

AMENDED IN ASSEMBLY AUGUST 1, 2002

AMENDED IN ASSEMBLY JUNE 20, 2002

AMENDED IN ASSEMBLY JUNE 17, 2002

AMENDED IN SENATE MAY 20, 2002

AMENDED IN SENATE MAY 2, 2002

SENATE BILL

No. 1950

Introduced by Senator Figueroa

February 22, 2002

An act to amend Sections 800, 801, *801.1*, *802*, 803.1, 2001, 2008, 2013, 2020, 2027, 2052, 2227, 2234, *2313*, 2350, *2435*, 2507, and 3504 of, to add Sections ~~802.2~~, 802.3, 2135.5, 2220.05, 2220.08, 2246, and 3519.5 to, to add Chapter 1.6 (commencing with Section 920) to Division 2 of, to add and repeal Section 2220.1 of, and to repeal Section 2026 of, the Business and Professions Code, *and to amend Section 11371 of the Government Code*, relating to healing arts, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1950, as amended, Figueroa. Healing arts.

(1) Existing law, the Medical Practice Act, creates the Medical Board of California within the Department of Consumer Affairs. Under the act, the board, consisting of 19 members, is responsible through its Division of Licensing for the licensure of physicians and surgeons, and *for fixing the amount of the initial and biennial licensure fee at a sum not to exceed \$600. The act provides for the deposit of the fees into the Contingent Fund of the Medical Board of California, which is*

continuously appropriated. The act makes the practice of medicine without a license issued by the division is punishable as a misdemeanor offense. The act additionally makes the board responsible through its Division of Medical Quality, consisting of 12 members, for the regulation of the practice of physicians and surgeons. Under the act, the board is authorized to employ an executive director and other assistance in discharging its duties. Under existing law, the act's provisions creating the board and authorizing it to employ this assistance become inoperative on July 1, 2003, and are repealed on January 1, 2004.

This bill would extend the dates on which these provisions become inoperative and are repealed to, ~~respectively,~~ July 1, 2005, and January 1, 2006. The bill would increase the membership of the board and its Division of Medical Quality by 2 and would require the Director of Consumer Affairs to retain, prior to March 31, 2003, an enforcement program monitor who would evaluate, for a period of 2 years, the board's disciplinary system and report his or her findings to the Legislature, the board, and the Department of Consumer Affairs.

This bill would *provide for an unspecified increase in license fees paid into a continuously appropriated fund, thereby making an appropriation. The bill would also* revise certain licensure provisions pertaining to out-of-state practitioners and would ~~also revise those provisions to~~ allow a physician and surgeon whose license has been expired for less than 5 years and who meets specified criteria, to obtain licensure, without paying fees that would otherwise be associated with issuance of the license. The bill would additionally include mental illness as a basis for participation in a diversion program and would revise other diversion program requirements.

This bill would specify, with respect to disciplinary actions, that any proposed decision or decision issued in those proceedings finding that the physician and surgeon has engaged in specified sexual activity shall contain an order revoking his or her license. The bill would require the board to prioritize its investigative and prosecutorial resources in a specified manner and would require the board and the enforcement program monitor to report in its annual report certain information regarding priority cases. The bill would require that complaints involving quality of care contain certain information and be subject to *specified* expert review before being referred for further investigation. The bill would also authorize certain penalties against a licensee who has entered into a stipulation for disciplinary action. The bill would make a person who conspires with or aids or abets another in the



unlicensed practice of medicine guilty of a public offense and would increase the punishment that may be imposed for the commission of this offense by allowing imprisonment in the state prison and by increasing the allowable term of imprisonment in a county jail and the maximum amount of the fine.

Because the bill would create a new crime and would increase the allowable term of imprisonment in a county jail, it would impose a state-mandated local program.

(2) The Medical Practice Act provides for licensure of the practice of midwifery by the board's Division of Licensing and requires that the licensed midwife practice under the supervision of a licensed physician and surgeon.

This bill would require the board to adopt ~~emergency~~ regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery.

(3) Existing law, the Physician Assistant Practice Act, creates the Physician Assistant Committee within the Medical Board of California that, in conjunction with the board, licenses and regulates the practice of a physician assistant. The provisions creating the committee become inoperative on July 1, 2003, and are repealed on January 1, 2004.

This bill would extend the dates on which these provisions become inoperative and are repealed to, respectively, July 1, 2007, and January 1, 2008. The bill would authorize the committee, under the name of the board, to issue a probationary license to practice, subject to particular terms and conditions.

(4) Existing law requires every professional liability insurer to report either to the ~~board~~ *Medical Board of California* or to the Osteopathic Medical Board of *California* any settlement over \$30,000, and any arbitration award in any amount of a malpractice claim or action against a ~~physician or surgeon licensed by~~ *licensee* of that board. *Under existing law, a physician and surgeon who is uninsured is required to report this information to his or her licensing board, and a failure to comply with this requirement is punishable as a public offense.* Existing law also requires the ~~board~~ *Medical Board of California* and the California Board of Podiatric Medicine to disclose to an inquiring member of the public specified information concerning the practice status of their licensees, and the ~~board~~ *Medical Board of California* is additionally required to post this sort of information regarding its licensees on the board's Internet Web site.



This bill would ~~additionally~~ require a professional liability insurer to report a civil judgment in any amount of a malpractice action, whether or not the judgment was subsequently vacated by a settlement, that is not reversed on appeal and would include this information, as well as other specified data, among the items that the ~~board~~ *Medical Board of California* and the California Board of Podiatric Medicine are required to disclose to an inquiring member of the public. *The bill would specify the type of settlements the boards are required to disclose to the public and the manner of disclosure and would also make the Osteopathic Medical Board of California subject to these public disclosure requirements.* The bill would require the ~~board~~ *Medical Board of California* to post on its Internet Web site *specified information regarding licensees, including the material that it is required to disclose to any inquiring member of the public—and would.* *The bill would specify that these materials are not a part of the central file maintained by the board for each of its licensees and would provide specified time periods for which the information would remain posted on the board's Internet Web site before being removed.* The bill would require the boards to develop certain regulations regarding disclosure, and to notify the licensee and allow for the correction of inaccuracies. ~~The bill would additionally require an attorney to notify the board of specified settlements over \$30,000, and would require the Medical Board of California to approve a form for purposes of this reporting requirement.~~ The bill would require reports of malpractice settlements or arbitration awards to contain the specialty or subspecialty of the physician and surgeon involved.

The bill would expand the types of settlements an uninsured physician and surgeon is required to report to his or her licensing board. Because the failure to include those settlements would be punishable as a public offense, the bill would impose a state-mandated local program.

(5) *Existing law establishes a Medical Quality Hearing Panel within the Office of Administrative Hearings, consisting of administrative law judges with specified medical training. Under existing law, the provisions creating the panel and determining its functions become inoperative and are repealed on January 1, 2003.*

This bill would delete the inoperative and repeal date from these provisions.

(6) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.*



Statutory provisions establish procedures for making that reimbursement.

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

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

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

1 SECTION 1. Section 800 of the Business and Professions
2 Code is amended to read:

3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Osteopathic
5 Medical Board of California, the State Board of Chiropractic
6 Examiners, the Board of Registered Nursing, the Board of
7 Vocational Nursing and Psychiatric Technicians, the State Board
8 of Optometry, the Veterinary Medical Board, the Board of
9 Behavioral Sciences, and the California State Board of Pharmacy
10 shall each separately create and maintain a central file of the names
11 of all persons who hold a license, certificate, or similar authority
12 from that board. Each central file shall be created and maintained
13 to provide an individual historical record for each licensee with
14 respect to the following information:

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

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

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

26 (4) Disciplinary information reported pursuant to Section 805.

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



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

5 Notwithstanding this subdivision, the Board of Psychology, the
6 Board of Behavioral Sciences, and the Respiratory Care Board of
7 California shall maintain complaints or reports as long as each
8 board deems necessary.

9 (c) The contents of any central file that are not public records
10 under any other provision of law shall be confidential except that
11 the licensee involved, or his or her counsel or representative, shall
12 have the right to inspect and have copies made of his or her
13 complete file except for the provision that may disclose the
14 identity of an information source. For the purposes of this section,
15 a board may protect an information source by providing a copy of
16 the material with only those deletions necessary to protect the
17 identity of the source or by providing a comprehensive summary
18 of the substance of the material. Whichever method is used, the
19 board shall ensure that full disclosure is made to the subject of any
20 personal information that could reasonably in any way reflect or
21 convey anything detrimental, disparaging, or threatening to a
22 licensee’s reputation, rights, benefits, privileges, or qualifications,
23 or be used by a board to make a determination that would affect a
24 licensee’s rights, benefits, privileges, or qualifications. The
25 information required to be disclosed pursuant to Section 803.1
26 shall not be considered among the contents of a central file for the
27 purposes of this subdivision.

