

AMENDED IN SENATE APRIL 22, 2010

AMENDED IN SENATE APRIL 7, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1050

**Introduced by Senator Yee
(Coauthor: Senator Wiggins)**

February 16, 2010

An act to amend Sections 3620, 3621, 3626, and 3663 of, and to add Section 3620.1 to, the Business and Professions Code, and to amend an initiative act entitled "Osteopathic Act" approved by the electors November 7, 1922, as amended and approved by the electors November 6, 1962, by amending Section 1.5 thereof, and by amending and repealing Section 1 thereof, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1050, as amended, Yee. Osteopathic Medical Board of California: Naturopathic Medicine Committee.

(1) Existing law, the Osteopathic Act, requires the Governor to appoint 7 licensee members to the Osteopathic Medical Board of California, including 5 osteopathic physicians and surgeons and 2 naturopathic doctors. This provision is repealed on January 1, 2013, at which time the licensee membership of the board will be reduced to 5 osteopathic physicians and surgeons. Existing law also requires the Governor to appoint 2 public members to the Osteopathic Medical Board of California.

This bill would exclude those naturopathic doctors from the membership of the board, thereby reducing the licensee membership of the board to 5 osteopathic physicians and surgeons. The bill would

add 2 additional public members to the board and would require the Senate Committee on Rules and the Speaker of the Assembly to each appoint one public member. *The bill would specify that public members are to receive specified per diem and expenses.*

(2) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. The committee consists of 3 licensed naturopathic doctors, 3 licensed physicians and surgeons, and 3 public members who are appointed by the Governor. Existing law authorizes the committee, with the approval of the board, to appoint an executive officer and authorizes the board to employ other officers and employees as necessary.

This bill would change the membership of the committee to 5 licensed naturopathic doctors, 2 licensed physicians and surgeons, and 2 public members. The bill would authorize the committee to appoint an executive officer and other officers and employees as necessary. The bill would make the committee responsible for reviewing the quality of practice by licensed naturopathic doctors and solely responsible for implementing the Naturopathic Doctors Act. The bill would require protection of the public to be the highest priority for the committee.

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

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

- 1 SECTION 1. Section 3620 of the Business and Professions
- 2 Code is amended to read:
- 3 3620. The committee shall enforce and administer the
- 4 provisions of this chapter and shall be solely responsible for the
- 5 implementation of this chapter.
- 6 SEC. 2. Section 3620.1 is added to the Business and Professions
- 7 Code, to read:
- 8 3620.1. Protection of the public shall be the highest priority
- 9 for the committee in exercising its licensing, regulatory, and
- 10 disciplinary functions. Whenever the protection of the public is
- 11 inconsistent with other interests sought to be promoted, the
- 12 protection of the public shall be paramount.
- 13 SEC. 3. Section 3621 of the Business and Professions Code is
- 14 amended to read:

1 3621. (a) The committee shall consist of nine members
2 appointed by the Governor. Members of the committee shall
3 include five members who are California licensed naturopathic
4 doctors, or have met the requirements for licensure pursuant to
5 this chapter, two members who are California licensed physicians
6 and surgeons, and two public members.

7 (b) A member of the committee shall be appointed for a
8 four-year term. A person shall not serve as a member of the
9 committee for more than two consecutive terms. A member shall
10 hold office until the appointment and qualification of his or her
11 successor, or until one year from the expiration of the term for
12 which the member was appointed, whichever first occurs.
13 Vacancies shall be filled by appointment for unexpired terms.

14 (c) (1) A public member of the committee shall be a citizen of
15 this state for at least five years preceding his or her appointment.

16 (2) A person shall not be appointed as a public member if the
17 person or the person's immediate family in any manner owns an
18 interest in a college, school, or institution engaged in naturopathic
19 education, or the person or the person's immediate family has an
20 economic interest in naturopathy or has any other conflict of
21 interest. "Immediate family" means the public member's spouse,
22 parents, children, or his or her children's spouses.

23 (d) Each member of the committee shall receive a per diem and
24 expenses as provided in Section 103.

25 (e) The committee may appoint a person exempt from civil
26 service who shall be designated as an executive officer and who
27 shall exercise the powers and perform the duties delegated by the
28 committee and vested in him or her by this chapter.

29 SEC. 4. Section 3626 of the Business and Professions Code is
30 amended to read:

31 3626. The committee may employ other officers and employees
32 as necessary to discharge the duties of the committee.

33 SEC. 5. Section 3663 of the Business and Professions Code is
34 amended to read:

35 3663. (a) The committee shall have the responsibility for
36 reviewing the quality of the practice of naturopathic medicine
37 carried out by persons licensed as naturopathic doctors pursuant
38 to this chapter.

39 (b) The committee may discipline a naturopathic doctor for
40 unprofessional conduct. After a hearing conducted in accordance

1 with the Administrative Procedure Act (Chapter 5 (commencing
2 with Section 11500) of Part 1 of Division 3 of Title 2 of the
3 Government Code), the committee may deny, suspend, revoke, or
4 place on probation the license of, or reprimand, censure, or
5 otherwise discipline a naturopathic doctor in accordance with
6 Division 1.5 (commencing with Section 475).

7 SEC. 6. Section 1 of the act cited in the title, as amended by
8 Section 69 of Chapter 18 of the Fourth Extraordinary Session of
9 the Statutes of 2009, is repealed.

