or judgment has been rendered by, or

registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, individual taxpayer identification numbers, or other uniform identification numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers or individual taxpayer identification numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e)(1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of an applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3)(A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that the license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that the license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice

shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g)(1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of their name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the

temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant, in writing, that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that their name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

This section does not limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4)(A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child

support agency shall immediately send a release in accordance with subdivision (l) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(l)(1) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. A board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

(2) When the local child support agency determines, subsequent to the issuance of a release, that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

(3) The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). This section does not limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions,

the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) A board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by a state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by a state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (l).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost effective and permitted by the Revenue and Taxation Code.

(w)(1) The suspension or revocation of a driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other law, the suspension or revocation of a driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

HISTORY:

Added Stats 1999 ch 654 § 3.5 (AB 370). Amended Stats 2001 ch 755 § 14 (SB 943), effective October 12, 2001; Stats 2013 ch 352 § 79 (AB 1317), effective September 26, 2013, operative July 1, 2013; Stats 2014 ch 752 § 10 (SB 1159), effective January 1, 2015; Stats 2018 ch 838 § 7 (SB 695), effective January 1, 2019; Stats 2019 ch 115 § 156 (AB 1817), effective January 1, 2020.

Family Code

CALIFORNIA CODE OF REGULATIONS

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

DIVISION 13.2. PHYSICAL THERAPY BOARD OF CALIFORNIA

ARTICLE 1. GENERAL PROVISIONS

§ 1398. Citation.

This regulation may be cited and referred to as “Physical Therapy Regulations.”

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2615, Business and Professions Code.

HISTORY:

1. Repealer of Subchapter 13.2 (Sections 1398-1399.73, not consecutive) and new Subchapter 13.2 (Sections 1398-1399.52, not consecutive) filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21).
2. Amendment of NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79 No. 16).
3. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
4. Change without regulatory effect amending division heading filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).

§ 1398.1. Location of Office.

The principal office of the Physical Therapy Board of California is located at 2005 Evergreen Street, Sacramento, California 95815.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2602, Business and Professions Code.

HISTORY:

1. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
2. Amendment of section and Note filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
3. Change without regulatory effect amending section filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).

§ 1398.3. Definitions.

Unless the context otherwise requires, for the purpose of the regulations contained in this chapter,

- (a) “Board” means the Physical Therapy Board of California;
- (b) “Code” means the Business and Professions Code;

§ 1398.4 PROFESSIONAL & VOCATIONAL REGULATIONS

(c) “The Physical Therapy Practice Act” consists of Chapter 5.7, of Division 2, of the Business and Professions Code.

(d) “License” as used in these regulations includes a license issued by the Board.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2601, Business and Professions Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Change without regulatory effect amending subsection (a), repealing subsection (b) and (c), and renumbering subsections filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
3. Amendment filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
4. Change without regulatory effect amending subsection (d) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
5. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.4. Delegation of Functions.

Except for those powers reserved exclusively to the “agency itself” under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the board delegates and confers upon the executive officer of the board, or in his or her absence, the assistant executive officer of the board or other designee of the executive officer, all functions necessary to the dispatch of business of the board in connection with investigative and administrative proceedings under the jurisdiction of the board.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2607, 2607.5, 2608 and 2614, Business and Professions Code; and Sections 11500 and 11415.60, Government Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
5. Amendment of section and Note filed 7-17-2012; operative 8-16-2012 (Register 2012, No. 29).
6. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.6. Filing of Addresses.

(a) Address of Record. Every applicant and licensee shall provide an address to the Physical Therapy Board of California (Board) that will be designated as their address of record, which will be utilized for all official and formal communications from the Board, and which will be disclosed to the public. An applicant or a licensee need not provide a residence address as the address of record, but may use an alternative address, such as a business address or a P.O. Box, as their address of record. Every applicant and licensee shall report any change of the address of record to the Board no later than thirty (30) calendar days after the address change has occurred. The report of change of address of record shall be in writing and contain the old address, the new address, and the effective date of the change of address.

(b) Residence Address. Every applicant and licensee shall provide a residence address to the Board. Only if the applicant or licensee also provides an alternative address of record as described in subdivision (a) above shall the Board maintain the residence address as confidential. Every applicant and

licensee shall report any change of their residential address to the Board no later than thirty (30) calendar days after the address change has occurred. The report of change of residential address shall be in writing and contain the old address, the new address, and the effective date of the change of address.

(c) Name Change. Every applicant and licensee shall report to the Board in writing each and every change of name no later than thirty (30) calendar days after each change has occurred, giving both the old and new names.

(d) E-mail Address. Every applicant and licensee shall file a current e-mail address with the Board and shall notify the Board in writing of any and all changes of the e-mail address no later than thirty (30) calendar days after the change has occurred, giving both the old e-mail address and the new e-mail address. E-mail addresses are confidential information and shall not be made available to the public. This subdivision does not require an applicant or licensee to obtain an e-mail address, it only requires that person report an existing e-mail address to the Board.

(e) Licensee. For purposes of this section, "licensee" includes any holder of an active, inactive, delinquent, suspended or expired license, certification or other authorization issued by the Board to practice physical therapy or electromyography which is not canceled or revoked.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 136, 2602.1, 2644 and 2680, Business and Professions Code; and Section 1798.61, Civil Code.

HISTORY:

1. Amendment of NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Amendments filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Repealer and new section and amendment of Note filed 12-4-97; operative 1-3-98 (Register 97, No. 49).
5. Amendment of section and Note filed 10-28-2013; operative 1-1-2014 (Register 2013, No. 44).
6. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.10. Advertising.

A physical therapist may advertise the provision of any services authorized to be provided by a physical therapy license. Such advertising shall be in a manner authorized by Section 651 of the Code so long as such advertising does not promote the excessive or unnecessary use of such services.

NOTE: Authority cited: Sections 651 and 2615, Business and Professions Code. Reference: Sections 651 and 2660, Business and Professions Code.

HISTORY:

1. New section filed 2-28-80; effective thirtieth day thereafter (Register 80, No. 9).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1398.11. Physical Therapy Aide, Applicant and Student Identification.

Pursuant to Section 680 of the code, each supervising licensed physical therapist shall require all physical therapy aides, applicants and students performing patient related tasks under his or her supervision to display while working his or her name and working title on a name tag in at least 18-point type.

§ 1398.12 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Sections 680 and 2615, Business and Professions Code. Reference: Section 680, Business and Professions Code.

HISTORY:

1. New section filed 1-25-2001; operative 2-24-2001 (Register 2001, No. 4).
2. Change without regulatory effect amending section heading and section filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).

§ 1398.12. Related Health Sciences.

A physical therapy related health science for purposes of Code section 2633, subdivision (b), includes the following: any neuroscience and any anatomical, behavioral, biomedical, physiological, and movement sciences. These sciences specifically include, but are not limited to, biology, biomechanics, exercise physiology, gerontology, human development, kinesiology, pathology, pathomechanics, pharmacology and psychology.

NOTE: Authority cited: Sections 2615 and 2633, Business and Professions Code. Reference: Sections 2633 and 2650, Business and Professions Code.

HISTORY:

1. New section filed 3-24-2009; operative 4-23-2009 (Register 2009, No. 13).

§ 1398.13. Patient Records.

(a) A physical therapist shall document and sign in the patient record the following in accordance with subsection (c):

- (1) Examination and re-examination
- (2) Evaluation and reevaluation
- (3) Diagnosis
- (4) Prognosis and intervention
- (5) Treatment plan and modification of the plan of care
- (6) Each treatment provided by the physical therapist or a physical therapy aide
- (7) Discharge Summary

(b) The physical therapist assistant shall document and sign in the patient record any treatment provided by that individual, in accordance with subsection (c).

(c) With respect to any care provided to the patient, the patient record shall indicate:

- (1) The date and nature of the service provided and
- (2) The name and title of any individual who provided such service, including the individual's role in that service. As used in this section, the term "service" does not include "non-patient related tasks" as defined in section 1399.

(d) The physical therapist shall ensure compliance with subsection (c).

(e) The requirements of this section are in addition to the requirements of the following sections:

- (1) 1398.37(d) [relating to physical therapist students],
- (2) 1398.44(e)(1) [relating to physical therapist assistants]
- (3) 1398.52(d) [relating to physical therapist assistant students]
- (4) 1399.10 [relating to physical therapist license applicants]; and
- (5) 1399.12 [relating to physical therapist assistant license applicants].

(f) Electronic signatures are sufficient for purposes of this section.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.7, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.85 to new section 1398.13 filed 6-14-2011; operative 7-14-2011 (Register 2011, No. 24).
2. Change without regulatory effect amending subsection (e)(1) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).

§ 1398.15. Notice to Consumers.

(a) A licensed physical therapist engaged in the practice of physical therapy shall provide Form NTC 12-01, August 2, 2012, to each patient.

(b) The notice required by this section shall be provided by at least one of the following methods:

(1) Prominently posting Form NTC 12-01, August 2, 2012, in an area visible to patients on the premises where the licensee provides the licensed services; or,

(2) Providing the patient or the patient's representative with a copy of Form NTC-1201, August 2, 2012. An acknowledgement, signed and dated by the patient or the patient's representative, shall be retained in that patient's medical records demonstrating receipt.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 138 and 2602.1, Business and Professions Code.

HISTORY:

1. New section filed 7-24-2013; operative 10-1-2013 (Register 2013, No. 30).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

ARTICLE 2. APPLICATIONS AND EXAMINATIONS

§ 1398.20. Place of Filing.

Completed applications for all licenses and certifications shall be filed in the office of the board in Sacramento.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2634, 2635, 2636.5, 2638, 2639, 2639.1 and 2653, Business and Professions Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27.)
2. Amendment filed 5-15-91; operative 6-14-91 (Register 91, No. 26).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment of section heading and section filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
5. Amendment filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
6. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.21. Abandonment of Applications.

An application shall be denied without prejudice when, in the discretion of the board, an applicant does not exercise due diligence in the completion of his or her application, in furnishing additional information or documents requested in or in the payment of any required fees.

§ 1398.21.1 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2602, 2634, 2635, 2636.5, 2639 and 2639.1, Business and Professions Code.

HISTORY:

1. New section filed 3-20-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
3. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.21.1. Failure to Pass the Examination.

An application for licensure shall be deemed denied without prejudice when an applicant fails to pass the examination within one year from the date of the original notice to appear for the examination. To reapply, the applicant is then required to file a new application for licensure, to pay the application fee specified in Section 1399.50(a), 1399.50(b) or 1399.52(a) and 1399.52(b) as applicable, and to comply with all laws and regulations in effect at the time of filing. In addition the applicant is required to apply for reexamination and to pay the applicable reexamination fee pursuant to Business and Professions Code Section 2688.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2605, 2634, 2635, 2636, 2638 and 2639, Business and Professions Code.

HISTORY:

1. New section filed 11-20-95; operative 12-20-95 (Register 95, No. 47).
2. Amendment filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
3. Change without regulatory effect amending section and Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.23. Failure to Pay Initial License Fee.

An application shall be deemed to have been abandoned and any examination taken not passed if an applicant fails to pay the initial license fee within five years after notification by the board. An applicant whose application has been deemed abandoned may again be eligible for licensure upon re-examination and the filing of an updated application with the current application fee.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2688, Business and Professions Code.

HISTORY:

1. New section filed 3-20-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.25. Credentials Evaluation Services.

In accordance with Section 2653 of the code, the board will accept reports from credentials evaluation services which meet all of the following criteria:

(a) The service retains the services of a physical therapist consultant(s) who is licensed as a physical therapist in a state or territory of the United States and is used in an advisory capacity to review individual cases for comparability to the educational and training requirements of Section 2650 of the code for hours and content.

(b) The service is able to document the experience of its employees by producing positive letters of reference from other state licensing agencies, educational institutions or professional organizations.

(c) The service is able to submit a report to the board that shall be based on a review of original documentation of an applicant's credentials and shall document the following:

(1) The equivalent professional degree the foreign applicant would have received from an accredited physical therapist education program located in the United States.

(2) Whether completion of the foreign applicant's physical therapist education and training entitles the foreign applicant to practice as a physical therapist in the country where the education and training was completed.

(3) Whether the foreign applicant demonstrated English proficiency in accordance with section 1398.26.3.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650, 2651 and 2653, Business and Professions Code.