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

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

36 These disclosures shall effect no change in the confidential
37 status of these records.

38 SEC. 2. Section 801 of the Business and Professions Code is
39 amended to read:



1 801. (a) Every insurer providing professional liability
2 insurance to a person who holds a license, certificate or similar
3 authority from or under any agency mentioned in subdivision (a)
4 of Section 800 (except as provided in subdivisions (b), (c), and (d))
5 shall send a complete report to that agency as to any settlement or
6 arbitration award over three thousand dollars (\$3,000) of a claim
7 or action for damages for death or personal injury caused by that
8 person's negligence, error, or omission in practice, or rendering of
9 unauthorized professional services. The report shall be sent within
10 30 days after the written settlement agreement has been reduced
11 to writing and signed by all parties thereto or within 30 days after
12 service of the arbitration award on the parties.

13 (b) Every insurer providing professional liability insurance to
14 a physician and surgeon licensed pursuant to Chapter 5
15 (commencing with Section 2000) or the Osteopathic Initiative Act
16 shall send a complete report to the Medical Board of California or
17 the Osteopathic Medical Board of California, as appropriate, as to
18 any settlement over thirty thousand dollars (\$30,000); or
19 arbitration award of any amount; or civil judgment of any amount,
20 whether or not vacated by a settlement after entry of the judgment,
21 that was not reversed on appeal; of a claim or action for damages
22 for death or personal injury caused by that person's negligence,
23 error, or omission in practice, or rendering of unauthorized
24 professional services. *A settlement over thirty thousand dollars*
25 *(\$30,000) shall also be reported if the settlement is based on the*
26 *licensee's negligence, error, or omission in practice or the*
27 *rendering of unauthorized professional services, and a party to the*
28 *settlement is a corporation, medical group, partnership, or other*
29 *corporate entity in which the licensee has an ownership interest or*
30 *that employs or contracts with the licensee. The report shall be sent*
31 *within 30 days after the written settlement agreement has been*
32 *reduced to writing and signed by all parties thereto or within 30*
33 *days after service of the arbitration award on the parties or within*
34 *30 days after the date of entry of the civil judgment.*

35 (c) Every insurer providing professional liability insurance to
36 a person licensed pursuant to Chapter 13 (commencing with
37 Section 4980) or Chapter 14 (commencing with Section 4990)
38 shall send a complete report to the Board of Behavioral Science
39 Examiners as to any settlement or arbitration award over ten
40 thousand dollars (\$10,000) of a claim or action for damages for



1 death or personal injury caused by that person's negligence, error,
2 or omission in practice, or rendering of unauthorized professional
3 services. The report shall be sent within 30 days after the written
4 settlement agreement has been reduced to writing and signed by
5 all parties thereto or within 30 days after service of the arbitration
6 award on the parties.

7 (d) Every insurer providing professional liability insurance to
8 a dentist licensed pursuant to Chapter 4 (commencing with Section
9 1600) shall send a complete report to the Dental Board of
10 California as to any settlement or arbitration award over ten
11 thousand dollars (\$10,000) of a claim or action for damages for
12 death or personal injury caused by that person's negligence, error,
13 or omission in practice, or rendering of unauthorized professional
14 services. The report shall be sent within 30 days after the written
15 settlement agreement has been reduced to writing and signed by
16 all parties thereto or within 30 days after service of the arbitration
17 award on the parties.

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

26 (f) Notwithstanding any other provision of law, no insurer shall
27 enter into a settlement without the written consent of the insured,
28 except that this prohibition shall not void any settlement entered
29 into without that written consent. The requirement of written
30 consent shall only be waived by both the insured and the insurer.
31 This section shall only apply to a settlement on a policy of
32 insurance executed or renewed on or after January 1, 1971.

33 ~~SEC. 3. Section 802.2 is added to the Business and~~
34 ~~Professions Code, to read:~~

35 ~~802.2. (a) An attorney who represents a client in a lawsuit or~~
36 ~~demand for arbitration seeking damages for death or personal~~
37 ~~injury caused by the alleged negligence, error or omission in~~
38 ~~practice, or by the alleged rendering of unauthorized professional~~
39 ~~services by a physician and surgeon licensed pursuant to Chapter~~
40 ~~5 (commencing with Section 2000) of Division 2, shall notify the~~



1 ~~board of every settlement over thirty thousand dollars (\$30,000)~~
2 ~~within 30 days of the date on which payment of the settlement is~~
3 ~~received.~~

4 ~~(b) The Medical Board of California shall approve a form for~~
5 ~~use in complying with this section. That form shall include, but not~~
6 ~~be limited to, a section in which the attorney shall describe the~~
7 ~~lawsuit or demand.~~

8 ~~SEC. 4.—~~

9 *SEC. 3. Section 801.1 of the Business and Professions Code*
10 *is amended to read:*

11 801.1. (a) Every state or local governmental agency that self
12 insures a person who holds a license, certificate or similar
13 authority from or under any agency mentioned in subdivision (a)
14 of Section 800 (except a person licensed pursuant to Chapter 3
15 (commencing with Section 1200) or Chapter 5 (commencing with
16 Section 2000) of Division 2 or the Osteopathic Initiative Act) shall
17 send a complete report to that agency as to any settlement or
18 arbitration award over three thousand dollars (\$3,000) of a claim
19 or action for damages for death or personal injury caused by that
20 person's negligence, error or omission in practice, or rendering of
21 unauthorized professional services. The report shall be sent within
22 30 days after the written settlement agreement has been reduced
23 to writing and signed by all parties thereto or within 30 days after
24 service of the arbitration award on the parties.

25 (b) Every state or local governmental agency that self-insures
26 a physician and surgeon licensed pursuant to Chapter 5
27 (commencing with Section 2000) of Division 2 or the Osteopathic
28 Initiative Act shall send a complete report to the Medical Board of
29 California or the Osteopathic Medical Board of California, as
30 appropriate, as to any settlement or arbitration award over thirty
31 thousand dollars (\$30,000) of a claim or action for damages for
32 death or personal injury caused by that person's negligence, error
33 or omission in practice, or rendering of unauthorized professional
34 services. *A settlement over thirty thousand dollars (\$30,000) shall*
35 *also be reported if the settlement is based on the licensee's*
36 *negligence, error, or omission in practice or the rendering of*
37 *unauthorized professional services, and a party to the settlement*
38 *is a corporation, medical group, partnership, or other corporate*
39 *entity in which the licensee has an ownership interest or that*
40 *employs or contracts with the licensee.* The report shall be sent



1 within 30 days after the written settlement agreement has been
2 reduced to writing and signed by all parties thereto or within 30
3 days after service of the arbitration award on the parties.

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

16 *SEC. 4. Section 802 of the Business and Professions Code is*
17 *amended to read:*

18 802. (a) Every settlement or arbitration award over three
19 thousand dollars (\$3,000) of a claim or action for damages for
20 death or personal injury caused by negligence, error or omission
21 in practice, or the unauthorized rendering of professional services,
22 by a person who holds a license, certificate or other similar
23 authority from an agency mentioned in subdivision (a) of Section
24 800 (except a person licensed pursuant to Chapter 3 (commencing
25 with Section 1200) or Chapter 5 (commencing with Section 2000)
26 of Division 2) or the Osteopathic Initiative Act who does not
27 possess professional liability insurance as to that claim shall,
28 within 30 days after the written settlement agreement has been
29 reduced to writing and signed by all the parties thereto or 30 days
30 after service of the arbitration award on the parties, be reported to
31 the agency that issued the license, certificate, or similar authority.
32 A complete report shall be made by appropriate means by the
33 person or his or her counsel, with a copy of the communication to
34 be sent to the claimant through his or her counsel if the person is
35 so represented, or directly if he or she is not. If, within 45 days of
36 the conclusion of the written settlement agreement or service of the
37 arbitration award on the parties, counsel for the claimant (or if the
38 claimant is not represented by counsel, the claimant himself or
39 herself) has not received a copy of the report, he or she shall
40 himself or herself make the complete report. Failure of the



1 physician or claimant (or, if represented by counsel, their counsel)
2 to comply with this section is a public offense punishable by a fine
3 of not less than fifty dollars (\$50) or more than five hundred dollars
4 (\$500). Knowing and intentional failure to comply with this
5 section, or conspiracy or collusion not to comply with this section,
6 or to hinder or impede any other person in the compliance is a
7 public offense punishable by a fine of not less than five thousand
8 dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