10 SEC. 7. Section 1 of the act cited in the title, as added by
11 Section 70 of Chapter 18 of the Fourth Extraordinary Session of
12 the Statutes of 2009, is amended to read:

13 Section 1. A self-sustaining Osteopathic Medical Board of
14 California to consist of five members and to be known as the
15 “Osteopathic Medical Board of California” is hereby created and
16 established. The Governor shall appoint the members of the board,
17 each of whom shall have been a citizen of this state and in active
18 practice for at least five years next preceding his or her
19 appointment. Each of the members shall be appointed from among
20 persons who are graduates of osteopathic schools who hold
21 unrevoked physician’s and surgeon’s D.O. licenses or certificates
22 to practice in this state. No one residing or practicing outside of
23 this state may be appointed to, or sit as a member of, the board.
24 The Governor shall fill by appointment all vacancies on the board
25 for the unexpired term. The term of office of each member shall
26 be three years; provided, that of the first board appointed, one shall
27 be appointed for one year, two for two years, and two for three
28 years, and that thereafter all appointments shall be for three years,
29 except that appointments to fill vacancies shall be for the unexpired
30 term only. No member shall serve for more than three full
31 consecutive terms. The Governor shall have power to remove from
32 office any member of the board for neglect of duty required by the
33 Osteopathic Act or Medical Practice Act, for no longer complying
34 with the residency or practice requirements of this section, for
35 incompetency, or for unprofessional conduct. Each member of the
36 board shall, before entering upon the duties of his or her office,
37 take the constitutional oath of office. All fees collected on behalf
38 of the Osteopathic Medical Board of California and all receipts of
39 every kind and nature, shall be reported at the beginning of each
40 month for the month preceding, to the Controller and at the same

1 time the entire amount must be paid into the State Treasury and
2 shall be credited to a fund to be known as the Osteopathic Medical
3 Board of California Contingent Fund, which fund is hereby created.
4 The contingent fund shall be for the use of the Osteopathic Medical
5 Board of California and out of it and not otherwise shall be paid
6 all expenses of the board. Each member of the board shall receive
7 a per diem and expenses as provided in Section 103, provided the
8 fees and other receipts of the board are sufficient to meet this
9 expense.

10 The Governor shall appoint the members of the board within 30
11 days after this act takes effect. The board shall be organized within
12 60 days after the appointment of its members by the Governor by
13 electing from its number a president, vice president, and a secretary
14 who shall also be the treasurer, who shall hold their respective
15 positions during the pleasure of the board. The board shall hold
16 one meeting during the first quarter of each calendar year at a time
17 and place designated by the board with power of adjournment from
18 time to time until its business is concluded. Special meetings of
19 the board may be held at such time and place as the board may
20 designate. Notice of each regular or special meeting shall be given
21 twice a week for two weeks next preceding each meeting in one
22 daily paper published in the City of San Francisco, one published
23 in the City of Sacramento, and one published in the City of Los
24 Angeles which notice shall also specify the time and place of
25 holding the examination of applicants. The secretary of the board
26 upon an authorization from the president of the board, or the
27 chairperson of the committee may call meetings of any duly
28 appointed committee of the board at a specified time and place
29 and it shall not be necessary to advertise those committee meetings.
30 The board shall receive through its secretary applications for
31 certificates to be issued by the board and shall, on or before the
32 first day of January in each year transmit to the Governor a full
33 report of all its proceedings together with a report of its receipts
34 and disbursements.

35 The office of the board shall be in the City of Sacramento.
36 Suboffices may be established in Los Angeles and San Francisco
37 and records as may be necessary may be transferred temporarily
38 to those suboffices. Legal proceedings against the board may be
39 instituted in any one of the three cities.

1 The board may from time to time adopt rules as may be necessary
2 to enable it to carry into effect the provisions of this act. It shall
3 require the affirmative vote of ~~three~~ *a majority of the* members of
4 the board to carry any motion or resolution, to adopt any rules,
5 pass any measure or to authorize the issuance or the revocation of
6 any certificate. Any member of the board may administer oaths in
7 all matters pertaining to the duties of the board and the board shall
8 have authority to take evidence in any matter cognizable by it. The
9 board shall keep an official record of its proceedings, a part of
10 which record shall consist of a register of all applicants for
11 certificates under this act together with the action of the board
12 upon each application.

13 The board shall have the power to employ legal counsel to advise
14 and assist it in connection with all matters cognizable by the board
15 or in connection with any litigation or legal proceedings instituted
16 by or against the board and may also employ clerical assistance
17 as it may deem necessary to carry into effect this act. The board
18 may fix the compensation to be paid for those services and may
19 incur other expense as it may deem necessary; provided, however,
20 that all of that expense shall be payable only from the fund
21 hereinbefore provided for and to be known as the Osteopathic
22 Medical Board of California Contingent Fund.

23 SEC. 8. Section 1.5 of the act cited in the title is amended to
24 read:

25 Sec. 1.5. In addition to the five members of the Osteopathic
26 Medical Board of California as provided for in Section 1, there
27 shall be four public members on the board. The public members
28 shall not be a licensee of any board in Division 2 (commencing
29 with Section 500) of the Business and Professions Code nor of
30 any initiative act referred to in that division. Two public members
31 shall be appointed by the Governor, and the Senate Committee on
32 Rules and the Speaker of the Assembly shall each appoint one
33 public member. Public members shall be appointed for a term of
34 three years ~~and shall not~~ *provided that, for the first public member*
35 *appointed by the Senate Committee on Rules, the term of office*
36 *shall be two years, and for the first public member appointed by*
37 *the Speaker of the Assembly, the term of office shall be one year,*
38 *and thereafter all appointments shall be for three years, except*
39 *that appointments to fill vacancies shall be for the unexpired term*
40 *only. No public member shall serve for more than three full*

1 consecutive terms. *Each public member of the board shall receive*
2 *a per diem and expenses as provided in Section 103, provided the*
3 *fees and other receipts of the board are sufficient to meet this*
4 *expense.*

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