HISTORY:

1. New section filed 8-22-77; effective thirtieth day thereafter (Register 77, No. 35).
2. Repealer filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. New section filed 8-31-84; effective thirtieth day thereafter (Register 84, No. 35).
4. New subsections (c)-(c)(2) filed 9-9-94; operative 10-10-94 (Register 94, No. 36).
5. Change without regulatory effect amending first paragraph and subsection (c) filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
6. New subsection (c)(3) and amendment of Note filed 5-8-2017; operative 7-1-2017 (Register 2017, No. 19).

§ 1398.26. Applications of Foreign Educated Graduates.

(a) Persons applying under Section 2653 of the code shall cause to be submitted to an evaluation service, which meets the Board's requirements in section 1398.25, a complete transcript of the resident course of professional instruction completed which has been authenticated by the proper official of the physical therapist education program, and submitted directly by the physical therapist education program to the evaluation service. Credentials submitted in a language other than English shall be accompanied by an original translation certified by a qualified translator other than the applicant.

(b) Where because of circumstances beyond his or her control an applicant is unable to furnish any of the credentials required under subsection (a) above, the board may in its discretion accept other documents which it deems sufficient to establish the applicant's eligibility.

NOTE: Authority cited: Sections 2615 and 2653, Business and Professions Code. Reference: Section 2653, Business and Professions Code.

HISTORY:

1. Amendment of subsection (g) filed 5-10-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Renumbering of former Section 1398.24 to Section 1398.26 filed 9-8-83; effective thirtieth day thereafter (Register 83, No. 37).
4. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
5. Amendment of section heading and section filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
6. Repealer of subsections (c)-(d) filed 12-9-2004; operative 1-8-2005 (Register 2004, No. 50).

§ 1398.26.1 PROFESSIONAL & VOCATIONAL REGULATIONS

§ 1398.26.1. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant.

(a) This section is only applicable to those applicants who are graduates of non-accredited physical therapy educational programs that are not located in the United States and applying for licensure on or after the effective date of this regulation.

(b) For the purposes of determining educational equivalency for physical therapist licensure, the credential evaluation services will evaluate foreign educational credentials based on the appropriate Federation of State Boards of Physical Therapy's (FSBPT) Coursework Evaluation Tool For Foreign Educated Physical Therapists (CWT) in accordance with subsection (e).

(c) Notwithstanding subdivision (b), if an applicant was evaluated utilizing the CWT described in paragraph (6) of subdivision (e), the board shall accept that evaluation in lieu of the corresponding CWT.

(d) For the purposes of determining educational equivalency for physical therapist assistant licensure, the credential evaluation services will evaluate foreign educational credentials based on the Coursework Tool for Foreign Educated Physical Therapist Assistants (PTA Tool) in accordance with subsection (e).

(e) For the purpose of this regulation, the following publications are incorporated by reference:

(1) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated before 1978—CWT 1 (Rev. 2014–11).

(2) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1978 to 1991—CWT 2 (Rev. 2014–11).

(3) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1992 to 1997—CWT 3 (Rev. 2014–11).

(4) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1998 to June 30, 2009—CWT 4 (Rev. 2015–05 Summary).

(5) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated after June 30, 2009 to December 31, 2016—CWT 5 (Rev. 2014–11).

(6) FSBPT Coursework Tool For Foreign Educated Physical Therapists—CWT 6 (Rev. 2016–10) for implementation January 1, 2017.

(7) FSBPT Coursework Tool For Physical Therapist Assistants—PTA Tool 1 (Rev. 2012–12).

(8) FSBPT Coursework Tool for Physical Therapist Assistants—PTA Tool 2 Implementation Date February 15, 2017.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650, 2653 and 2654, Business and Professions Code.

HISTORY:

1. New section filed 7–5–2005; operative 8–4–2005 (Register 2005, No. 27).

2. Amendment of section heading and section filed 9–29–2011; operative 10–29–2011 (Register 2011, No. 39).

3. Amendment of section heading, section and NOTE filed 12–14–2022; operative 1–1–2023 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 50).

§ 1398.26.3. English Proficiency.

In accordance with Section 2653 of the code, an applicant who graduated from a physical therapist education program that is not approved by the board and is not located in the United States must demonstrate English proficiency by achieving the following minimum scores within a single administration of the Test of English as a Foreign Language (TOEFL):

- (1) Reading Section — 22
- (2) Listening Section — 21
- (3) Writing Section — 22
- (4) Speaking Section — 24.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2653, Business and Professions Code.

HISTORY:

1. New section filed 5-8-2017; operative 7-1-2017 (Register 2017, No. 19).

§ 1398.26.5. Clinical Service Requirements for Foreign Educated Applicants.

(a) The period of clinical service required by Section 2653 of the Code shall be certified by at least one supervising physical therapist (the supervising physical therapist is the Center Coordinator of Clinical Education and/or the credentialed Clinical Instructor) licensed by the board, or by a physical therapy licensing authority in another jurisdiction which is accepted by the board.

(b) For the purposes of this regulation, supervision means the supervising physical therapist must be onsite in the same facility and available to the physical therapist license applicant to provide assistance with any patient care.

(c) Effective January 1, 2008, the Center Coordinator of Clinical Education (CCCE) must be an American Physical Therapy Association (APTA) credentialed Clinical Instructor. Effective January 1, 2010, all Clinical Instructors must be APTA credentialed.

(d) The certification shall be submitted in a report to the board and shall document the supervising physical therapist's determination that the physical therapist license applicant possesses the skills necessary to perform any physical therapy evaluation or any physical therapy procedure of patient care within the California healthcare system. The supervising physical therapist's evaluation of the physical therapist license applicant shall be prepared utilizing the Physical Therapist Clinical Performance Instrument issued by the American Physical Therapy Association in December of 1997, incorporated by reference herein, or the Federation of State Boards of Physical Therapy's Supervised Clinical Practice Performance Evaluation Tool, dated September 2013, incorporated by reference herein, and completed pursuant to subsection (g). The certification shall include two evaluations of the physical therapist license applicant's skills. One evaluation shall determine the skill level midway through the period of clinical service and the other evaluation shall determine the skill level at the end of the clinical service. Both evaluations shall be reported at the end of the period of clinical service.

(e) Three (3) months of the required nine (9) months of clinical service shall be waived by the board if the physical therapist license applicant successfully completes a course in Law and Professional Ethics as offered by a post-secondary educational institution or by successfully completing four (4) continuing education units in Ethics offered by a continuing education provider recognized by a California healthcare board.

(f) One (1) month of clinical service shall be waived for each month of licensed clinical practice in another state up to the required total of nine (9) months.

(g) To create an account for access to the Federation of State Boards of Physical Therapy's Clinical Practice Performance Evaluation Tool on their website at fsbpt.org/SCPPET, the supervising physical therapist must enter their email, first and last name, create a password, and choose California as the jurisdiction.

§ 1398.28 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650 and 2653, Business and Professions Code.

HISTORY:

1. New section filed 12-9-2004; operative 1-8-2005 (Register 2004, No. 50).
2. Change without regulatory effect amending subsections (b), (d) and (e) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
3. Amendment of subsections (a) and (c)-(d) and new subsection (g) filed 5-9-2023; operative 5-9-2023 pursuant to Government Code section 11343.4(b)(3)(Register 2023, No. 19).

§ 1398.28. Written Examination.

(a) The uniform examination utilized by the board for the licensure of physical therapists is the Federation of State Boards of Physical Therapy's examination for physical therapists.

(b) The uniform examination utilized by the board for the licensure of physical therapist assistants is the Federation of State Boards of Physical Therapy's examination for physical therapist assistants.

NOTE: Authority cited: Sections 851 and 2615, Business and Professions Code. Reference: Sections 851, 2605 and 2636, Business and Professions Code.

HISTORY:

1. Amendment filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Repealer of subsection (c) filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Amendment of subsections (a) and (b) filed 4-20-90; operative 5-20-90 (Register 90, No. 21).
4. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
5. Amendment filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
6. Amendment of subsection (b) filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
7. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

ARTICLE 3. PHYSICAL THERAPY SCHOOLS

§ 1398.30. Approved Physical Therapist Educational Programs.

(a) Only those educational programs which meet the requirements set forth in Section 1398.31 shall be approved by the board for professional education in physical therapy. The executive officer shall maintain on file at the board's Sacramento office a list of approved education programs.

(b) If, at the time of graduation, the physical therapy educational program from which the applicant for licensure graduated was an approved program as set forth in Section 1398.31, the applicant's educational program shall be considered to satisfy the requirements of Section 1398.30(a).

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2635, 2650 and 2651, Business and Professions Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
3. Amendment of section heading and section filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
4. Amendment of section heading and section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 1398.31. Criteria for Approval of Physical Therapy Schools.

(a) Physical therapy educational programs shall be established in post-secondary educational institutions accredited by a national association or agency recognized by the Council on Post-Secondary Accreditation and/or the U.S. Department of Education.

(b) The physical therapy educational program shall be accredited by the agency or organization recognized by the Council on Post-Secondary Accreditation or the U.S. Department of Education.

(c) Teaching programs of not less than 1400 hours duration also may be established in hospitals for students whose preliminary education meets the requirements of Section 2650 of the code, providing the physical therapy education program is accredited as set forth in subsection (b).

(d) Nothing in this section shall be construed to prevent the board from approving a school or training program which is not approved or from not approving a school or training program which is approved by one of the above-mentioned entities.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2635, 2650 and 2651, Business and Professions Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Change without regulatory effect amending subsection (d) filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
3. Change without regulatory effect amending subsections (a) and (b) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).

§ 1398.37. Identification and Supervision of Physical Therapist Students Defined.

(a) When rendering physical therapy services as part of academic training, a physical therapy student shall only be identified as a “physical therapist student.” When rendering physical therapy services, the required identification shall be clearly visible and include his or her name and working title in at least 18-point type.

(b) The “clinical instructor” or the “supervisor” shall be the physical therapist supervising the physical therapist student while practicing physical therapy.

(c) The supervising physical therapist shall provide on-site supervision of the assigned patient care rendered by the physical therapist student.

(d) The physical therapist student shall document each treatment in the patient record, along with his or her signature. The clinical instructor or supervising physical therapist shall countersign with his or her first initial and last name all entries in the patient’s record on the same day as patient related tasks were provided by the physical therapist student.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2633.7, Business and Professions Code.

HISTORY:

1. New section filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Amendment of section heading, section and Note filed 12-23-2002; operative 1-22-2003 (Register 2002, No. 52).
4. Change without regulatory effect amending section heading, section and Note filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
5. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.38. Criteria for Approval of Physical Therapy Facilities to Supervise the Clinical Service of Foreign Educated Applicants.

Pursuant to Section 2653 of the code in order to be approved as a facility in which a foreign educated applicant may complete a period of clinical service, each physical therapy facility shall complete a form entitled *Clinical Site Information Form (CSIF)*, as developed by the American Physical Therapy Association and revised on 11-01-99, hereby incorporated by reference, certifying that the facility has the staffing, clinical experiences, and clinical instruction to provide physical therapy clinical experience for the foreign educated physical therapist applicant for licensure. The *CSIF* shall be submitted to the Board accompanied by the Board's *Notice of Intent to Supervise a Foreign Educated Physical Therapist*", form F1B, revised January 2005, hereby incorporated by reference. For each foreign educated applicant, both forms shall be complete and signed in order for the physical therapy facility to be approved by the Board.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650 and 2653, Business and Professions Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of section heading and first paragraph filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
3. Amendment of section heading, first paragraph and subsection (d) filed 9-18-2000; operative 10-18-2000 (Register 2000, No. 38).
4. Amendment filed 4-21-2005; operative 5-21-2005 (Register 2005, No. 16)

ARTICLE 4. PHYSICAL THERAPIST ASSISTANT

§ 1398.44. Adequate Supervision Defined.

(a) "Adequate supervision" of a physical therapist assistant shall mean supervision that complies with this section. A physical therapist shall at all times be responsible for all physical therapy services provided by the physical therapist assistant and shall ensure that the physical therapist assistant does not function autonomously. The physical therapist has a continuing responsibility to follow the progress of each patient, and is responsible for determining which elements of a treatment plan may be assigned to a physical therapist assistant.

(b) A physical therapist who performs the initial evaluation of a patient shall be the physical therapist of record for that patient. The physical therapist of record shall remain as such until a reassignment of that patient to another physical therapist of record has occurred. The physical therapist of record shall ensure that a written system of transfer to the succeeding physical therapist exists.