9 (b) Every settlement over thirty thousand dollars (\$30,000), or
10 arbitration award of any amount, of a claim or action for damages
11 for death or personal injury caused by negligence, error or
12 omission in practice, or the unauthorized rendering of professional
13 services, by a physician and surgeon licensed pursuant to Chapter
14 5 (commencing with Section 2000) of Division 2, or the
15 Osteopathic Initiative Act, who does not possess professional
16 liability insurance as to the claim shall, within 30 days after the
17 written settlement agreement has been reduced to writing and
18 signed by all the parties thereto or 30 days after service of the
19 arbitration award on the parties, be reported to the agency that
20 issued the license, certificate or similar authority. *A settlement over*
21 *thirty thousand dollars (\$30,000) shall also be reported if the*
22 *settlement is based on the licensee's negligence, error, or omission*
23 *in practice or the rendering of unauthorized professional services,*
24 *and a party to the settlement is a corporation, medical group,*
25 *partnership, or other corporate entity in which the licensee has an*
26 *ownership interest or that employs or contracts with the licensee.*
27 A complete report including the name and license number of the
28 physician and surgeon shall be made by appropriate means by the
29 person or his or her counsel, with a copy of the communication to
30 be sent to the claimant through his or her counsel if he or she is so
31 represented, or directly if he or she is not. If, within 45 days of the
32 conclusion of the written settlement agreement or service of the
33 arbitration award on the parties, counsel for the claimant (or if the
34 claimant is not represented by counsel, the claimant himself or
35 herself) has not received a copy of the report, he or she shall
36 himself or herself make the complete report. Failure of the
37 physician or claimant (or, if represented by counsel, their counsel)
38 to comply with this section is a public offense punishable by a fine
39 of not less than fifty dollars (\$50) or more than five hundred dollars
40 (\$500). Knowing and intentional failure to comply with this



1 section, or conspiracy or collusion not to comply with this section,
2 or to hinder or impede any other person in the compliance is a
3 public offense punishable by a fine of not less than five thousand
4 dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

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

35 *SEC. 5.* Section 802.3 is added to the Business and
36 Professions Code, to read:

37 802.3. Every report of a settlement required by Sections 801,
38 801.1, ~~802,~~ and ~~802.2~~ and 802 shall specify the specialty or
39 subspecialty of the physician and surgeon involved.

40 ~~SEC. 5.~~



1 SEC. 6. Section 803.1 of the Business and Professions Code
2 is amended to read:

3 803.1. (a) Notwithstanding any other provision of law, the
4 Medical Board of California, *the Osteopathic Medical Board of*
5 *California*, and the California Board of Podiatric Medicine shall
6 disclose to an inquiring member of the public information
7 regarding any enforcement actions taken against a licensee by
8 either board or by another state or jurisdiction, including all of the
9 following:

10 (1) Temporary restraining orders issued.

11 (2) Interim suspension orders issued.

12 ~~(3) Revocations, suspensions, or probations ordered by the~~
13 ~~board, including limitations on practice made part of a~~

14 (3) *Revocations, probations, or limitations on practice ordered*
15 *by the board, including those made part of a probationary order or*
16 *stipulated agreement.*

17 (4) Public letters of reprimand issued.

18 (5) Infractions, citations, or fines imposed.

19 (b) Notwithstanding any other provision of law, in addition to
20 the information provided in subdivision (a), the Medical Board of
21 California, *the Osteopathic Medical Board of California*, and the
22 California Board of Podiatric Medicine shall disclose to an
23 inquiring member of the public all of the following:

24 ~~(1) Misdemeanor convictions, if substantially related to the~~
25 ~~practice of medicine.~~

26 ~~(2)~~

27 (1) Civil judgments in any amount, whether or not vacated by
28 a settlement after entry of the judgment, that were not reversed on
29 appeal; and arbitration awards in any amount; of a claim or action
30 for damages for death or personal injury caused by the physician
31 and surgeon's negligence, error, or omission in practice, or
32 rendering of unauthorized professional services.

33 ~~(3) The number and amounts of settlements of types of claims~~
34 ~~or actions referenced in paragraph (2) in the amount of thirty~~
35 ~~thousand dollars (\$30,000) or more in the possession, custody, or~~
36 ~~control of the board on and after January 1, 2003, shall be disclosed~~
37 ~~throughout the term that the licensee holds a certificate to practice,~~
38 ~~accompanied by the average number of settlements and average~~
39 ~~amounts for the physician and surgeon's specialty or subspecialty~~
40 ~~and disclaimers pursuant to subdivision (c) explaining the reasons~~



1 ~~that a physician and surgeon might settle a claim of this nature~~
2 ~~without being at fault.~~

3 ~~(4)~~

4 (2) (A) *All settlements in the possession, custody, or control of*
5 *the board, shall be disclosed for a licensee in the low-risk category*
6 *if there are three or more settlements for that licensee within the*
7 *last 10 years except for settlements by a licensee regardless of the*
8 *amount paid where (i) the settlement is made as a part of the*
9 *settlement of a class claim, (ii) the licensee paid in settlement of*
10 *the class claim the same amount as the other licensees in the same*
11 *class or similarly situated licensees in the same class, and (iii) the*
12 *settlement was paid in the context of a case where the complaint*
13 *that alleged class liability on behalf of the licensee also alleged a*
14 *products liability class action cause of action. All settlements in the*
15 *possession, custody, or control of the board shall be disclosed for*
16 *a licensee in the high-risk category if there are four or more*
17 *settlements for that licensee within the last 10 years except for*
18 *settlements by a licensee regardless of the amount paid where (i)*
19 *the settlement is made as a part of the settlement of a class claim,*
20 *(ii) the licensee paid in settlement of the class claim the same*
21 *amount as the other licensees in the same class or similarly*
22 *situated licensees in the same class, and (iii) the settlement was*
23 *paid in the context of a case where the complaint that alleged class*
24 *liability on behalf of the licensee also alleged a products liability*
25 *class action cause of action. Classification of a licensee in either*
26 *a “high-risk category” or a “low-risk category” depends upon the*
27 *specialty or subspecialty practiced by the licensee and the*
28 *designation assigned to that specialty or subspecialty by the*
29 *Medical Board of California, as described in subdivision (e). For*
30 *the purposes of this paragraph, “settlement” means a settlement*
31 *of an action described in paragraph (2) entered into by the licensee*
32 *on or after January 1, 2003, in an amount of thirty thousand*
33 *dollars (\$30,000) or more.*

34 (B) *The board shall not disclose the actual dollar amount of a*
35 *settlement but shall put the number and amount of the settlement*
36 *in context by doing the following:*

37 (i) *Comparing the settlement amount to the experience of other*
38 *licensees within the same specialty or subspecialty, indicating if it*
39 *is below average, average, or above average for the most recent*
40 *10-year period.*



1 (ii) Reporting the number of years the licensee has been in
2 practice.

3 (iii) Reporting the total number of licensees in that specialty,
4 the number of those who have entered into a settlement agreement,
5 and the percentage that number represents of the total number of
6 licensees in the specialty.

7 (3) Current American Board of Medical Specialty certification
8 or board equivalent as certified by the Medical Board of
9 California, the Osteopathic Medical Board of California, or the
10 California Board of Podiatric Medicine.

11 ~~(5)~~

12 (4) Approved postgraduate training.

13 ~~(6) Completed investigations that have been referred to the~~
14 ~~Attorney General for the filing of an accusation, unless it has been~~
15 ~~rejected by the Attorney General.~~

16 ~~(7)~~

17 (5) Status of the license of a licensee. *The board, by January 1,*
18 *2004, shall adopt regulations defining the status of a licensee. The*
19 *board shall employ this definition when disclosing the status of a*
20 *licensee pursuant to Section 2027.*

21 ~~(8)~~

22 (6) Any summaries of hospital disciplinary actions that result
23 in the termination or revocation of a licensee's staff privileges for
24 medical disciplinary cause or reason.

25 (c) The Medical Board of California, the Osteopathic Medical
26 Board of California, and the California Board of Podiatric
27 Medicine may formulate appropriate disclaimers or explanatory
28 statements to be included with any information released, and may,
29 by regulation, establish categories of information that need not be
30 disclosed to an inquiring member of the public because that
31 information is unreliable or not sufficiently related to the
32 licensee's professional practice. *The Medical Board of California,*
33 *the Osteopathic Medical Board of California, and the California*
34 *Board of Podiatric Medicine shall include the following statement*
35 *when disclosing information concerning a settlement:*

36 "Some studies have shown that there is no significant
37 correlation between malpractice history and a doctor's
38 competence. At the same time, the State of California believes that
39 consumers should have access to malpractice information. In
40 these profiles, the State of California has given you information



1 *about both the malpractice settlement history for the doctor's*
2 *specialty and the doctor's history of settlement payments only if in*
3 *the last 10 years, the doctor, if in a low-risk specialty, has three or*
4 *more settlements or the doctor, if in a high-risk specialty, has four*
5 *or more settlements. The State of California has excluded some*
6 *class action lawsuits because those cases are commonly related to*
7 *systems issues such as product liability, rather than questions of*
8 *individual professional competence and because they are brought*
9 *on a class basis where the economic incentive for settlement is*
10 *great. The State of California has placed payment amounts into*
11 *three statistical categories: below average, average, and above*
12 *average compared to others in the doctor's specialty. To make the*
13 *best health care decisions, you should view this information in*
14 *perspective. You could miss an opportunity for high quality care*
15 *by selecting a doctor based solely on malpractice history.*

16 *When considering malpractice data, please keep in mind:*

17 *Malpractice histories tend to vary by specialty. Some specialties*
18 *are more likely than others to be the subject of litigation. This*
19 *report compares doctors only to the members of their specialty, not*
20 *to all doctors, in order to make an individual doctor's history more*
21 *meaningful.*

22 *This report reflects data only for settlements made after January*
23 *1, 2003. Moreover, it includes information concerning those*
24 *settlements for a 10-year period only. Therefore, you should know*
25 *that a doctor may have made settlements in the 10 years*
26 *immediately preceding January 1, 2003, that are not included in*
27 *this report. After January 1, 2013, for doctors practicing less than*
28 *10 years, the data covers their total years of practice. You should*
29 *take into account the effective date of settlement disclosure as well*
30 *as how long the doctor has been in practice when considering*
31 *malpractice averages.*

32 *The incident causing the malpractice claim may have happened*
33 *years before a payment is finally made. Sometimes, it takes a long*
34 *time for a malpractice lawsuit to settle. Some doctors work*
35 *primarily with high risk patients. These doctors may have*
36 *malpractice settlement histories that are higher than average*
37 *because they specialize in cases or patients who are at very high*
38 *risk for problems.*

39 *Settlement of a claim may occur for a variety of reasons that do*
40 *not necessarily reflect negatively on the professional competence*



1 *or conduct of the doctor. A payment in settlement of a medical*
2 *malpractice action or claim should not be construed as creating*
3 *a presumption that medical malpractice has occurred.*

4 *You may wish to discuss information in this report and the*
5 *general issue of malpractice with your doctor.”*

6 (d) The Medical Board of California, *the Osteopathic Medical*
7 *Board of California*, and the California Board of Podiatric
8 Medicine shall, by regulation, establish time limitations, as the
9 boards deem appropriate, for the disclosure of information as
10 provided herein, and shall develop standard terminology that
11 accurately describes the different types of disciplinary filings and
12 actions to take against a licensee as described in paragraphs (1) to
13 (5), inclusive, of subdivision (a). In providing the public with
14 information about a licensee via the Internet pursuant to Section
15 2027, the Medical Board of California, *the Osteopathic Medical*
16 *Board of California*, and the California Board of Podiatric
17 Medicine shall not use the terms “enforcement,” “discipline,” or
18 similar language implying a sanction unless the physician and
19 surgeon has been the subject of one of the actions described in
20 paragraphs (1) to (5), inclusive, of subdivision (a).

21 (e) *The Medical Board of California shall adopt regulations no*
22 *later than July 1, 2003, designating each specialty and*
23 *subspecialty practice area as either high-risk or low-risk. In*
24 *promulgating these regulations, the board shall consult with*
25 *commercial underwriters of medical malpractice insurance*
26 *companies, health care systems that self-insure physicians and*
27 *surgeons, and representatives of the California medical specialty*
28 *societies. The board shall utilize the carriers’ statewide data to*
29 *establish the two risk categories and the averages required by*
30 *subparagraph (B). Prior to issuing regulations, the board shall*
31 *convene public meetings with the medical malpractice carriers,*
32 *self-insurers, and specialty representatives.*

33 (f) The Medical Board of California, *the Osteopathic Medical*
34 *Board of California*, and the California Board of Podiatric
35 Medicine shall provide each licensee with a copy of the text of any
36 proposed public disclosure authorized by this section prior to
37 release of the disclosure to the public. The licensee shall have 15
38 ~~working days to correct factual inaccuracies. If the board disagrees~~
39 ~~with the licensee’s corrections, the licensee shall have the right to~~



1 ~~submit a written statement which shall be disseminated with any~~
2 ~~public disclosure of information.~~

3 ~~(f) Nothing in this section shall be construed as affecting in any~~
4 ~~manner the rights provided under Chapter 3.5 (commencing with~~
5 ~~Section 6250) of Division 7 of Title 1 of the Government Code.~~
6 *shall have 10 working days from the date the board provides the*
7 *copy of the proposed public disclosure to propose corrections of*
8 *factual inaccuracies. Nothing in this section shall prevent the*
9 *board from disclosing information to the public prior to the*
10 *expiration of the 10-day period.*

11 *(g) Pursuant to subparagraph (A) of paragraph (3) of*
12 *subdivision (b) of this section, the specialty or subspecialty*
13 *information required by this section shall group physicians by*
14 *specialty board recognized pursuant to paragraph (5) of*
15 *subdivision (h) of Section 651 unless a different grouping would*
16 *be more valid and the board, in its statement of reasons for its*
17 *regulations, explains why the validity of the grouping would be*
18 *more valid.*

19 ~~SEC. 6.~~

20 SEC. 7. Chapter 1.6 (commencing with Section 920) is added
21 to Division 2 of the Business and Professions Code, to read:

22

23 CHAPTER 1.6. HEALTH CARE PROFESSIONAL DISASTER
24 RESPONSE ACT
25

26 920. This chapter shall be known and may be cited as the
27 Health Care Professional Disaster Response Act.

28 921. (a) The Legislature finds and declares the following:

29 (1) In times of national or state disasters, a shortage of qualified
30 health care practitioners may exist in areas throughout the state
31 where they are desperately required to respond to public health
32 emergencies.

33 (2) Health care practitioners with lapsed or inactive licenses
34 could potentially serve in those areas where a shortage of qualified
35 health care practitioners exists, if licensing requirements were
36 streamlined and fees curtailed.

37 (b) It is, therefore, the intent of the Legislature to address these
38 matters through the provisions of the Health Care Professional
39 Disaster Response Act.



1 922. (a) A physician and surgeon who satisfies the
2 requirements of Section 2439 but whose license has been expired
3 for less than five years may be licensed under this chapter.

4 (b) To be licensed under this chapter, a physician and surgeon
5 shall complete an application, on a form prescribed by the Medical
6 Board of California, and submit it to the board, along with the
7 following:

8 (1) Documentation that the applicant has completed the
9 continuing education requirements described in Article 10
10 (commencing with Section 2190) of Chapter 5 for each renewal
11 period during which the applicant was not licensed.

12 (2) A complete set of fingerprints as required by Sections 144
13 and 2082, together with the fee required for processing those
14 fingerprints.

15 (c) An applicant shall not be required to pay any licensing,
16 delinquency, or penalty fees for the issuance of a license under this
17 chapter.

18 ~~SEC. 7.~~

19 *SEC. 8.* Section 2001 of the Business and Professions Code is
20 amended to read:

21 2001. There is in the Department of Consumer Affairs a
22 Medical Board of California that consists of 21 members, nine of
23 whom shall be public members.

24 The Governor shall appoint 19 members to the board, subject to
25 confirmation by the Senate, seven of whom shall be public
26 members. The Senate Rules Committee and the Speaker of the
27 Assembly shall each appoint a public member, and their initial
28 appointment shall be made to fill, respectively, the first and second
29 public member vacancies that occur on or after January 1, 1983.

30 This section shall become inoperative on July 1, 2005, and, as
31 of January 1, 2006, is repealed, unless a later enacted statute,
32 which becomes effective on or before January 1, 2006, deletes or
33 extends the dates on which it becomes inoperative and is repealed.
34 The repeal of this section renders the board subject to the review
35 required by Division 1.2 (commencing with Section 473).

36 ~~SEC. 8.~~

37 *SEC. 9.* Section 2008 of the Business and Professions Code is
38 amended to read:

39 2008. The Division of Medical Quality shall consist of 14
40 members of the board, six of whom shall be public members. The



1 Division of Licensing shall consist of seven members, three of
2 whom shall be public members.

3 Each member appointed to the board shall be assigned by the
4 Governor to a specific division, except that, commencing July 1,
5 1994, those members of the board who prior to July 1, 1994, were
6 assigned to the Division of Allied Health Professions shall be
7 members of the Division of Medical Quality.

8 ~~SEC. 9.~~

9 *SEC. 10.* Section 2013 of the Business and Professions Code
10 is amended to read:

11 2013. (a) The board and each division may convene from
12 time to time as deemed necessary by the board or a division.

13 (b) Eight members of the Division of Medical Quality, and four
14 members of the Division of Licensing shall constitute a quorum for
15 the transaction of business at any division meeting. Four members
16 of a panel of the Division of Medical Quality shall constitute a
17 quorum for the transaction of business at any meeting of the panel.
18 Eleven members shall constitute a quorum for the transaction of
19 business at any board meeting.

20 (c) It shall require the affirmative vote of a majority of those
21 members present at a division, panel, or board meeting, those
22 members constituting at least a quorum, to pass any motion,
23 resolution, or measure. A decision by a panel of the Division of
24 Medical Quality to discipline a physician and surgeon shall require
25 an affirmative vote, at a meeting or by mail, of a majority of the
26 members of that panel; except that a decision to revoke the
27 certificate of a physician and surgeon shall require the affirmative
28 vote of four members of that panel.

29 ~~SEC. 10.~~

30 *SEC. 11.* Section 2020 of the Business and Professions Code
31 is amended to read:

32 2020. The board may employ an executive director exempt
33 from the provisions of the Civil Service Act and may also employ
34 investigators, legal counsel, medical consultants, and other
35 assistance as it may deem necessary to carry into effect this
36 chapter. The board may fix the compensation to be paid for
37 services subject to the provisions of applicable state laws and
38 regulations and may incur other expenses as it may deem
39 necessary. Investigators employed by the board shall be provided
40 special training in investigating medical practice activities.