(c) The physical therapist of record shall provide supervision and direction to the physical therapist assistant in the treatment of patients to whom the physical therapist assistant is providing care. The physical therapist assistant shall be able to identify, and communicate with, the physical therapist of record at all times during the treatment of a patient.

(d) A physical therapist assistant shall not:

- (1) Perform measurement, data collection or care prior to the evaluation of the patient by the physical therapist

- (2) Document patient evaluation and reevaluation
- (3) Write a discharge summary
- (4) Establish or change a plan of care
- (5) Write progress reports to another health care professional, as distinguished from daily chart notes
- (6) Be the sole physical therapy representative in any meeting with other health care professionals where the patient's plan of care is assessed or may be modified.
- (7) Supervise a physical therapy aide performing patient-related tasks
- (8) Provide treatment if the physical therapist assistant holds a management position in the physical therapy business where the care is being provided. For purposes of this section, "management position" shall mean a position that has control or influence over scheduling, hiring, or firing.

The prohibitions in subsection (d) above shall not prohibit a physical therapist assistant from collecting and documenting data, administering standard tests, or taking measurements related to patient status.

(e) The physical therapist assistant shall notify the physical therapist of record, document in the patient record any change in the patient's condition not within the planned progress or treatment goals, and any change in the patient's general condition.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2622 and 2630.3, Business and Professions Code.

HISTORY:

1. Repealer of subsection (f) filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of section and Note filed 9-18-96; operative 9-18-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 38).
3. Repealer and new section filed 6-14-2011; operative 7-14-2011 (Register 2011, No. 24).
4. Change without regulatory effect amending subsection (e) and repealing subsection (e)(1) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
5. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.47. Equivalent Training or Experience.

(a) Training and experience considered equivalent to that obtained in an approved physical therapist assistant school shall be acquired in one of the following ways:

(1) Military training, consisting of satisfactory completion of a basic hospital corps member course and of a formal physical therapist assistant course that includes a minimum of 550 hours of technical courses relating to physical therapy, and 350 hours of supervised clinical experience. In addition, the applicant shall complete the general education requirements described in subsection (c).

(2) A combination of training and 36 months of full-time work experience in physical therapy described in subsection (b). Training shall consist of satisfactory completion of 30 semester units or 40 quarter units of instruction in a variety of the following technical areas: Human anatomy and physiology, including laboratory experience; kinesiology and topographical anatomy; first-aid; basic principles of electromagnetism, mechanics and thermodynamics, biomechanics, and massage; application of therapeutic exercise and modalities for the physically disabled; survey of pathophysiological conditions resulting from injury or disease; ethics; and laws relating to physical therapy. In addition, the applicant shall complete the general education requirements described in subsection (c).

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The applicant shall have obtained a grade of “c” or better in all technical coursework to be accepted for licensure as a physical therapist assistant. Eighteen (18) months of the work experience shall be in providing patient related tasks under the orders, direction and immediate supervision of a physical therapist in an acute care inpatient facility.

(3) Successful completion of professional education described in section 2650 of the code.

(b) Work experience used to satisfy subsection (a)(2) shall be obtained under the orders, direction and immediate supervision of (1) a physical therapist licensed by the board, (2) a physical therapist employed by the United States Government, or (3) an out-of-state licensed physical therapist who has qualifications equivalent to a physical therapist licensed by the board, and shall consist of assisting the supervising physical therapist in the treatment of patients of both sexes, varying ages and disabilities. Full-time work experience shall be credited on the basis of a compensated 40-hour work week, allowing for the usual and customary periods of absence. Work credit shall be given for part-time employment. The work experience shall have been obtained within ten years of the date the application for licensure is filed with the board, provided that, one-half of the experience has been obtained within five years of the application.

(c) General education requirements shall consist of satisfactory completion of 15 semester units or 20 quarter units, including at least one course in each of the following areas:

- (1) Natural Sciences.
- (2) Social or Behavioral Sciences.
- (3) Humanities.
- (4) English, Speech, or Mathematics.

(5) English Composition which meets the Associate or Baccalaureate degree requirement of the college at which the course is taken. The applicant shall have obtained a grade of “c” or better in English Composition to be accepted for licensure as a physical therapist assistant.

(d) Proof of completion of the general education courses in subsection (c) and of the technical courses in subsection (a)(2) shall be submitted on an official transcript. The courses may be taken at any post-secondary institution that is accredited by an agency recognized by the Council for Higher Education Accreditation or the U.S. Department of Education. Credit will be given for academic units granted by the educational institution for equivalent experience or education as well as for the results of equivalency or proficiency examination.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2639.1, Business and Professions Code.

HISTORY:

1. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of subsection (a) filed 5-15-91; operative 6-14-91 (Register 91, No. 26).
3. Editorial correction of printing error in subsection (c)(4) (Register 91, No. 26).
4. Amendment of subsections (a)(1)-(a)(3) and (b) filed 10-21-94; operative 11-21-94 (Register 94, No. 42).
5. Change without regulatory effect amending subsection (b) filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
6. Amendment filed 1-24-2001; operative 2-23-2001 (Register 2001, No. 4).
7. Amendment of subsections (a)(2), (b) and (c)(5) and amendment of Note filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
8. Change without regulatory effect repealing subsection (a)(3), renumbering subsections and amending subsection (b) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
9. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

ARTICLE 5.

PHYSICAL THERAPIST ASSISTANT SCHOOLS

§ 1398.50. Approved Physical Therapist Assistant Education Programs.

Those education programs which meet the requirements of Section 1398.51 shall be approved by the board for the training of physical therapist assistants. The executive officer shall maintain on file at the board's office a list of approved education programs.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2651, Business and Professions Code.

HISTORY:

1. Repealer of Article 5 (Sections 1398.50-1398.54) and new Article 5 (Sections 1398.50 and 1398.51) filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
3. Amendment of section heading, section and Note filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
4. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.51. Criteria for Approval of Physical Therapist Assistant Schools.

(a) Physical therapist assistant training programs shall be established in post-secondary educational institutions accredited by a regional association recognized by the U.S. Department of Education or the Council on Post-Secondary Accreditation.

(b) The physical therapist assistant training program shall be accredited by the appropriate agency or organization recognized by the U.S. Department of Education or the Council on Post-Secondary Accreditation.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2651, Business and Professions Code.

HISTORY:

1. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1398.52. Identification and Supervision of Physical Therapist Assistant Students Defined.

(a) A physical therapist assistant student is an unlicensed person rendering physical therapy services as part of academic training pursuant to section 2650.1 of the Code and shall only be identified as a "physical therapist assistant student." When rendering physical therapy services, the required identification shall be clearly visible and include his or her name and working title in at least 18-point type.

(b) The physical therapist assistant student shall be supervised by a physical therapist supervisor. A physical therapist assistant under the supervision of a physical therapist supervisor may perform as a clinical instructor of the physical therapist assistant student when rendering physical therapy services.

(c) A physical therapist supervisor shall provide on-site supervision of the assigned patient care rendered by the physical therapist assistant student.

(d) The physical therapist assistant student shall document each treatment in the patient record, along with his or her signature. The clinical instructor shall countersign with his or her first initial and last name in the patient's record on the same day as patient related tasks were provided by the physical therapist assistant student. The supervising physical therapist shall conduct a weekly case conference and document it in the patient record.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2633.7, Business and Professions Code.

HISTORY:

1. New section filed 12-23-2002; operative 1-22-2003 (Register 2002, No. 52).
2. Change without regulatory effect amending section heading, section and Note filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
3. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

ARTICLE 6. PHYSICAL THERAPY AIDES

§ 1399. Requirements for Use of Aides.

(a) A physical therapy aide is an unlicensed person who may be utilized by a physical therapist in his or her practice by performing non-patient related tasks, or by performing patient related tasks.

(b) Prior to the aide providing patient related care, a physical therapist shall evaluate and document, the aide's competency level for performing the patient related task that the aide will provide in that setting. The record of competencies shall be made available to the board or any physical therapist utilizing that aide upon request.

(c) As used in these regulations:

(1) A "patient related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient related tasks as defined below.

(2) A "non-patient related task" means a task related to observation of the patient, transport of patients, physical support only during gait or transfer, housekeeping duties, clerical duties and similar functions.

(3) "Under the orders, direction and immediate supervision" means:

(A) Prior to the initiation of care, the physical therapist shall evaluate every patient prior to the performance of any patient related tasks by the aide.

(B) The physical therapist shall formulate and record in the patient's record a treatment program based upon the evaluation and any other information available to the physical therapist, and shall determine those patient related tasks which may be assigned to an aide.

(C) The physical therapist shall assign only those patient related tasks that can be safely and effectively performed by the aide. The physical therapist shall be responsible at all times for the conduct of the aide while the aide is performing "patient related tasks" and "non-patient related tasks" as defined in this section.

(D) The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as the aide and in immediate proximity to the location where the aide is performing patient related tasks. The physical therapist shall be readily available at all times to provide immediate advice, instruction

or intervention in the care of the patient. When patient related tasks are provided to a patient by an aide the physical therapist shall at some point during the treatment day provide direct service to the patient as treatment for the patient's condition or to further evaluate and monitor the patient's progress.

(E) The physical therapist shall perform periodic re-evaluation of the patient as necessary and make adjustments in the patient's treatment program. The re-evaluation shall be documented in the patient's record.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2630.4, Business and Professions Code.

HISTORY:

1. Amendment of subsection (b) filed 3-20-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Amendment filed 8-13-81; effective thirtieth day thereafter (Register 81, No. 33).
3. Amendment of subsections (b)(1), (b)(2), (b)(4) and (b)(5) and new subsection (b)(6) filed 10-21-94; operative 11-21-94 (Register 94, No. 42).
4. Amendment filed 6-14-2011; operative 7-14-2011 (Register 2011, No. 24).
5. Change without regulatory effect amending Note filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
6. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

ARTICLE 7. PRACTICE BY APPLICANTS

§ 1399.10. Supervision of Physical Therapist License Applicants.

Pursuant to Section 2639 of the code, a physical therapist license applicant whose application for licensure has been filed and reviewed by the board may perform as a physical therapist if he or she is under the direct and immediate supervision of a physical therapist licensed by the board. "Direct and immediate supervision" means a supervisor shall at all times be responsible for and provide adequate supervision of the work performed by the physical therapist license applicant and shall be in close proximity to the location where the physical therapist license applicant is rendering physical therapy treatment. The physical therapist license applicant shall document each treatment in the patient record, along with his or her signature. A supervising physical therapist shall countersign with his or her first initial and last name in the patient's record on the same day as patient related tasks were provided by the physical therapist license applicant.

A supervising physical therapist shall document receipt of the letter authorizing physical therapist license applicant status and record the expiration date of such status in the employee record. A supervising physical therapist shall require the applicant to provide documentation of the license issued at the conclusion of the physical therapist license applicant status. If the applicant fails to pass the licensing examination all privileges to work as a physical therapist license applicant shall terminate.

Authorizing the physical therapist license applicant to work after the conclusion of physical therapist applicant status constitutes unprofessional conduct.

§ 1399.12 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2639, Business and Professions Code.

HISTORY:

1. Amendment filed 3-20-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Amendment filed 10-19-83; effective thirtieth day thereafter (Register 83, No. 43).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment of section heading and section filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
5. Amendment filed 12-23-2002; operative 1-22-2003 (Register 2002, No. 52).

§ 1399.12. Supervision of Physical Therapist Assistant License Applicants.

Pursuant to Section 2639 of the code, a physical therapist assistant license applicant whose application for license has been filed and reviewed by the board may assist in the provision of physical therapy services if he or she is under the direct and immediate supervision of a physical therapist licensed by the board. "Direct and immediate" means a supervisor shall at all times be responsible for and provide adequate supervision of the work performed by the applicant and shall be in close proximity to the location where the applicant is assisting in the provision of physical therapy treatment. The physical therapist assistant license applicant shall document each treatment in the patient record, along with his or her signature. A supervising physical therapist shall countersign with his or her first initial and last name in the patient's record on the same day as patient related tasks were provided by the physical therapist assistant license applicant. A supervising physical therapist will conduct a weekly case conference and document it in the patient record.

A supervising physical therapist shall document receipt of the letter authorizing physical therapist assistant license applicant status and record the expiration date of such status in the employee record. A supervising physical therapist shall require the applicant to provide documentation of the license issued at the conclusion of the physical therapist assistant license applicant status. If the applicant fails to pass the licensing examination all privileges to work as a physical therapist assistant license applicant shall terminate.

Authorizing the physical therapist assistant license applicant to work after the conclusion of physical therapist assistant license applicant status constitutes unprofessional conduct.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2622, Business and Professions Code.