1 The Attorney General shall act as legal counsel for the board for
2 any judicial and administrative proceedings and his or her services
3 shall be a charge against it.

4 This section shall become inoperative on July 1, 2005, and, as
5 of January 1, 2006, is repealed, unless a later enacted statute,
6 which becomes effective on or before January 1, 2006, deletes or
7 extends the dates on which it becomes inoperative and is repealed.

8 ~~SEC. 11.~~

9 *SEC. 12.* Section 2026 of the Business and Professions Code
10 is repealed.

11 ~~SEC. 12.~~

12 *SEC. 13.* Section 2027 of the Business and Professions Code
13 is amended to read:

14 2027. (a) On or after July 1, 2001, unless otherwise
15 authorized by the Department of Information Technology
16 pursuant to Executive Order D-3-99, the board shall post on the
17 Internet the following information *in its possession, custody, or*
18 *control* regarding licensed physicians and surgeons:

19 (1) With regard to the status of the license, whether or not the
20 licensee is in good standing, subject to a temporary restraining
21 order (TRO), subject to an interim suspension order (ISO), or
22 subject to any of the enforcement actions set forth in Section 803.1.

23 (2) With regard to prior discipline, whether or not the licensee
24 has been subject to discipline by the board of another state or
25 jurisdiction, as described in Section 803.1.

26 (3) Any felony convictions reported to the board after January
27 3, 1991.

28 (4) All current accusations filed by the Attorney General,
29 including those accusations that are on appeal. For purposes of this
30 paragraph, “current accusation” shall mean an accusation that has
31 not been dismissed, withdrawn, or settled, and has not been finally
32 decided upon by an administrative law judge and the Medical
33 Board of California unless an appeal of that decision is pending.

34 (5) Any malpractice judgment or arbitration award reported to
35 the board after January 1, 1993.

36 (6) Any hospital disciplinary actions that resulted in the
37 termination or revocation of a licensee’s hospital staff privileges
38 for a medical disciplinary cause or reason.

39 (7) Appropriate disclaimers and explanatory statements to
40 accompany the above information, including an explanation of



1 what types of information are not disclosed. These disclaimers and
2 statements shall be developed by the board and shall be adopted by
3 regulation.

4 (8) Any information *required to be* disclosed pursuant to
5 Section 803.1.

6 (b) (1) *From January 1, 2003, the information described in*
7 *paragraphs (1) (other than whether or not the licensee is in good*
8 *standing), (2), (4), (5), and (7) of subdivision (a) shall remain*
9 *posted for a period of 10 years and after the end of that period,*
10 *shall be removed from being posted on the board's Internet Web*
11 *site. Settlement information shall be posted as described in*
12 *paragraph (3) of subdivision (b) of Section 803.1.*

13 (2) *The information described in paragraphs (3) and (6) of*
14 *subdivision (a) shall not be removed from being posted on the*
15 *board's Internet Web site. Notwithstanding the provisions of this*
16 *paragraph, if a licensee's hospital staff privileges are restored and*
17 *the licensee notifies the board of the restoration, the information*
18 *pertaining to the termination or revocation of those privileges, as*
19 *described in paragraph (6) of subdivision (a), shall remain posted*
20 *for a period of 10 years from the restoration date of the privileges*
21 *and at the end of that period, shall be removed from being posted*
22 *on the board's Internet Web site.*

23 (c) The board shall provide links to other Web sites on the
24 Internet that provide information on board certifications that meet
25 the requirements of subdivision (b) of Section 651. The board may
26 provide links to other Web sites on the Internet that provide
27 information on health care service plans, health insurers, hospitals,
28 or other facilities. The board may also provide links to any other
29 sites that would provide information on the affiliations of licensed
30 physicians and surgeons.

31 ~~SEC. 13.~~

32 *SEC. 14.* Section 2052 of the Business and Professions Code
33 is amended to read:

34 2052. (a) Notwithstanding Section 146, any person who
35 practices or attempts to practice, or who advertises or holds
36 himself or herself out as practicing, any system or mode of treating
37 the sick or afflicted in this state, or who diagnoses, treats, operates
38 for, or prescribes for any ailment, blemish, deformity, disease,
39 disfigurement, disorder, injury, or other physical or mental
40 condition of any person, without having at the time of so doing a



1 valid, unrevoked, or unsuspended certificate as provided in this
2 chapter, or without being authorized to perform the act pursuant
3 to a certificate obtained in accordance with some other provision
4 of law is guilty of a public offense, punishable by a fine not
5 exceeding ten thousand dollars (\$10,000), or by imprisonment in
6 the state prison, or by imprisonment in a county jail not exceeding
7 one year, or by both the fine and either imprisonment.

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

11 ~~SEC. 14.~~

12 *SEC. 15.* Section 2135.5 is added to the Business and
13 Professions Code, to read:

14 2135.5. Upon review and recommendation, the Division of
15 Licensing may determine that an applicant for a physician and
16 surgeon's certificate has satisfied the medical curriculum
17 requirements of Section 2089, the clinical instruction
18 requirements of Sections 2089.5 and 2089.7, and the examination
19 requirements of Section 2170 if the applicant meets all of the
20 following criteria:

21 (a) He or she holds an unlimited and unrestricted license as a
22 physician and surgeon in another state.

23 (b) He or she has been licensed by that state to practice as a
24 physician and surgeon.

25 (c) He or she is certified by a specialty board that is a member
26 board of the American Board of Medical Specialties.

27 (d) He or she has not been the subject of a denial of licensure
28 under Section 480.

29 (e) He or she has not graduated from a school that has been
30 disapproved by the division.

31 ~~SEC. 15.~~

32 *SEC. 16.* Section 2220.05 is added to the Business and
33 Professions Code, to read:

34 2220.05. (a) In order to ensure that its resources are
35 maximized for the protection of the public, the Medical Board of
36 California shall prioritize its investigative and prosecutorial
37 resources to ensure that ~~physicians~~ *physician and surgeons*
38 representing the greatest threat of harm are identified and
39 disciplined expeditiously. Cases involving any of the following



1 allegations shall be handled on a priority basis, as follows, with the
2 highest priority being given to cases in the first paragraph:

3 (1) Gross negligence, incompetence, or repeated negligent acts
4 that involve death or serious bodily injury to one or more patients,
5 such that the physician *and surgeon* represents a danger to the
6 public.

7 (2) Drug or alcohol abuse by a physician *and surgeon* involving
8 death or serious bodily injury to a patient.

9 (3) Repeated acts of clearly excessive prescribing, furnishing,
10 or administering of controlled substances, or repeated acts of
11 prescribing, dispensing, or furnishing of controlled substances
12 without a good faith prior examination of the patient and medical
13 reason ~~therefore~~ *therefor*. However, in no event shall ~~physicians~~
14 *physician and surgeon* prescribing, furnishing, or administering
15 controlled substances for intractable pain consistent with lawful
16 prescribing, including, but not limited to, Sections 725, 2241.5,
17 and 2241.6 of this code and Sections ~~=====~~ *11159.2 and 124961* of
18 the Health and Safety Code, be prosecuted for excessive
19 prescribing and prompt review of the applicability of these
20 provisions shall be made in any complaint that may implicate these
21 provisions.

22 (4) Sexual misconduct with one or more patients during a
23 course of treatment *or an examination*.

24 (5) *Practicing medicine while under the influence of drugs or*
25 *alcohol*.

26 (b) *The board may by regulation prioritize cases involving an*
27 *allegation of conduct that is not described in subdivision (a).*
28 *Those cases prioritized by regulation shall not be assigned a*
29 *priority equal to or higher than the priorities established in*
30 *subdivision (a).*

31 (c) The Medical Board of California shall indicate in its annual
32 report mandated by Section 2312 ~~which of its~~ *the number of*
33 temporary restraining orders, interim suspension orders, and
34 disciplinary actions ~~involved a case of a type specified in~~
35 ~~subdivision (a).~~ *actions that are taken in each priority category*
36 *specified in subdivisions (a) and (b).*

37 ~~SEC. 16.~~

38 *SEC. 17.* Section 2220.08 is added to the Business and
39 Professions Code, to read:



1 2220.08. ~~Any~~ (a) *Except for reports received by the board*
2 *pursuant to Section 805 that may be treated as complaints by the*
3 *board, any complaint determined to involve quality of care, before*
4 *referral to a field office for further investigation shall meet the*
5 *following criteria:*

6 ~~(a)~~

7 (1) *It shall be reviewed by one or more ~~expert~~ medical experts*
8 *with the pertinent education, training, and expertise to evaluate the*
9 *specific clinical issues involved, at least one of whom practices in*
10 *a practice setting similar to that of the physician who is the subject*
11 *of the complaint.*

12 ~~(b)~~ *standard of care issues raised by the complaint to determine*
13 *if further field investigation is required.*