HISTORY:

1. New section filed 3-20-78; effective thirtieth day thereafter (Register 78, No. 12).
2. Amendment filed 10-19-83; effective thirtieth day thereafter (Register 83, No. 43).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment of section heading and Note filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).
5. Amendment of section and Note filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
6. Amendment of section heading, section and Note filed 12-23-2002; operative 1-22-2003 (Register 2002, No. 52).
7. Change without regulatory effect amending Note filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
8. Change without regulatory effect amending first paragraph filed 4-13-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 15).

ARTICLE 8.

ENFORCEMENT ACTIONS, DISCIPLINE AND REINSTATEMENT OF LICENSE

§ 1399.15. Guidelines for Issuing Citations and Imposing Discipline.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the “Guidelines for Issuing Citations and Imposing Discipline”, (Revised April, 2022, 7th Edition; hereafter, “Guidelines”) which are hereby incorporated by reference. Subject to paragraph (c), deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts warrant such a deviation—for example: The presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

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

As used in this section, the term “sex offense” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.

(2) Any offense defined in Sections 261.5, 313.1, 647, subdivisions (a) or (d), or 647(b) of the Penal Code or a finding that a person committed such an offense.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would be punishable as one or more of the offenses specified in this section.

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

(1) Each of the “Conditions Applying the Uniform Standards,” as set forth in the Guidelines, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.

(2) The Substance Abuse Coordination Committee’s “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees” (Revised March 2019; hereafter, “Uniform Standards”), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.

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

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2660.2, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 1399.16 PROFESSIONAL & VOCATIONAL REGULATIONS

HISTORY:

1. New section filed 6-25-97; operative 7-1-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).
2. Amendment of section heading, section and Note filed 8-25-2005; operative 9-24-2005 (Register 2005, No. 34).
3. Amendment of section and document "Model Guidelines for Issuing Citations and Imposing Discipline" (incorporated by reference) filed 8-5-2009; operative 9-4-2009 (Register 2009, No. 32).
4. Amendment of section and Note filed 1-22-2013; operative 4-1-2013 (Register 2013, No. 4).
5. Amendment of section and Note filed 7-30-2014; operative 10-1-2014 (Register 2014, No. 31).
6. Change without regulatory effect relocating and amending article 8 heading from preceding section 1399.20 to preceding section 1399.15 filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
7. Amendment of the "Guidelines for Issuing Citations and Imposing Discipline" (incorporated by reference), amendment of subsections (a), (b)(2) and (c)(2) and amendment of Note filed 1-28-2022; operative 4-1-2022 (Register 2022, No. 4).
8. Change without regulatory effect amending the "Guidelines for Issuing Citations and Imposing Discipline" (incorporated by reference) and amending subsections (a) and (b)(2) filed 5-23-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 21).

§ 1399.16. Issuance of Initial Probationary License.

(a) The authority to issue an initial probationary license is delegated to the executive officer of the Board. In the absence of the executive officer the authority is delegated to the board president or in his or her absence the vice-president.

(b) When the executive officer finds that the issuance of an initial probationary license is necessary in accordance with section 2660.2 of the Act, the Board's Disciplinary Guidelines specified in section 1399.15 of these regulations shall serve as guidelines for the terms and conditions of an initial probationary license.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2607.5 and 2660.2, Business and Professions Code.

HISTORY:

1. New section filed 10-8-2004; operative 11-7-2004 (Register 2004, No. 41).

§ 1399.20. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension or revocation of a license, pursuant to Section 141, Division 1.5 (commencing with Section 475), or Section 2660 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 Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under subsection (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;
- (3) The nature and duties of a licensed physical therapist or physical therapist assistant.

NOTE: Authority cited: Sections 481 and 2615, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 2660, 2660.5 and 2661, Business and Professions Code.

HISTORY:

1. Repealer of NOTE and new NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Amendment of Article 8 heading and section filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Amendment of first paragraph filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
4. Change without regulatory effect relocating article 8 heading from preceding section 1399.20 to preceding section 1399.15 filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
5. Amendment of section and Note filed 11-30-2021; operative 11-30-2021 (Register 2021, No. 49). Transmission deadline specified in Government Code section 11346.4(b) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20. Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

§ 1399.21. Rehabilitation Criteria for Denial and Reinstatement of Licensure.

(a) When considering the denial of a license under Section 480 of the code or a petition for reinstatement under Section 11522 of the Government Code on the ground that the applicant has been convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board 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 the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (a), the denial is based on professional misconduct, or the denial is based on unprofessional conduct specified in Section 2660 of the code, the board shall apply the following criteria in evaluating an applicant's rehabilitation:

- (1) The nature and gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.
- (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subparagraph (1) or (2).
- (4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
- (5) The criteria in subsection (a)(1) to (5), as applicable.
- (6) Evidence, if any, of rehabilitation submitted by the applicant.

§ 1399.22 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Sections 481, 482 and 2615, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 2660 and 2661, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Change without regulatory effect amending first paragraph filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment of first paragraph filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
5. Amendment of section and Note filed 11-30-2021; operative 11-30-2021 (Register 2021, No. 49). Transmission deadline specified in Government Code section 11346.4(b) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20. Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

§ 1399.22. Rehabilitation Criteria for Suspensions or Revocations.

(a) When considering the suspension or revocation of a license under Section 490 of the code on the ground that a person holding a license under the Physical Therapy Practice Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation, 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:

- (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 the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make a showing of rehabilitation based on the criteria in subsection (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on unprofessional conduct specified in Section 2660 of the code, the board shall apply the following criteria in evaluating the licensee's rehabilitation:

- (1) The nature and gravity of the act(s), disciplinary action(s), or crime(s).
- (2) The total criminal record.
- (3) The time that has elapsed since commission of the act(s), disciplinary action(s) or crime(s).
- (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 subsection (a)(1) to (5), as applicable.
- (6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.
- (7) Evidence, if any, of rehabilitation submitted by the licensee.

NOTE: Authority cited: Sections 481, 482 and 2615, Business and Professions Code. Reference: Sections 141, 482, 488, 493, 2660 and 2661, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Change without regulatory effect amending first paragraph filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment of first paragraph and subsections (d) and (f) filed 12-19-2002; operative 1-18-2003 (Register 2002, No. 51).
5. Amendment of section and Note filed 11-30-2021; operative 11-30-2021 (Register 2021, No. 49). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20. Transmission deadline specified in Government Code section 11346.4(b) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

§ 1399.23. Required Actions Against Registered Sex Offenders.

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the Administrative Law Judge shall, in a Proposed Decision:

(1) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and not stay the revocation nor place the license on probation.

(2) Not reinstate or reissue the individual's license.

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

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration, provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(c) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation shall not be subject to the provisions of this section. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subdivision (a) against reinstating a license shall govern.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2602, 2608, 2660, 2660.1, 2660.2, 2660.5 and 2661, Business and Professions Code.

HISTORY:

1. New section filed 7-17-2012; operative 8-16-2012 (Register 2012, No. 29).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.24 PROFESSIONAL & VOCATIONAL REGULATIONS

§ 1399.24. Unprofessional Conduct.

In addition to the conduct described in Section 2660 of the Code, “unprofessional conduct” also includes but is not limited to the following:

(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee’s practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to withdraw a complaint the party has filed with the board.

(3) A provision that prohibits a party from disclosing the nature of the settlement or the amount of the settlement or otherwise declares that the settlement is “confidential.”

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

(c) Failure to cooperate and participate in any board investigation pending against the licensee. This subdivision shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee’s practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

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

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

(2) The arrest of the licensee.

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

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

(5) Any report required to be made pursuant to Business and Professions Code section 802 regarding settlements, judgments, or arbitration awards.

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

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2602, 2660, 2660.2 and 2660.4, Business and Professions Code.

HISTORY:

1. New section filed 7-17-2012; operative 8-16-2012 (Register 2012, No. 29).

2. Change without regulatory effect amending Note filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).

ARTICLE 8.5.

ADMINISTRATIVE CITATIONS

§ 1399.25. Administrative Citations.

(a) The executive officer of the board is authorized to determine when and against whom a citation will be issued. A citation may contain an administrative fine, an order of abatement, or both. A citation may be issued for violations by a licensed physical therapist or physical therapist assistant of any of the following:

(1) The Physical Therapy Practice Act (Business and Professions Code section 2600 et seq.).

(2) A regulation adopted by the board.

(3) Other statutes or regulations for which the board has authority to issue a citation.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute alleged to have been violated. The citation shall be served upon the individual in the manner authorized pursuant to Business and Professions Code section 124.

(c) Except as provided in subdivision (d), if an administrative fine is included in the citation, the fine for a violation shall not be less than \$100 and shall not exceed \$2,500. The following factors shall be considered when determining the amount of an administrative fine:

(1) The good or bad faith of the cited person.

(2) The nature and severity of the violation.

(3) Evidence that the violation was willful.

(4) History of the violations of the same or similar nature.

(5) The extent to which the cited person has cooperated with the board.

(6) The extent to which the cited person has mitigated or attempted to mitigate any danger or injury caused by his or her violation.

(d) A citation may include an administrative fine of up to \$5,000 if the board determines that at least one of the following circumstances apply:

(1) The citation involves a violation that presents an immediate threat to the health and safety of another person.

(2) The citation involves multiple violations of the Physical Therapy Practice Act or these regulations that demonstrate a willful disregard of the law.

(3) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

(4) The cited person has a history of two or more prior citations of the same or similar violations.

(e) Every citation issued pursuant to this article shall be disclosed to an inquiring member of the public. However, a citation shall be destroyed from all licensee records five (5) years from the date of issuance or, if one or more subsequent citations is issued within that five (5) year period, five (5) years from the date the last citation was issued. A citation that has been withdrawn or dismissed shall be destroyed from all licensee records immediately upon being withdrawn or dismissed.

§ 1399.27 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Sections 125.9 and 2615, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY:

1. New section filed 4-25-90; operative 5-25-90 (Register 90, No. 21).
2. Amendment of section heading filed 6-25-97; operative 7-25-97 (Register 97, No. 26).
3. Change without regulatory effect amending subsection (a) filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. New subsection (c) and amendment of Note filed 12-24-2002; operative 1-23-2003 (Register 2002, No. 52).
5. Amendment of subsection (c) filed 3-13-2006; operative 4-12-2006 (Register 2006, No. 11).
6. New article 8.5 heading and amendment of section filed 12-9-2008; operative 1-8-2009 (Register 2008, No. 50).

§ 1399.27. Compliance with Orders of Abatement.

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the executive officer in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time allowed shall constitute a violation and failure to comply with the order of abatement. An order of abatement shall either be personally served or mailed by certified mail, return receipt requested. The time allowed for the abatement of a violation shall begin when the order of abatement is final and has been served or received. Such failure may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the person cited.

NOTE: Authority cited: Sections 125.9 and 2615, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY:

1. New section filed 4-25-90; operative 5-25-90 (Register 90, No. 21).
2. Amendment of Note filed 12-24-2002; operative 1-23-2003 (Register 2002, No. 52).

§ 1399.28. Citations for Unlicensed Practice.

The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, partnerships, corporations or associations who are performing or who have performed services for which licensure as a physical therapist or physical therapist assistant is required under the Physical Therapy Practice Act. Each citation issued shall contain an order of abatement. Where appropriate, the executive officer shall levy a fine for such unlicensed activity in accordance with subdivision (b)(3) of section 125.9 of the code. The provisions of sections 1399.25 and 1399.27 shall apply to the issuance of citations for unlicensed activity under this subsection. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9, 148 and 2615, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. New section filed 4-25-90; operative 5-25-90 (Register 90, No. 21).
2. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
3. Amendment of section and Note filed 12-24-2002; operative 1-23-2003 (Register 2002, No. 52).

§ 1399.29. Contest of Citations.

(a) In addition to requesting a hearing as provided for in subdivision (b) (4) of section 125.9 of the code, the person cited may, within ten (10) days after service or receipt of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served or received.

(b) The executive officer shall hold, within 30 days from the receipt of the request, an informal conference with the person cited or his or her legal counsel or authorized representative. At the conclusion of the informal conference the executive officer may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve or mail, as provided in subsection (b) of section 1399.27, a copy of his or her findings and decision to the person cited within ten days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b) (4) of section 125.9 of the code.