14 (2) *It shall include the review of ~~relevant patient records, the~~*
15 *statement or explanation of treatment by the physician, ~~any~~*
16 *additional expert testimony or literature suggested by the*
17 *physician, and any additional facts or information that may assist*
18 *or be requested by the expert reviewers in the determination of*
19 *quality care.*

20 ~~(c)~~ *the following, which shall be requested by the board:*

21 (A) *Relevant patient records.*

22 (B) *The statement or explanation of the care and treatment*
23 *provided by the physician and surgeon.*

24 (C) *Any additional expert testimony or literature provided by*
25 *the physician and surgeon.*

26 (D) *Any additional facts or information requested by the*
27 *medical expert reviewers that may assist them in determining*
28 *whether the care rendered constitutes a departure from the*
29 *standard of care.*

30 (b) *If the board does not receive the information ~~required~~*
31 *requested pursuant to ~~subdivision (b)~~ paragraph (2) of subdivision*
32 *(a) within 10 working days of requesting that information, the*
33 *complaint may be reviewed by the medical experts and referred to*
34 *a field office for investigation without the information.*

35 (c) *The Enforcement Monitor shall in its initial report address*
36 *whether a complaint received by the board relating to a physician*
37 *and surgeon who is the subject of a pending investigation,*
38 *accusation, or on probation should be reviewed pursuant to this*
39 *section or referred directly to field investigation.*

40 ~~SEC. 17.~~



1 SEC. 18. Section 2220.1 is added to the Business and
2 Professions Code, to read:

3 2220.1. (a) (1) The director shall appoint a Medical Board of
4 California Enforcement Program Monitor prior to March 31,
5 2003. The director may retain a person for this position by a
6 personal services contract, the Legislature finding, pursuant to
7 Section 19130 of the Government Code, that this is a new state
8 function.

9 (2) The director shall supervise the enforcement program
10 monitor and may terminate or dismiss him or her from this
11 position.

12 (b) The director shall advertise the availability of this position.
13 The requirements for this position include experience in
14 conducting investigations and familiarity with state laws, rules,
15 and procedures pertaining to the board and with relevant
16 administrative procedures.

17 (c) (1) The enforcement program monitor shall monitor and
18 evaluate the disciplinary system and procedures of the board,
19 making as his or her highest priority the reform and reengineering
20 of the board's enforcement program and operations, and the
21 improvement of the overall efficiency of the board's disciplinary
22 system.

23 (2) This monitoring duty shall be performed on a continuing
24 basis for a period not exceeding two years from the date of the
25 enforcement program monitor's appointment and shall include,
26 but not be limited to, improving the quality and consistency of
27 complaint processing and investigation, reducing the timeframes
28 for completing complaint processing and investigation, reducing
29 any complaint backlog, assessing the relative value to the board of
30 various sources of complaints or information available to the
31 board about licensees in identifying licensees who practice
32 substandard care causing serious patient harm, assuring
33 consistency in the application of sanctions or discipline imposed
34 on licensees, and shall include the following areas: the accurate
35 and consistent implementation of the laws and rules affecting
36 discipline, appropriate application of investigation and
37 prosecution priorities, particularly with respect to priority cases,
38 as defined in Section 2220.05, board and Attorney General staff,
39 defense bar, licensee, and patients' concerns regarding
40 disciplinary matters or procedures, appropriate utilization of



1 licensed professionals to investigate complaints, and the board's
2 cooperation with other governmental entities charged with
3 enforcing related laws and regulations regarding physicians and
4 surgeons. *The enforcement program monitor shall also evaluate*
5 *the method used by investigators in the regional offices for*
6 *selecting experts to review cases to determine if the experts are*
7 *selected on an impartial basis and to recommend methods of*
8 *improving the selection process.* The enforcement program
9 monitor shall also evaluate the effectiveness and efficiency of the
10 board's diversion program and make recommendations regarding
11 the continuation of the program and any changes or reforms
12 required to assure physicians and surgeons participating in the
13 program are appropriately monitored and the public is protected
14 from physicians and surgeons who are impaired due to alcohol or
15 drug abuse or mental or physical illness.

16 (3) The enforcement program monitor shall exercise no
17 authority over the board's discipline operations or staff; however,
18 the board and its staff shall cooperate with him or her, and the
19 board shall provide data, information, and case files as requested
20 by the enforcement program monitor to perform all of his or her
21 duties.

22 (4) The director shall assist the enforcement program monitor
23 in the performance of his or her duties, and the enforcement
24 program monitor shall have the same investigative authority as the
25 director.

26 (d) The enforcement program monitor shall submit an initial
27 written report of his or her findings and conclusions to the board,
28 the department, and the Legislature no later than October 1, 2003,
29 and every six months thereafter, and be available to make oral
30 reports to each, if requested to do so. The initial report shall include
31 an analysis of the sources of information that resulted in each
32 disciplinary action imposed ~~in the last five years~~ *since January 1,*
33 *2003*, involving priority cases, as defined in Section 2220.05. The
34 enforcement program monitor may also provide additional
35 information to either the department or the Legislature at his or her
36 discretion or at the request of either the department or the
37 Legislature. The enforcement program monitor shall make his or
38 her reports available to the public or the media. The enforcement
39 program monitor shall make every effort to provide the board with
40 an opportunity to reply to any facts, findings, issues, or



1 conclusions in his or her reports with which the board may
2 disagree.

3 (e) The board shall reimburse the department for all of the costs
4 associated with the employment of an enforcement program
5 monitor.

6 (f) *The enforcement program monitor shall issue a final report*
7 *prior to March 31, 2005. The final report shall include final*
8 *findings and conclusions on the topics addressed in the reports*
9 *submitted by the monitor pursuant to subdivision (d).*

10 (g) This section becomes inoperative on March 31, 2005, and
11 as of January 1, 2006, is repealed, unless a later enacted statute,
12 that is enacted before January 1, 2006, deletes or extends the dates
13 on which it becomes inoperative and is repealed.

14 ~~SEC. 18.~~

15 *SEC. 19.* Section 2227 of the Business and Professions Code
16 is amended to read:

17 2227. (a) A licensee whose matter has been heard by an
18 administrative law judge of the Medical Quality Hearing Panel as
19 designated in Section 11371 of the Government Code, or whose
20 default has been entered, and who is found guilty, or who has
21 entered into a stipulation for disciplinary action with the division,
22 may, in accordance with the provisions of this chapter:

23 (1) Have his or her license revoked upon order of the division.

24 (2) Have his or her right to practice suspended for a period not
25 to exceed one year upon order of the division.

26 (3) Be placed on probation and be required to pay the costs of
27 probation monitoring upon order of the division.

28 (4) Be publicly reprimanded by the division.

29 (5) Have any other action taken in relation to discipline as part
30 of an order of probation, as the division or an administrative law
31 judge may deem proper.

32 (b) Any matter heard pursuant to subdivision (a), except for
33 warning letters, medical review or advisory conferences,
34 professional competency examinations, continuing education
35 activities, and cost reimbursement associated therewith that are
36 agreed to with the division and successfully completed by the
37 licensee, or other matters made confidential or privileged by
38 existing law, is deemed public, and shall be made available to the
39 public by the board pursuant to Section 803.1.

40 ~~SEC. 19.~~



1 SEC. 20. Section 2234 of the Business and Professions Code
2 is amended to read:

3 2234. The Division of Medical Quality shall take action
4 against any licensee who is charged with unprofessional conduct.
5 In addition to other provisions of this article, unprofessional
6 conduct includes, but is not limited to, the following:

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

10 (b) Gross negligence.

11 (c) Repeated negligent acts. To be repeated, ~~there must be~~
12 ~~two or more negligent acts shall have resulted from separate and~~
13 ~~distinct diagnosis or treatment decisions. An. An initial negligent~~
14 ~~act or omission followed by a separate and distinct departure from~~
15 ~~the applicable standard of care shall constitute repeated negligent~~
16 ~~acts.~~

17 (1) An initial negligent diagnosis ~~that is~~ followed by a course
18 of treatment that is an act or omission medically appropriate based
19 on that diagnosis constitutes for that negligent diagnosis of the
20 patient shall constitute a single negligent act until a failure to
21 reevaluate or change that course of treatment constitutes a
22 departure from the standard of practice..

23 (2) When the standard of care requires a change in the
24 diagnosis, act, or omission that constitutes the negligent act
25 described in paragraph (1), including, but not limited to, a
26 reevaluation of the diagnosis or a change in treatment, and the
27 licensee's conduct departs from the applicable standard of care,
28 each departure constitutes a separate and distinct breach of the
29 standard of care.

30 (d) Incompetence.

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

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

36 (g) The practice of medicine from this state into another state
37 or country without meeting the legal requirements of that state or
38 country for the practice of medicine. Section 2314 shall not apply
39 to this subdivision. This subdivision shall become operative upon



1 the implementation of the proposed registration program
2 described in Section 2052.5.

3 ~~SEC. 20.~~

4 *SEC. 21.* Section 2246 is added to the Business and
5 Professions Code, to read:

6 2246. Any proposed decision or decision issued under this
7 article, that contains any finding of fact that the licensee engaged
8 in any act of sexual ~~contact~~ *exploitation*, as ~~defined~~ *described* in
9 *paragraphs (3) to (5), inclusive, of subdivision (b) of Section 729,*
10 with a patient shall contain an order of revocation. The revocation
11 shall not be stayed by the administrative law judge.