NOTE: Authority cited: Sections 125.9 and 2615, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY:

1. New section filed 4-25-90; operative 5-25-90 (Register 90, No. 21).
2. Amendment of Note filed 12-24-2002; operative 1-23-2003 (Register 2002, No. 52).

ARTICLE 9. **PHYSICAL THERAPY PROFESSIONAL** **CORPORATIONS**

§ 1399.30. Citation.

These regulations may be cited and referred to as “Physical Therapy Professional Corporation Regulations.”

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NOTE: Authority and reference cited: Sections 2615 and 2696, Business and Professions Code; and Section 13410, Corporations Code.

HISTORY:

1. New Article 9. (Sections 1399.30-1399.41) filed 8-31-77; effective thirtieth day thereafter (Register 77, No. 36).
2. Amendment filed 8-13-81; effective thirtieth day thereafter (Register 81, No. 33).
3. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1399.35. Requirements for Professional Corporations.

A professional corporation shall comply with the following provisions:

(a) The corporation is organized and exists pursuant to the general corporation law and is a professional corporation within the meaning of Moscone-Knox Professional Corporations Act (Section 13400 et seq. of the Corporations Code).

(b) Each shareholder, director and officer (except as provided in Section 13403 of the Corporations Code and Section 2694 of the code) holds a valid physical therapist license. A physical therapist may be a shareholder in more than one professional corporation.

(c) Each professional employee of the corporation who will practice physical therapy, whether or not a director, officer or shareholder, holds a valid physical therapist license.

NOTE: Authority cited: Sections 2615 and 2696, Business and Professions Code. Reference: Sections 2690 and 2694, Business and Professions Code; and Sections 13401, 13403, 13404, 13405, 13406 and 13407, Corporations Code.

HISTORY:

1. Amendment filed 8-13-81; effective thirtieth day thereafter (Register 81, No. 33).
2. Amendment filed 10-19-83; effective thirtieth day thereafter (Register 83, No. 43).

§ 1399.37. Shares: Ownership and Transfer.

(a) Where there are two or more shareholders in a professional corporation and one of the shareholders:

(1) Dies; or

(2) Becomes a disqualified person as defined in Section 13401(d) of the Corporations Code for a period exceeding ninety (90) days, his or her shares shall be sold and transferred to the corporation, its shareholders or other eligible licensed persons on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder becomes a disqualified person. The requirements of this subsection shall be set forth in the professional corporation's articles of incorporation or bylaws.

(b) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he or she again becomes an eligible shareholder.

(c) The share certificates of a professional corporation shall contain an appropriate legend setting forth the restrictions of subsection (b), where applicable.

(d) Nothing in these regulations shall be construed to prohibit a professional corporation from owning shares in a nonprofessional corporation.

NOTE: Authority cited: Section 2696, Business and Professions Code. Reference: Section 2696, Business and Professions Code; and Sections 13401, 13403, 13406 and 13407, Corporations Code.

HISTORY:

1. Amendment of subsection (f) filed 8-13-81; effective thirtieth day thereafter (Register 81, No. 33).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1399.39. Corporate Activities.

(a) A professional corporation may perform any act authorized in its articles of incorporation or bylaws so long as that act is not in conflict with or prohibited by these regulations, the Physical Therapy Practice Act or the regulations adopted pursuant thereto.

(b) A professional corporation may enter into partnership agreements with other physical therapists practicing individually or in a group or with other physical therapy professional corporations.

NOTE: Authority cited: Section 2696, Business and Professions Code. Reference: Section 2696, Business and Professions Code; and Sections 13403, 13408 and 13410, Corporations Code.

HISTORY:

1. Amendment of subsection (a) filed 8-13-81; effective thirtieth day thereafter (Register 81, No. 33).

§ 1399.40. Trusts.

The restrictions on the ownership of the shares of professional corporations shall apply to both the legal and equitable title to such shares.

NOTE: Authority cited: Section 2696, Business and Professions Code. Reference: Sections 13406 and 13407, Business and Professions Code.

HISTORY:

1. Amendment filed 8-13-81; effective thirtieth day thereafter (Register 81, No. 33).

ARTICLE 10. FEES

§ 1399.50. Physical Therapist Fees.

Pursuant to Section 2688 of the Code, physical therapist fees are fixed as follows:

(a) The application fee shall be \$125.00. For applications electronically submitted or postmarked on or after January 1, 2016, the application fee shall be \$300.

(b) The application fee for foreign graduates under section 2653 of the code shall be \$200.00. For applications electronically submitted or postmarked on or after January 1, 2016, the application fee for foreign graduates under section 2653 shall be \$300.00.

(c) The initial license fee shall be \$100.00. For those initial license fees electronically submitted or postmarked on or after January 1, 2016 the initial license fee shall be \$150.00.

(d) The biennial renewal fee shall be \$200.00. For licenses that expire on or after January 1, 2016, the biennial renewal fee shall be \$300.00.

(e) The delinquency fee shall be \$100.00. For those delinquent after January 1, 2016 the delinquency fee shall be \$150.00.

(f) The retired license application fee shall be \$100.00.

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NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 163.5, 464, 2644 and 2688, Business and Professions Code.

HISTORY:

1. New section filed 12-23-2015; operative 12-23-2015 pursuant to Government Code section 11343.4(b)(3) (Register 2015, No. 52). For prior history, see Register 2009, No. 41.
2. Amendment of first paragraph, new subsection (f) and amendment of Note filed 12-8-2022; operative 1-1-2023 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 49).

§ 1399.52. Physical Therapist Assistant Fees.

Pursuant to Section 2688 of the Code, physical therapist assistant fees are fixed as follows:

(a) The application and initial license fee shall be \$125.00. For application and initial license fees electronically submitted or postmarked on or after January 1, 2016, the application and initial license fee shall be \$300.00.

(b) The application and initial license fee for foreign graduates under section 2653 of the code shall be \$200.00. For the application and initial license fee electronically submitted or postmarked on or after January 1, 2016, the application and initial license fee for foreign graduates under section 2653 shall be \$300.00.

(c) The biennial renewal fee shall be \$200.00. For licenses that expire on or after January 1, 2016, the biennial renewal fee shall be \$300.00.

(d) The delinquency fee shall be \$150.00.

(e) The retired license application fee shall be \$100.00.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 163.5, 464, 2644 and 2688, Business and Professions Code.

HISTORY:

1. New section filed 12-23-2015; operative 12-23-2015 pursuant to Government Code section 11343.4(b)(3) (Register 2015, No. 52). For prior history, see Register 2009, No. 41.
2. Amendment of first paragraph, new subsection (e) and amendment of Note filed 12-8-2022; operative 1-1-2023 pursuant to Government Code section 11343.4(b)(3) (Register 2022, No. 49).

§ 1399.54. Electromyography Certification Fees.

Pursuant to section 2689 of the code, fees for physical therapists certified to perform electromyography are fixed as follows:

(a) The application fee shall be \$100.00.

(b) The biennial renewal fee shall be \$50.00.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2689, Business and Professions Code.

HISTORY:

1. New section filed 11-17-78; effective thirtieth day thereafter (Register 78, No. 46).
2. Amendment filed 8-2-79; effective thirtieth day thereafter (Register 79, No. 31).
3. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
4. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
5. Amendment of subsection (a) filed 5-15-91; operative 6-14-91 (Register 91, No. 26).

ARTICLE 11. ELECTROMYOGRAPHY CERTIFICATION

§ 1399.60. Definitions.

As used in these regulations:

(a) “Electroneuromyography” means the performance of tissue penetration for the purpose of evaluating neuromuscular performance, and includes the evaluation of specific abnormal potentials and evoked responses.

(b) “Kinesiological electromyography” means the study, including tissue penetration, of the phasic activity of individual or multiple muscles in relation to another physical or physiological event or exercise and does not include the evaluation of specific abnormal potentials or evoked responses.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. New Article 11 (Sections 1399.60-1399.69, not consecutive) filed 11-17-78; effective thirtieth day thereafter (Register 78, No. 46).
2. Amendment of NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
3. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
4. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1399.61. Certification Required.

(a) No physical therapist shall perform tissue penetration for the purpose of making an electromyographical evaluation unless he or she is certified by the board to perform such tests or such practice is appropriately supervised pursuant to Sections 1399.63 or 1399.64 in order to meet the experience requirements for examination by the board for certification.

(b) No physical therapist who is certified to perform kinesiological electromyography shall perform electroneuromyographical evaluations without additional authorization from the board as indicated on his or her certification.

(c) No physical therapist who is certified to perform electroneuromyographical evaluations shall perform kinesiological electromyography without additional authorization from the board as indicated on his or her certification.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
2. New subsection (c) filed 8-29-94; operative 9-28-94 (Register 94, No. 35).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).

§ 1399.62. Application Required.

All applications for certification by the board in electromyography shall be on a form provided by the board which is accompanied by whatever documentation is required therein and the certification fee required in Section 1399.54 of these regulations.

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NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).

§ 1399.63. Requirements for Kinesiological Electromyography Certification.

In order to be examined by the board for certification in kinesiological electromyography an applicant shall meet the following requirements:

(a) Licensure. Be licensed as a physical therapist by the board.

(b) Training in Tissue Penetration. Provide evidence of training under a licensed physician or a physical therapist certified to perform electromyography, in tissue penetration for the purpose of evaluation of muscular or neuromuscular performance which shall include instruction and demonstrations in:

- (1) Pertinent anatomy and physiology,
- (2) Choice of equipment,
- (3) Proper technique,
- (4) Hazards and complications,
- (5) Post test care, and
- (6) Satisfactory performance by the trainee in the technical skills of tissue penetration.

Such training may be completed as part of the coursework obtained under subsection (c)(1) below.

(c) Education. Provide evidence of one of the following educational requirements:

(1) Completion of regular or extension coursework pertinent to electromyography obtained in a public university or state college or in a private postsecondary educational institution which is accredited or approved under Section 94310 of the Education Code for which academic credit is awarded or continuing education coursework, which is acceptable to the board. The curriculum vitae of the instructor, course outline, course objectives and evaluation mechanism of any extension or continuing education coursework which is presented by the applicant as meeting the requirements of this section shall be forwarded to the board upon request. Such coursework in order to qualify the applicant for certification shall include instruction in the following subject areas:

(A) Gross anatomy—the muscular system of the body with emphasis on the structural and cross sectional relationships.

(B) Neuroanatomy—organization and functional features of the central and peripheral nervous system.

(C) Nerve and muscle physiology—bioelectric currents and their characteristic wave forms and conduction over peripheral nerves.

(2) Completion of a period of self-study which prepares the applicant to pass an examination for certification in kinesiological electromyography. Evidence and documentation shall include a summarization of what matters were contained in the self-study including the applicant's clinical exposure to electromyography and any materials studied on that subject and the names and statements, of any proctors who may have supervised the applicant in electromyography;

(3) Authorization to perform electromyography issued by another state with similar requirements.

(d) Experience. Provide evidence of the following experience requirements:

(1) Completion of not less than 200 clock hours in kinesiological electromyography satisfactory to the board which provides a progressive level of training under a physical therapist certified in kinesiological electromyography in this state or another state which has similar requirements for certification, or under a licensed physician who is similarly qualified to perform and who performs kinesiological electromyography as part of his or her practice of medicine who is approved by the board.

(2) Documentation of completion of 50 kinesiological electromyographic examinations.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. New section filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
2. Amendment of subsections (c)(2) and (d)(2) filed 12-31-81; effective thirtieth day thereafter (Register 82, No. 1).
3. Amendment of subsections (c)(2) and (d)(2) filed 5-20-85; effective thirtieth day thereafter (Register 85, No. 21).
4. Amendment of subsections (b) and (d)-(d)(1), repealer of designation of subsections (d)(1)(A)-(C), repealer of subsection (d)(1)(B), repealer of designation of subsection (d)(2)(A) and repealer of subsections (d)(2)(B)-(C) filed 8-29-94; operative 9-28-94 (Register 94, No. 35).
5. Change without regulatory effect amending first paragraph and subsections (c)(1) and (d)(1) filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).

§ 1399.64. Requirements for Electroneuromyography Authorization.

In order to be examined by the board for additional authorization to perform electroneuromyographical examinations an applicant shall meet the following requirements:

(a) Comply with Section 1399.63, subsections (a) and (b).

(b) Education. Provide evidence of one of the following education requirements:

(1) In addition to that coursework required in Section 1399.63, subsection (c)(1), completion of the following additional coursework which meets the requirements of that section in the following subject areas:

(A) Neuroanatomy which also emphasizes the course of peripheral nerves and patterns of innervation.

(B) Clinical neurology, myology and pathology—identification of clinical characteristics of neurogenic and myogenic disorders.

(C) Physical science of electroneuromyography—basic electrophysiology and the identification and recording of bioelectric signals.

(D) Clinical science of electroneuromyography—knowledge and procedures of patient evaluation and examination, including electromyographic and nerve conduction velocity studies, and training in tissue penetration.

(2) Completion of a period of self-study which prepares the applicant to pass a supplemental examination for additional certification to perform electroneuromyographical examination. Evidence and documentation shall include a summarization of what matters were contained in the self-study including the applicant's clinical exposure to electroneuromyography and

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any materials studied on that subject and the name and statements, of any proctors who may have supervised the applicant in electroneuromyography.

(3) Authorization to perform electroneuromyographical examinations issued by another state with similar requirements.

(c) Experience. Provide evidence of the following experience requirements:

(1) Completion of not less than 400 clock hours in electroneuromyography, satisfactory to the board which provides a progressive level of training under (A) a physical therapist authorized to perform electroneuromyography, in this state or, (B) under a licensed physical therapist in another state which has similar requirements for certification, who is authorized to perform electroneuromyography or who is certified by the American Board of Physical Therapy Specialists as an electrophysiological clinical specialist, or (C) under a licensed physician who is similarly qualified to perform and who performs electroneuromyography, as part of his or her practice of medicine.

(2) Documentation of completion of 200 electroneuromyographic examinations.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. Repealer and new section filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
2. Amendment of subsections (b)(2) and (c)(2) filed 12-31-81; effective thirtieth day thereafter (Register 82, No. 1).
3. Amendment of subsection (c)(1) filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
4. Amendment of subsections (b)(2) and (c)(2) filed 5-20-85; effective thirtieth day thereafter (Register 85, No. 21).
5. Amendment of subsections (c)-(c)(1), repealer of designation of subsections (c)(1)(A)-(B) with textual amendments, repealer of designation of subsection (d)(2)(A) with textual amendment and repealer of subsection (d)(2)(B) filed 8-29-94; operative 9-28-94 (Register 94, No. 35).
6. Change without regulatory effect amending first paragraph and subsection (c)(1) filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).

§ 1399.65. Examination Required.

(a) All physical therapists applying for certification to perform kinesiological electromyography shall take and pass the examination referred to in Section 1399.66, which will be administered by the board.

(b) All physical therapists applying for certification to perform electroneuromyography shall take and pass the examination referred to in Section 1399.67, which will be administered by the board.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
2. Amendment of subsection (a) filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Repealer and new subsections (a) and (b) filed 8-29-94; operative 9-28-94 (Register 94, No. 35).
4. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
5. Amendment filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).

§ 1399.66. Examination Subject Areas—Kinesiological Electromyography.

The examination for certification in kinesiological electromyography shall test applicants in the following subject areas:

- (a) Basic science as related to kinesiological electromyography:
 - (1) Anatomy
 - (2) Electrophysiology
- (b) Clinical science as related to kinesiological electromyography:
 - (1) Pre-examination patient evaluation
 - (2) Instrumentation
 - (3) Kinesiological examination procedure and process.
- (c) Practical application of kinesiological electromyography:
 - (1) Needle/wire examination of muscles
 - (2) Handling of equipment
 - (3) Patient preparation and management
 - (4) Data collection, presentation and summarization.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

- 1. Repealer and new section filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
- 2. Repealer of subsection (a)(2) and subsection redesignation, amendment of subsections (b)(1) and (c)-(c)(1) filed 8-29-94; operative 9-28-94 (Register 94, No. 35).

§ 1399.67. Examination Subject Areas—Electroneuromyography.

The examination for certification in electroneuromyography shall test applicants in the following subject areas:

- (a) Basic science as related to electroneuromyography:
 - (1) Anatomy
 - (2) Electrophysiology
 - (3) Neuromuscular pathology.
- (b) Clinical science as related to electroneuromyography:
 - (1) Instrumentation
 - (2) Pre-examination patient evaluation
 - (3) Examination procedure and process
 - (4) Interpretation and recording of examination records and data.
- (c) Practical application of electroneuromyography:
 - (1) Needle examination of muscles
 - (2) Motor and sensory nerve conduction velocity examinations.
 - (3) Handling of equipment
 - (4) Patient preparation and management
 - (5) Data collection, presentation and summarization.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

- 1. New section filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
- 2. Amendment filed 8-29-94; operative 9-28-94 (Register 94, No. 35).

§ 1399.68. Certification Renewal.

All certificates to perform electromyography shall be renewed concurrently with each holder's physical therapist license.

§ 1399.69 PROFESSIONAL & VOCATIONAL REGULATIONS

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
2. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).
4. Amendment filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).

§ 1399.69. Suspension or Revocation of Certificates.

(a) Any certificate to perform electromyography may be suspended or revoked or have probationary conditions imposed thereon by the board as directed by the board after proceedings held in accordance to the Administrative Procedure Act (Section 11500 et seq. of the Government Code) for any violation of this article, the Physical Therapy Regulations or Section 2660 of the code.

(b) It shall constitute unprofessional conduct and a violation of these rules for a physical therapist certified to perform kinesiological electromyography only to perform electroneuromyography without additional authorization obtained from the board, unless such practice is appropriately supervised pursuant to Section 1399.64 in order to meet the experience requirements for examination by the board for such additional authorization.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 4-16-79; effective thirtieth day thereafter (Register 79, No. 16).
2. Amendment filed 12-17-80; effective thirtieth day thereafter (Register 80, No. 51).
3. Amendment filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
4. Change without regulatory effect amending section filed 9-11-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 37).

§ 1399.70. Electromyography Reports.

The findings reported to the patient's physician shall include the following statement:

"This study has been performed in accordance with the Physical Therapy Practice Act (Chapter 5.7 of Division 2 of the Business and Professions Code) and with the Physical Therapy Regulations (Title 16, California Code of Regulations, Division 13.2). The findings in this report do not represent diagnostic interpretations or medical diagnoses. The results of the electromyographic examination by the certified electromyographer are intended for integration by the physician and surgeon with the patient's history, clinical examination, and the results of any other tests performed in establishing a medical diagnosis."

NOTE: Authority cited: Sections 2615 and 2620.5, Business and Professions Code. Reference: Section 2620.5, Business and Professions Code.

HISTORY:

1. New section filed 6-15-2004; operative 7-15-2004 (Register 2004, No. 25).

ARTICLE 12. TOPICAL MEDICATIONS

§ 1399.75. Compliance with Regulations.

A physical therapist may apply or administer topical medications to a patient as set forth in this article.

NOTE: Authority cited: Sections 2615 and 2620.3, Business and Professions Code. Reference: Section 2620.3, Business and Professions Code.

HISTORY:

1. New Article 12 (Sections 1399.75-1399.79) filed 2-11-81; effective thirtieth day thereafter (Register 81, No. 7).

§ 1399.76. Topical Medications Defined.

As used in this article “topical medications” means medications applied locally to the skin or underlying tissue where there is a break in or absence of the skin where such medications require a prescription or order under federal or state law.

NOTE: Authority cited: Sections 2615 and 2620.3, Business and Professions Code. Reference: Section 2620.3, Business and Professions Code.

§ 1399.77. Administration of Medications.

Topical medications may be administered by a physical therapist by:

- (a) Direct application;
- (b) Iontophoresis; or
- (c) Phonophoresis.

NOTE: Authority cited: Sections 2615 and 2620.3, Business and Professions Code. Reference: Section 2620.3, Business and Professions Code.

§ 1399.78. Authorization and Protocols Required.

Topical medications shall be applied or administered by a physical therapist in accordance with this section.

(a) Any topical medication applied or administered shall be ordered on a specific or standing basis by a practitioner legally authorized to order or prescribe such medication.

(b) Written protocols shall be prepared for the administration or application of each of the groups of medications listed in Section 1399.79 for which a prescription is required under Federal or State law, which shall include a description of the medication, its actions, its indications and contraindications, and the proper procedure and technique for the application or administration of medication.

NOTE: Authority cited: Sections 2615 and 2620.3, Business and Professions Code. Reference: Section 2620.3, Business and Professions Code.

HISTORY:

1. Amendment of Note filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).

§ 1399.79 PROFESSIONAL & VOCATIONAL REGULATIONS

§ 1399.79. Authorized Topical Medications.

A physical therapist may apply or administer those topical medications listed in this section in accordance with the provisions of this article:

- (a) Bacteriocidal agents;
- (b) Debriding agents;
- (c) Topical anesthetic agents;
- (d) Anti-inflammatory agents;
- (e) Antispasmodic agents; and
- (f) Adrenocortico-steroids.

NOTE: Authority cited: Sections 2615 and 2620.3, Business and Professions Code. Reference: Section 2620.3, Business and Professions Code.

HISTORY:

1. Amendment of subsection (f) and Note filed 3-8-2000; operative 4-7-2000 (Register 2000, No. 10).

ARTICLE 13. CONTINUING COMPETENCY REQUIREMENTS AND INACTIVE LICENSE STATUS

§ 1399.90. Definitions.

For purposes of this article, the following terms have the following meanings:

- (a) “ABPTS” means the American Board of Physical Therapy Specialists.
- (b) “Accredited institution” means an educational institution accredited by the United States Department of Education or by the regulatory authority of any state.
- (c) “Approval agency” means an entity that reviews and approves providers of continuing education courses and is recognized by the board pursuant to section 1399.95.
- (d) “Approved provider” means a person or entity that offers, sponsors or provides continuing education courses and that is either approved pursuant to section 1399.96 or is an accredited institution.
- (e) “APTA” means the American Physical Therapy Association.
- (f) “CPTA” means the California Physical Therapy Association.
- (g) “Hour” is the unit of measurement for continuing competency and, for courses, means at least 50 minutes of instruction.
- (h) “FSBPT” means the Federation of State Boards of Physical Therapy.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Section 2644, Business and Professions Code.

HISTORY:

1. New article 13 (sections 1399.90-1399.99) and section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.91. Continuing Competency Required.

(a) As required by this article, a licensee must accumulate 30 hours of continuing competency hours in each license cycle. A licensee must submit evidence of completing those hours to the board in order to renew his or her license. In order to implement this requirement:

(1) For licenses that expire between October 31, 2010 and October 31, 2011, if the renewal is submitted prior to the expiration of the original license, 15 hours of continuing competency shall be completed.

(2) For licenses that expire on and after November 1, 2011, the full 30 hours shall be completed.

(b) For first-time license renewals, if the renewal is submitted prior to the expiration of the original license, the continuing competency hour requirements shall be one-half of the normal cycle. The requirements of 1399.93 shall apply to any renewal under this subsection.

(c) For those licensees accumulating “continuing education units” or “CEUs” under the continuing education requirements of APTA and CPTA, one CEU is equal to ten hours.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.92. Content Standards for Continuing Competency.

Continuing competency hours must be obtained in subjects related to either the professional practice of physical therapy or patient/client management.

(a) The professional practice of physical therapy includes but is not limited to professional accountability, professional behavior and professional development.

(b) Patient/client management includes but is not limited to examination, evaluation and diagnosis and prognosis; plan of care; implementation; education; and discharge.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.93. Continuing Competency Subject Matter Requirements and Other Limitations.

For each renewal cycle, a licensee’s continuing competency hours must include the following:

(a) Two hours in ethics, laws and regulations, or some combination thereof, and

(b) Four hours in life support for health care professionals. Such training should be comparable to, or more advanced than, the American Heart Association’s Basic Life Support Health Care Provider course.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.94 PROFESSIONAL & VOCATIONAL REGULATIONS

§ 1399.94. Authorized Pathways for Obtaining Hours.

Continuing competency hours must be obtained through an authorized pathway, which may be either traditional or alternate.

(a) Traditional pathways are those offered by an approved provider. There is no limit to the number of hours which may be accumulated through traditional pathways. The traditional pathways are:

(1) Continuing education courses, including home and self-study courses, approved through an agency recognized by the board under the provisions of regulation section 1399.95; and

(2) College coursework from an accredited institution.

(b) Alternate pathways are those offered by an entity other than an approved provider. Only those alternate pathways described in this section may be used to accumulate continuing competency hours. The number of alternate pathway hours that may be applied for a renewal cycle may not exceed any cap noted below. Hours may be granted only in accordance with the conversion formula for each alternate pathway noted below.