12 ~~SEC. 21.~~

13 *SEC. 22.* *Section 2313 of the Business and Professions Code*
14 *is amended to read:*

15 2313. The Division of Medical Quality shall report annually
16 to the Legislature, no later than October 1 of each year, the
17 following information:

18 (a) The total number of temporary restraining orders or interim
19 suspension orders sought by the board or the division to enjoin
20 licensees pursuant to Sections 125.7, 125.8 and 2311, the
21 circumstances in each case that prompted the board or division to
22 seek that injunctive relief, and whether a restraining order or
23 interim suspension order was actually issued.

24 (b) The total number and types of actions for unprofessional
25 conduct taken by the board or a division against licensees, the
26 number and types of actions taken against licensees for
27 unprofessional conduct related to prescribing drugs, narcotics, or
28 other controlled substances, including those related to the
29 undertreatment or undermedication of pain.

30 (c) Information relative to the performance of the division,
31 including the following: number of consumer calls received;
32 number of consumer calls or letters designated as
33 discipline-related complaints; number of calls resulting in
34 complaint forms being sent to complainants and number of forms
35 returned; number of Section 805 reports by type; number of
36 Section 801 and Section 803 reports; coroner reports received;
37 number of convictions reported to the division; number of criminal
38 filings reported to the division; number of complaints and referrals
39 closed, referred out, or resolved without discipline, respectively,
40 prior to accusation; number of accusations filed and final



1 disposition of accusations through the division and court review,
2 respectively; final physician discipline by category; number of
3 citations issued with fines and without fines, and number of public
4 reprimands issued; number of cases in process more than six
5 months from receipt by the division of information concerning the
6 relevant acts to the filing of an accusation; average and median
7 time in processing complaints from original receipt of complaint
8 by the division for all cases at each stage of discipline and court
9 review, respectively; number of persons in diversion, and number
10 successfully completing diversion programs and failing to do so,
11 respectively; probation violation reports and probation revocation
12 filings and dispositions; number of petitions for reinstatement and
13 their dispositions; and caseloads of investigators for original cases
14 and for probation cases, respectively.

15 “Action,” for purposes of this section, includes proceedings
16 brought by, or on behalf of, the division against licensees for
17 unprofessional conduct which have not been finally adjudicated,
18 as well as disciplinary actions taken against licensees.

19 (d) The total number of reports received pursuant to Section
20 805 by the type of peer review body reporting and, where
21 applicable, the type of health care facility involved and the total
22 number and type of administrative or disciplinary actions taken by
23 the Medical Board of California with respect to the reports.

24 (e) *The number of malpractice settlements in excess of thirty*
25 *thousand dollars (\$30,000) reported pursuant to Section 801. This*
26 *information shall be grouped by specialty practice and include the*
27 *total number of physicians and surgeons practicing in each*
28 *specialty. For the purpose of this subdivision, “specialty” includes*
29 *all specialties and subspecialties considered in determining the*
30 *risk categories described in Section 803.1.*

31 SEC. 23. Section 2350 of the Business and Professions Code
32 is amended to read:

33 2350. (a) The division shall establish criteria for the
34 acceptance, denial, or termination of physicians and surgeons in a
35 diversion program. Only those physicians and surgeons who have
36 voluntarily requested diversion treatment and supervision by a
37 committee shall participate in a program.

38 (b) A physician and surgeon under current investigation by the
39 division may request entry into the diversion program by
40 contacting the Chief or Deputy Chief of Enforcement of the



1 Medical Board of California. The Chief or Deputy Chief of
2 Enforcement of the Medical Board of California shall refer the
3 physician and surgeon who requests participation in the diversion
4 program to a committee for evaluation of eligibility, even if the
5 physician and surgeon is currently under investigation by the
6 division, as long as the investigation is based primarily on mental
7 illness or on the self-administration of drugs or alcohol under
8 Section 2239, or the illegal possession, prescription, or nonviolent
9 procurement of drugs for self-administration, and does not involve
10 actual harm to the public or his or her patients. Prior to referring
11 a physician and surgeon to the diversion program, the division may
12 require any physician and surgeon who requests participation
13 under those circumstances, or if there are other violations, to
14 execute a statement of understanding in which the physician and
15 surgeon agrees that violations of this chapter, or other statutes that
16 would otherwise be the basis for discipline, may nevertheless be
17 prosecuted should the physician and surgeon be terminated from
18 the program for failure to comply with program requirements.

19 (c) Neither acceptance into nor participation in the diversion
20 program shall preclude the division from investigating or
21 continuing to investigate any physician and surgeon for any
22 unprofessional conduct committed before, during, or after
23 participation in the diversion program.

24 (d) Neither acceptance into nor participation in the diversion
25 program shall preclude the division from taking disciplinary
26 action or continuing to take disciplinary action against any
27 physician and surgeon for any unprofessional conduct committed
28 before, during, or after participation in the diversion program,
29 except for conduct that resulted in the physician and surgeon's
30 referral to the diversion program.

31 (e) Any physician and surgeon terminated from the diversion
32 program for failure to comply with program requirements is
33 subject to disciplinary action by the division for acts committed
34 before, during, and after participation in the diversion program.
35 The division shall not be precluded from taking disciplinary action
36 for violations identified in the statement of understanding
37 described in subdivision (b) if a physician and surgeon is
38 terminated from the diversion program for failure to comply with
39 program requirements. The termination of a physician and
40 surgeon who has been referred to the diversion program pursuant



1 to subdivision (b) shall be reported by the program manager to the
2 division.

3 (f) Nothing in this section shall preclude a physician and
4 surgeon who is not the subject of a current investigation from
5 self-referring to the diversion program on a confidential basis.
6 Subdivision (b) shall not apply to a physician and surgeon who
7 applies for the diversion program in accordance with this
8 subdivision.

9 (g) Any physician and surgeon who successfully completes the
10 diversion program shall not be subject to any disciplinary actions
11 by the board for any alleged violation that resulted in referral to the
12 diversion program. Successful completion shall be determined by
13 the program manager but shall include, at a minimum, three years
14 during which the physician and surgeon has remained free from
15 the use of drugs or alcohol and adopted a lifestyle to maintain a
16 state of sobriety. With respect to mental illness, successful
17 completion shall be determined by the program manager but shall
18 instead include, at a minimum, three years of mental health
19 stability and treatment compliance and adoption of a lifestyle
20 designed to maintain a state of mental health stability.

21 (h) The division shall establish criteria for the selection of
22 evaluating physicians and surgeons or psychologists who shall
23 examine physicians and surgeons requesting diversion under a
24 program. Any reports made under this article by the evaluating
25 physician and surgeon or psychologist shall constitute an
26 exception to Section 2263 and to Sections 994 , 995, 1014, and
27 1015 of the Evidence Code.

28 (i) The division shall require biannual reports from each
29 committee which shall include, but not be limited to, information
30 concerning the number of cases accepted, denied, or terminated
31 with compliance or noncompliance, and a cost analysis of the
32 program. The Bureau of Medical Statistics may assist the
33 committees in the preparation of the reports.

34 (j) Each physician and surgeon shall sign an agreement that
35 diversion records may be used in disciplinary or criminal
36 proceedings if the physician and surgeon is terminated from the
37 diversion program and one of the following conditions exists:

38 (1) His or her participation in the diversion program is a
39 condition of probation.



1 (2) He or she has disciplinary action pending or was under
2 investigation at the time of entering the diversion program.

3 (3) A diversion evaluation committee determines that he or she
4 presents a threat to the public health or safety.

5 This agreement shall also authorize the diversion program to
6 exchange information about the physician and surgeon’s recovery
7 with a hospital well-being committee or monitor and with the
8 board’s licensing program, if appropriate, and to acknowledge,
9 with the physician and surgeon’s approval, that he or she is
10 participating in the diversion program. Nothing in this section
11 shall be construed to allow release of alcohol or drug treatment
12 records in violation of federal or state law.

13 ~~SEC. 22.~~

14 *SEC. 24. Section 2435 of the Business and Professions Code*
15 *is amended to read:*

16 2435. The following fees apply to the licensure of physicians
17 and surgeons:

18 (a) Each applicant for a certificate based upon a national board
19 diplomate certificate, and each applicant for a certificate based on
20 reciprocity, and each applicant for a certificate based upon written
21 examination, shall pay a nonrefundable application and
22 processing fee, as set forth in subdivision (b), at the time the
23 application is filed.

24 (b) The application and processing fee shall be fixed by the
25 Division of Licensing by May 1 of each year, to become effective
26 on July 1 of that year. The fee shall be fixed at an amount necessary
27 to recover the actual costs of the licensing program as projected for
28 the fiscal year commencing on the date the fees become effective.