Alternate Pathways

	<i>Description</i>	<i>Cap</i>	<i>Conversion</i>
(A)	Publishing a peer-reviewed journal article, case study, or book chapter.	16 hours	5 hours per article, study or chapter
(B)	Developing or presenting an approved college or continuing education course for the first time.	16 hours	4 hours for each course
(C)	Participating as a subject matter expert in the examination process for the Board, FSBPT, or ABPTS.	16 hours	6 hours per experience
(D)	Serving on a Board appointed task force.	16 hours	6 hours per experience
(E)	Performing in a role as a clinical instructor where the student's clinical experience is full time and lasts at least 4 weeks. Effective January 1, 2013, the clinical instructor must be credentialed by APTA or hold a substantially similar credential.	12 hours	1 hour per week

	<i>Description</i>	<i>Cap</i>	<i>Conversion</i>
(F)	Attending a conference relating to the practice of physical therapy where proof of attendance is provided by the conference sponsor.	8 hours	2 hours per conference
(G)	Attending a conference offered by FSBPT, APTA, or a component thereof.	8 hours	4 hours per conference
(H)	Attending a Board meeting.	8 hours	2 hours per meeting
(I)	Completing a FSBPT practice review tool.	6 hours	6 hours per experience
(J)	Successfully passing one of the American Board of Physical Therapy Specialties' certified specialist examinations, including re-certification examinations.	6 hours	6 hours per examination
(K)	Completing training as an expert consultant for the Board.	6 hours	6 hours per training
(L)	Successfully passing the Board's California Law Examination.	2 hours	2 hours per examination

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending subsections (a)(1)-(2) filed 9-21-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 39).
3. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.95. Standards for Approval Agencies.

(a) An approval agency may be recognized by the board only if the approval agency has met the standards in this section. Once recognized, an approval agency may approve a provider operating consistent with section 1399.96.

(b) Each approval agency must have the capacity to evaluate each course offered by a provider in accordance with section 1399.96 and shall conduct audits of at least 10% of its approved providers' courses to ensure compliance with this article.

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(c) Each approval agency has a procedure for periodic review of courses to ensure content quality and currency.

(d) Each approval agency shall have a procedure to respond to complaints.

(e) Each approval agency shall provide services to all persons or entities without unlawful discrimination.

(f) Each approval agency that also offers continuing education courses directly to a licensee shall have a means to avoid a conflict of interest between its function as a provider and its function as an approval agency.

(g) Each approval agency offering retroactive approval for a course must evaluate the course for compliance with the standards relating to courses found in 1399.96. The approval agency shall comply with the record retention requirements of 1399.96(j).

(h) Upon written confirmation from the board that an approval agency has been recognized, the approval agency may advertise that it has been recognized by the board.

(i) The board may require the approval agency to submit records demonstrating its compliance with this article.

(j) Failure of an approval agency to substantially comply with the provisions as set forth in this section, or a material misrepresentation to the board, shall constitute cause for withdrawal of recognition by the board. Recognition can be revoked only by the members of the board, after written notice setting forth the reasons for withdrawal and after affording a reasonable opportunity for the approval agency to be heard.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.96. Standards for Approved Providers.

Before it may approve a provider, the approval agency shall require that the provider adhere to the following requirements:

(a) Topics and subject matter for each course shall be pertinent to the practice of physical therapy as required by section 1399.92.

(b) Instructors for each course shall be competent in the subject matter and shall be qualified by appropriate education, training, experience, scope of practice or licensure.

(c) Each course shall have a syllabus that includes learning objectives, bibliography and either a schedule, for courses offered in-person, or an outline, for courses offered online.

(d) Each course shall have written educational goals and specific learning objectives which are measurable and which serve as a basis for an evaluation of the effectiveness of the course.

(e) When an approved provider works with others on the development, distribution and/or presentation of a continuing education course (joint sponsorship), there shall be procedures to identify and document the functions of each participating party.

(f) Each approved provider shall periodically review its courses to ensure content quality and currency.

(g) Each participant shall be given the opportunity to evaluate each course and offer feedback to the approved provider. The approved provider shall consider any such evaluations for the purpose of updating or revising courses.

(h) Each approved provider has a procedure to respond to complaints.

(i) Each approved provider provides services to all licensees without unlawful discrimination.

(j) Each approved provider shall maintain records regarding course content and licensee attendance for a minimum of seven years.

(k) Each approved provider and instructor shall disclose any financial interest in products recommended during a course.

(l) Each approved provider shall provide a certificate of completion to attendees.

(m) Each approved provider shall ensure that any information it disseminates publicizing its continuing education courses is true and not misleading. Such information shall include a statement with the name of the approval agency, that such agency may be contacted about any concerns, any approved provider identification number, and the number of hours for which the course has been approved.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.97. Record Keeping.

(a) Each licensee shall keep and maintain records showing that each course or activity for which credit is claimed has been completed. Those records shall reflect the title of the course or activity, the date taken or completed, and the record of participation.

(b) Each licensee shall retain such documentation for a period of five years after the course or activity concludes.

(c) Each licensee shall provide copies of such documentation to the board or its designee upon request.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).
2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.98. Inactive Status.

(a) Upon written request, the board may grant inactive status to a licensee if, at the time of application for inactive status, the license is current and not suspended, revoked, or otherwise punitively restricted by the board.

(b) The licensee shall not engage in any activity for which a license is required.

(c) An inactive license shall be renewed during the same time period in which an active license or certificate is renewed. Any continuing education requirements for renewing a license are waived.

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(d) The renewal fee for an inactive license is the same as the fee to renew an active license.

(e) To restore an inactive license to an active status, the holder shall do both of the following:

(1) Pay the renewal and any continuing competency fees.

(2) Complete continuing education equivalent to that required for a single renewal period of an active license within the last two years prior to applying to restore the license to active status.

(f) The inactive status of any licensee does not deprive the board of its authority to institute or continue any disciplinary or enforcement action against the licensee.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 700, 701, 702, 703, 704, 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).

2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

§ 1399.99. Exemption from Continuing Competency Requirements.

At the time of applying for renewal of a license, a licensee may request an exemption from the continuing competency requirements. The request for exemption must provide the following information:

(a) Evidence that during the renewal period prior to the expiration of the license, the licensee was residing in another country for one year or longer, reasonably preventing completion of the continuing competency requirements; or

(b) Evidence that the licensee was absent from California because of military service for a period of one year or longer during the renewal period, preventing completion of the continuing competency requirements; or

(c) Evidence that the licensee should be exempt from the continuing competency requirements for reasons of health or other good cause which include:

(1) Total physical and/or mental disability for one (1) year or more during the renewal period and the inability to work during this period has been verified by a licensed physician or surgeon or licensed clinical psychologist; or

(2) Total physical and/or mental disability for one (1) year or longer of an immediate family member for whom the licensee had total responsibility, as verified by a licensed physician or surgeon or licensed clinical psychologist.

(d) An exemption under this section shall not be granted for two consecutive renewal periods. In the event a licensee cannot complete continuing competency requirements following an exemption, the licensee may only renew the license in an inactive status.

NOTE: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

HISTORY:

1. New section filed 10-7-2009; operative 11-6-2009 (Register 2009, No. 41).

2. Change without regulatory effect amending Note filed 7-6-2017 pursuant to section 100, title 1, California Code of Regulations (Register 2017, No. 27).

ARTICLE 14. SPONSORED FREE HEALTH CARE EVENTS — REQUIREMENTS FOR EXEMPTION [REPEALED]

§ 1399.99.1. Definitions. [Repealed]

NOTE: Authority cited: Sections 901 and 2615, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY:

1. New article 14 (sections 1399.99.1-1399.99.4) and section filed 1-15-2013; operative 4-1-2013 (Register 2013, No. 3).
2. Editorial correction of History 1 (Register 2013, No. 4).
3. Change without regulatory effect repealing article 14 (sections 1399.99.1-1399.99.4) and repealing section filed 4-13-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 15).

§ 1399.99.2. Sponsoring Entity Registration and Recordkeeping Requirements. [Repealed]

NOTE: Authority cited: Sections 901 and 2615, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY:

1. New section filed 1-15-2013; operative 4-1-2013 (Register 2013, No. 3).
2. Change without regulatory effect amending subsections (a) and (b) filed 8-28-2014 pursuant to section 100, title 1, California Code of Regulations (Register 2014, No. 35).
3. Change without regulatory effect repealing section filed 4-13-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 15).

§ 1399.99.3. Out-of-State Practitioner Authorization to Participate in Sponsored Event) Request for Authorization to Participate. [Repealed]

NOTE: Authority cited: Sections 901 and 2615, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY:

1. New section filed 1-15-2013; operative 4-1-2013 (Register 2013, No. 3).
2. Change without regulatory effect repealing section filed 4-13-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 15).

§ 1399.99.4. Termination of Authorization and Appeal. [Repealed]

NOTE: Authority cited: Sections 901 and 2615, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY:

1. New section filed 1-15-2013; operative 4-1-2013 (Register 2013, No. 3).
2. Change without regulatory effect repealing section filed 4-13-2022 pursuant to section 100, title 1, California Code of Regulations (Register 2022, No. 15).

HEALTH AND SAFETY CODE

DIVISION 106

PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT)

HISTORY: Added Stats 1995 ch 415 § 8.

PART 1

GENERAL ADMINISTRATION

HISTORY: Added Stats 1995 ch 415 § 8.

CHAPTER 1

PATIENT ACCESS TO HEALTH RECORDS

HISTORY: Added Stats 1995 ch 415 § 8.

§ 123100. Legislative findings and declarations

The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patient's condition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123105. Definitions

As used in this chapter:

(a) "Health care provider" means any of the following:

(1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.

(5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.

(6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.

(9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.

(10) A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(12) A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.

(13) An occupational therapist licensed pursuant to Chapter 5.6 (commencing with Section 2570).

(14) A professional clinical counselor licensed pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(15) A speech-language pathologist or audiologist licensed pursuant to Chapter 5.3 (commencing with Section 2530) of Division 2 of the Business and Professions Code.

(16) A physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

(17) A nurse practitioner licensed pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.

(c) "Patient" means a patient or former patient of a health care provider.

(d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.

(e) "Patient's representative," "patient's personal representative," or "representative" means any of the following:

(1) A parent or guardian of a minor who is a patient.

- (2) The guardian or conservator of the person of an adult patient.
- (3) An agent as defined in Section 4607 of the Probate Code, to the extent necessary for the agent to fulfill the duties set forth in Division 4.7 (commencing with Section 4600) of the Probate Code.
- (4) The beneficiary as defined in Section 24 of the Probate Code or personal representative as defined in Section 58 of the Probate Code, of a deceased patient.
- (f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360). Amended Stats 2002 ch 1013 § 89 (SB 2026), ch 1150 § 49 (SB 1955); Stats 2006 ch 249 § 1 (SB 1307), effective January 1, 2007; Stats 2009 ch 307 § 105 (SB 821), effective January 1, 2010; Stats 2011 ch 381 § 33 (SB 146), effective January 1, 2012; Stats 2017 ch 513 § 1 (SB 241), effective January 1, 2018; Stats 2020 ch 101 § 1 (AB 2520), effective January 1, 2021.

§ 123110. Inspection of records; Copying of records; Violations; Construction of section

(a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient's personal representative shall be entitled to inspect patient records upon presenting to the health care provider a request for those records and upon payment of reasonable costs, as specified in subdivision (j). However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the request. The inspection shall be conducted by the patient or patient's personal representative requesting the inspection, who may be accompanied by one other person of their choosing.

(b)(1) Additionally, any patient or patient's personal representative shall be entitled to a paper or electronic copy of all or any portion of the patient records that they have a right to inspect, upon presenting a request to the health care provider specifying the records to be copied, together with a fee to defray the costs of producing the copy or summary, as specified in subdivision (j). The health care provider shall ensure that the copies are transmitted within 15 days after receiving the request.

(2) The health care provider shall provide the patient or patient's personal representative with a copy of the record in the form and format requested if it is readily producible in the requested form and format, or, if not, in a readable paper copy form or other form and format as agreed to by the health care provider and the patient or patient's personal representative. If the requested patient records are maintained electronically and if the patient or patient's personal representative requests an electronic copy of those records, the health care provider shall provide them in the electronic form and format requested if they are readily producible in that form and format, or, if not, in a readable electronic form and format as agreed to by the health care provider and the patient or patient's personal representative.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's personal representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's personal representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d)(1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, a patient, employee of a nonprofit legal services entity representing the patient, or the personal representative of a patient, is entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records or supporting forms are needed to support a claim or appeal regarding eligibility for a public benefit program, a petition for U nonimmigrant status under the Victims of Trafficking and Violence Protection Act, or a self-petition for lawful permanent residency under the Violence Against Women Act. A public benefit program includes the Medi-Cal program, the In-Home Supportive Services Program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, Social Security Disability Insurance benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits, federal veterans service-connected compensation and nonservice connected pension disability benefits, CalFresh, the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants, and a government-funded housing subsidy or tenant-based housing assistance program.