29 (c) Each applicant for a certificate by written examination,
30 unless otherwise provided by this chapter, shall pay an
31 examination fee fixed by the board, which shall equal the actual
32 cost to the board of the purchase of the written examination
33 furnished by the organization pursuant to Section 2176, plus the
34 actual cost to the board of administering the written examination.
35 The actual cost to the board of administering the written
36 examination that shall be charged to the applicant shall not exceed
37 one hundred dollars (\$100). The board may charge the
38 examination fee provided for in this section for any subsequent
39 reexamination of the applicant.



1 (d) The board shall charge each applicant who is required to
2 take the oral examination as a condition of licensure an oral
3 examination fee that is equal to the amount necessary to recover
4 the actual cost of that examination. The board shall charge the oral
5 examination fee provided for in this subdivision for any
6 subsequent oral examination taken by the applicant.

7 (e) Each applicant who qualifies for a certificate, as a condition
8 precedent to its issuance, in addition to other fees required herein,
9 shall pay an initial license fee, if any. The initial license fee shall
10 be fixed by the board at an amount not to exceed ~~six hundred~~ ____
11 dollars (~~\$600~~-\$____), in accordance with paragraph (2) of
12 subdivision (f). Any applicant enrolled in an approved
13 postgraduate training program shall be required to pay only 50
14 percent of the initial license fee.

15 (f) (1) The biennial renewal fee shall be fixed by the board at
16 an amount not to exceed ~~six hundred~~ ____ dollars (~~\$600~~-\$____),
17 in accordance with paragraph (2).

18 (2) The board shall fix the biennial renewal fee and the initial
19 license fee so that, together with the amounts from other revenues,
20 the reserve balance in the board's contingent fund shall be equal
21 to approximately two months of annual authorized expenditures.
22 Any change in the renewal and initial license fees shall be effective
23 upon a determination by the board, by emergency regulations
24 adopted pursuant to Section 2436, that changes in the amounts are
25 necessary to maintain a reserve balance in the board's contingent
26 fund equal to two months of annual authorized expenditures in the
27 state fiscal year in which the expenditures are to occur.

28 (g) Notwithstanding Section 163.5, the delinquency fee is 10
29 percent of the biennial renewal fee.

30 (h) The duplicate certificate and endorsement fees shall each be
31 fifty dollars (\$50), and the certification and letter of good standing
32 fees shall each be ten dollars (\$10).

33 (i) It is the intent of the Legislature that, in setting fees pursuant
34 to this section, the board shall seek to maintain a reserve in the
35 Contingent Fund of the Medical Board of California equal to
36 approximately two months' operating expenditures.

37 (j) The board shall report to the appropriate policy and fiscal
38 committees of each house of the Legislature whenever the board
39 proposes or approves a fee increase pursuant to this section. The
40 board shall specify the reasons for each increase and identify the



1 percentage of funds to be derived from an increase in the fees that
2 will be used for investigation or enforcement related activities by
3 the board.

4 *SEC. 25.* Section 2507 of the Business and Professions Code
5 is amended to read:

6 2507. (a) The license to practice midwifery authorizes the
7 holder, under the supervision of a licensed physician and surgeon,
8 to attend cases of normal childbirth and to provide prenatal,
9 intrapartum, and postpartum care, including family-planning care,
10 for the mother, and immediate care for the newborn.

11 (b) As used in this article, the practice of midwifery constitutes
12 the furthering or undertaking by any licensed midwife, under the
13 supervision of a licensed physician and surgeon who has current
14 practice or training in obstetrics, to assist a woman in childbirth so
15 long as progress meets criteria accepted as normal. All
16 complications shall be referred to a physician and surgeon
17 immediately. The practice of midwifery does not include the
18 assisting of childbirth by any artificial, forcible, or mechanical
19 means, nor the performance of any version.

20 (c) As used in this article, “supervision” shall not be construed
21 to require the physical presence of the supervising physician and
22 surgeon.

23 (d) The ratio of licensed midwives to supervising physicians
24 and surgeons shall not be greater than four individual licensed
25 midwives to one individual supervising physician and surgeon.

26 (e) A midwife is not authorized to practice medicine and
27 surgery by this article.

28 (f) The board shall, *not later than July 1, 2003*, adopt in
29 accordance with the Administrative Procedure Act (Chapter 3.5
30 (commencing with Section 11340) of Part 1 of Division 3 of Title
31 2 of the Government Code), ~~emergency~~ regulations defining the
32 appropriate standard of care and level of supervision required for
33 the practice of midwifery. ~~The adoption of emergency regulations~~
34 ~~described in this section shall be deemed an emergency and~~
35 ~~necessary for the immediate preservation of public peace, health~~
36 ~~and safety, or general welfare.~~

37 ~~SEC. 23.~~

38 *SEC. 26.* Section 3504 of the Business and Professions Code
39 is amended to read:



1 3504. There is established a Physician Assistant Committee
2 of the Medical Board of California. The committee consists of nine
3 members.

4 This section shall become inoperative on July 1, 2007, and, as
5 of January 1, 2008, is repealed, unless a later enacted statute,
6 which becomes effective on or before January 1, 2008, deletes or
7 extends the dates on which it becomes inoperative and is repealed.
8 The repeal of this section renders the committee subject to the
9 review required by Division 1.2 (commencing with Section 473).

10 ~~SEC. 24.~~

11 *SEC. 27.* Section 3519.5 is added to the Business and
12 Professions Code, to read:

13 3519.5. (a) The committee may issue under the name of the
14 board a probationary license to an applicant subject to terms and
15 conditions, including, but not limited to, any of the following
16 conditions of probation:

17 (1) Practice limited to a supervised, structured environment
18 where the applicant's activities shall be supervised by another
19 physician assistant.

20 (2) Total or partial restrictions on issuing a drug order for
21 controlled substances.

22 (3) Continuing medical or psychiatric treatment.

23 (4) Ongoing participation in a specified rehabilitation
24 program.

25 (5) Enrollment and successful completion of a clinical training
26 program.

27 (6) Abstention from the use of alcohol or drugs.

28 (7) Restrictions against engaging in certain types of medical
29 services.

30 (8) Compliance with all provisions of this chapter.

31 (b) The committee and the board may modify or terminate the
32 terms and conditions imposed on the probationary license upon
33 receipt of a petition from the licensee.

34 (c) Enforcement and monitoring of the probationary
35 conditions shall be under the jurisdiction of the committee and the
36 board. These proceedings shall be conducted in accordance with
37 Chapter 5 (commencing with Section 11500) of Part 1 of Division
38 3 of Title 2 of the Government Code.

39 ~~SEC. 25.~~



1 SEC. 28. Section 11371 of the Government Code is amended
2 to read:

3 11371. (a) There is within the Office of Administrative
4 Hearings a Medical Quality Hearing Panel, consisting of no fewer
5 than five full-time administrative law judges. The administrative
6 law judges shall have medical training as recommended by the
7 Division of Medical Quality of the Medical Board of California
8 and approved by the Director of the Office of Administrative
9 Hearings.

10 (b) The director shall determine the qualifications of panel
11 members, supervise their training, and coordinate the publication
12 of a reporter of decisions pursuant to this section. The panel shall
13 include only those persons specifically qualified and shall at no
14 time constitute more than 25 percent of the total number of
15 administrative law judges within the Office of Administrative
16 Hearings. If the members of the panel do not have a full workload,
17 they may be assigned work by the Director of the Office of
18 Administrative Hearings. When the medically related case
19 workload exceeds the capacity of the members of the panel,
20 additional judges shall be requested to be added to the panels as
21 appropriate. When this workload overflow occurs on a temporary
22 basis, the Director of the Office of Administrative Hearings shall
23 supply judges from the Office of Administrative Hearings to
24 adjudicate the cases.

25 (c) The decisions of the administrative law judges of the panel,
26 together with any court decisions reviewing those decisions, shall
27 be published in a quarterly "Medical Discipline Report," to be
28 funded upon appropriation by the Legislature from the Contingent
29 Fund of the Medical Board of California.

30 (d) The administrative law judges of the panel shall have panels
31 of experts available. The panels of experts shall be appointed by
32 the Director of the Office of Administrative Hearings, with the
33 advice of the Medical Board of California. These panels of experts
34 may be called as witnesses by the administrative law judges of the
35 panel to testify on the record about any matter relevant to a
36 proceeding and subject to cross-examination by all parties, and
37 Section 11430.30 does not apply in a proceeding under this
38 section. The administrative law judge may award reasonable
39 expert witness fees to any person or persons serving on a panel of
40 experts, which shall be paid from the Contingent Fund of the



1 Medical Board of California *upon appropriation by the*
2 *Legislature.*

3 ~~(e) This section shall remain in effect only until January 1,~~
4 ~~2003, and as of that date is repealed, unless a later enacted statute,~~
5 ~~which is enacted before January 1, 2003, deletes or extends that~~
6 ~~date.~~

7 *SEC. 29.* No reimbursement is required by this act pursuant
8 to Section 6 of Article XIII B of the California Constitution
9 because the only costs that may be incurred by a local agency or
10 school district will be incurred because this act creates a new crime
11 or infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