(2) Although a patient shall not be limited to a single request, the patient, employee of a nonprofit legal services entity representing the patient, or patient's personal representative shall be entitled to no more than one copy of any relevant portion of their record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's claim or appeal, pending the outcome of that claim or appeal. For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If a patient, employee of a nonprofit legal services entity representing the patient, or the patient's personal representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(f) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. This section does not supersede any rights that a patient or personal representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. This chapter does not require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(g)(1) This chapter shall not be construed to render a health care provider liable for the quality of their records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

(2) Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(h) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(i) This section prohibits a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services is subject to the sanctions specified in subdivision (h).

(j)(1) Except as provided in subdivision (d), a health care provider may impose a reasonable, cost-based fee for providing a paper or electronic copy or summary of patient records, provided the fee includes only the cost of the following:

(A) Labor for copying the patient records requested by the patient or patient's personal representative, whether in paper or electronic form.

(B) Supplies for creating the paper copy or electronic media if the patient or patient's personal representative requests that the electronic copy be provided on portable media.

(C) Postage, if the patient or patient's personal representative has requested the copy, or the summary or explanation, be mailed.

(D) Preparing an explanation or summary of the patient record, if agreed to by the patient or patient's personal representative.

(2) The fee from a health care provider shall not exceed twenty-five cents (\$0.25) per page for paper copies or fifty cents (\$0.50) per page for records that are copied from microfilm.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360). Amended Stats 2001 ch 325 § 1 (AB 1311); Stats 2017 ch 513 § 2 (SB 241), effective January 1, 2018; Stats 2017 ch 626 § 1.5 (SB 575), effective January 1, 2018

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(ch 626 prevails); Stats 2020 ch 101 § 2 (AB 2520), effective January 1, 2021; Stats 2023 ch 294 § 31 (SB 815), effective January 1, 2024.

§ 123111. Patient's addendum to records

(a) A patient who inspects his or her patient records pursuant to Section 123110 has the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient requests the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum if the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (i) of Section 123110 and Section 123120 are applicable with respect to any violation of this section by a health care provider.

HISTORY:

Added Stats 2000 ch 1066 § 4 (SB 1903). Amended Stats 2001 ch 159 § 138 (SB 662); Stats 2018 ch 275 § 1 (AB 2088), effective January 1, 2019.

§ 123114. Providing information responsive to forms that support a claim form eligibility for a public benefit program

(a) A health care provider shall not charge a fee to a patient for filling out forms or providing information responsive to forms that support a claim or appeal regarding eligibility for a public benefit program.

(b) A health care provider shall provide information responsive to those portions of the form for which the health care provider has the information necessary to provide a medical opinion. If the health care provider does not have the information necessary to provide a medical opinion, the health care provider may inform the patient if an examination is necessary to obtain the information.

(c) If a health care provider conducts an examination pursuant to subdivision (b), the health care provider shall provide information responsive to those portions of the form for which the health care provider has a medical opinion.

(d) For the purposes of this section, a public benefit program includes the Medi-Cal program, the In-Home Supportive Services Program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, Social Security Disability Insurance benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits, federal veterans service-connected compensation and nonservice connected pension disability benefits, discharge of a federal student loan based on total and permanent disability, CalFresh, the Cash Assistance Program for Aged,

Blind, and Disabled Legal Immigrants, and a government-funded housing subsidy or tenant-based housing assistance program.

(e) Notwithstanding any other law, a health care provider may honor a request to disclose a patient record or complete a public benefit form that contains the written or electronic signature of the patient or the patient's personal representative.

HISTORY:

Added Stats 2020 ch 101 § 3 (AB 2520), effective January 1, 2021.

§ 123115. Representatives of minors; Risks of adverse consequences to patient in inspecting records

(a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records, including clinical notes, in any of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) When the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection or copying under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(3) When records relate to services described in Section 6924, 6925, 6926, 6927, 6928, 6929, or 6930 of the Family Code, or Section 121020 or 124260 of this code, when obtained by a patient who has the mental capacity to provide consent and is at or above the minimum age for consenting to the service specified in the respective section.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2)(A) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or licensed professional clinical counselor, designated by request of the patient.

(B) Any person registered as a marriage and family therapist intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (g) of Section

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4980.03 of the Business and Professions Code. Prior to providing copies of mental health records to a registered marriage and family therapist intern, a receipt for those records shall be signed by the supervising licensed professional.

(C) Any person registered as a clinical counselor intern, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code. Prior to providing copies of mental health records to a person registered as a clinical counselor intern, a receipt for those records shall be signed by the supervising licensed professional.

(D) A licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, registered marriage and family therapist intern, or person registered as a clinical counselor intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit them to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or licensed professional clinical counselor designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360). Amended Stats 1997 ch 388 § 1 (SB 1295); Stats 2000 ch 519 § 2 (AB 2161); Stats 2006 ch 100 § 1 (AB 1994), effective January 1, 2007; Stats 2009 ch 26 § 25 (SB 33), effective January 1, 2010; Stats 2011 ch 381 § 34 (SB 146), effective January 1, 2012; Stats 2022 ch 888 § 2 (SB 1419), effective January 1, 2023.

§ 123120. Action to enforce right to inspect or copy

Any patient or representative aggrieved by a violation of Section 123110 may, in addition to any other remedy provided by law, bring an action against the health care provider to enforce the obligations prescribed by Section 123110. Any judgment rendered in the action may, in the discretion of the court, include an award of costs and reasonable attorney fees to the prevailing party.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123125. Exception for alcohol, drug abuse and communicable disease carrier records

(a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act

of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123130. Preparation of summary of record; Conference with patient

(a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patient's request. However, if more time is needed because the record is of extraordinary length or because the patient was discharged from a licensed health facility within the last 10 days, the health care provider shall notify the patient of this fact and the date that the summary will be completed, but in no case shall more than 30 days elapse between the request by the patient and the delivery of the summary. In preparing the summary of the record the health care provider shall not be obligated to include information that is not contained in the original record.

(b) A health care provider may confer with the patient in an attempt to clarify the patient's purpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following:

- (1) Chief complaint or complaints including pertinent history.
- (2) Findings from consultations and referrals to other health care providers.
- (3) Diagnosis, where determined.
- (4) Treatment plan and regimen including medications prescribed.
- (5) Progress of the treatment.
- (6) Prognosis including significant continuing problems or conditions.
- (7) Pertinent reports of diagnostic procedures and tests and all discharge summaries.
- (8) Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

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(c) This section shall not be construed to require any medical records to be written or maintained in any manner not otherwise required by law.

(d) The summary shall contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the provider.

(e) Subdivision (c) of Section 123110 shall be applicable whether or not the health care provider elects to prepare a summary of the record.

(f) The health care provider may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary. The cost shall be based on a computation of the actual time spent preparing the summary for availability to the patient or the patient's representative. It is the intent of the Legislature that summaries of the records be made available at the lowest possible cost to the patient.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123135. Construction of chapter

Except as otherwise provided by law, nothing in this chapter shall be construed to grant greater access to individual patient records by any person, firm, association, organization, partnership, business trust, company, corporation, or municipal or other public corporation, or government officer or agency. Therefore, this chapter does not do any of the following:

(a) Relieve employers of the requirements of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(b) Relieve any person subject to the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code) from the requirements of that act.

(c) Relieve government agencies of the requirements of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123140. The Information Practices Act of 1977; Prevailing law respecting records

The Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) shall prevail over this chapter with respect to records maintained by a state agency.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123145. Preservation of records after licensee ceases operation; Action for abandonment of records

(a) Providers of health services that are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the

patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years.

(b) The department or any person injured as a result of the licensee's abandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof. In the event that the licensee is a corporation or partnership that is dissolved, the person injured may take action against that corporation's or partnership's principle officers of record at the time of dissolution.

(c) Abandoned means violating subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 123110.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123147. Patient's principal spoken language to be included on health records; Compliance with Welfare & Institutions Code § 14110.15 deemed sufficient

(a) Except as provided in subdivision (b), all health facilities, as defined in Section 1250, and all primary care clinics that are either licensed under Section 1204 or exempt from licensure under Section 1206, shall include a patient's principal spoken language on the patient's health records.

(b) Any long-term health care facility, as defined in Section 1418, that already completes the minimum data set form as specified in Section 14110.15 of the Welfare and Institutions Code, including documentation of a patient's principal spoken language, shall be deemed to be in compliance with subdivision (a).

HISTORY:

Added Stats 2005 ch 313 § 1 (AB 800), effective January 1, 2006.

§ 123148. Report to patient of results of test

(a) Notwithstanding any other law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be disclosed in plain language and in oral or written form, except the results may be disclosed in electronic form if requested by the patient unless deemed inappropriate by the health care professional who requested the test. The telephone shall not be considered an electronic form of disclosing test results subject to the limits on electronic disclosure of test results for the purpose of this section.

(b)(1) Consent of the patient to receive their test results by internet posting or other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. In the event that a health care professional arranges for the provision of test results by internet posting or other electronic manner, the results shall be disclosed to a patient in a reasonable time period. Access to test results shall be restricted by the use of a secure personal identification number when the results are disclosed to a patient by internet posting or other electronic manner.

(2) Paragraph (1) shall not prohibit direct communication by internet posting or the use of other electronic means to disclose test results by a treating health care professional who ordered the test for their patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test.

(c) When a patient requests access to their test results by internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d) The electronic disclosure of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute that governs privacy and security of electronic personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e) The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record, and shall be reported to the patient within a reasonable time period after the test results are received by the health care professional who requested the test.

(f) Notwithstanding subdivision (a), unless the patient requests the disclosure, the health care professional deems this disclosure as an appropriate means, and a health care professional has first discussed in person, by telephone, or by any other means of oral communication, the test results with the patient, in compliance with any other applicable laws, none of the following test results and any other related results shall be disclosed to a patient by internet posting or other electronic means:

(1)(A) A positive HIV test, unless an HIV test subject is anonymously tested and the test result is posted on a secure internet website and can only be viewed with the use of a secure code that can access only a single set of test results and that is provided to the patient at the time of testing. The test result shall be posted only if there is no link to any information that identifies or refers to the subject of the test and the information required pursuant to subdivision (h) of Section 120990 is provided.

(B) Subparagraph (A) does not prevent the disclosure of HIV test results, including viral load and CD4 count test results, to a patient living with HIV by secure internet website or other electronic means if the patient has previously been informed about the results of a positive HIV test pursuant to the requirements of this section.

(2) Presence of antigens indicating a hepatitis infection.

(3) Abusing the use of drugs.

(4) Test results related to routinely processed tissues and imaging scans that reveal a new or recurrent malignancy.

(g) Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code. In no event shall patient identifiable HIV-related test results and health information disclosed in this section be used in violation of subdivision (f) of Section 120980.

(h) A third party to whom test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i) A patient may not be required to pay a cost, or be charged a fee, for electing to receive their test results in a manner other than by internet posting or other electronic form.

(j) A patient or their physician may revoke consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

(k) As used in this section, “test” applies to both clinical laboratory tests and imaging scans, such as x-rays, magnetic resonance imaging, ultrasound, or other similar technologies.

(l) As used in this section, “internet posting” includes posting to an online patient portal.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360). Amended Stats 2001 ch 529 § 1 (AB 1490); Stats 2002 ch 128 § 1 (AB 2831); Stats 2012 ch 698 § 1 (AB 2253), effective January 1, 2013; Stats 2013 ch 589 § 3 (AB 446), effective January 1, 2014; Stats 2022 ch 888 § 3 (SB 1419), effective January 1, 2023.

§ 123149. Requirements for providers of health services utilizing electronic recordkeeping systems only

(a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.

(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.

(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.

(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.

(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.

(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be electronically stored.

(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and

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procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.

(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.

(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.

HISTORY:

Added Stats 1995 ch 415 § 8 (SB 1360).

§ 123149.5. Telehealth medical records

(a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telehealth, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

HISTORY:

Added Stats 1996 ch 864 § 8 (SB 1665). Amended Stats 2012 ch 782 § 8 (AB 1733), effective January 1, 2013.

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