

Senate Bill No. 1050

CHAPTER 143

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.

[Approved by Governor August 17, 2010. Filed with
Secretary of State August 17, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1050, 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 This provision is repealed on January 1, 2013, at which time the licensee membership of the board will be reduced to 5 osteopathic physicians and surgeons.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.

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

SECTION 1. Section 3620 of the Business and Professions Code is amended to read:

3620. The committee shall enforce and administer the provisions of this chapter and shall be solely responsible for the implementation of this chapter.

SEC. 2. Section 3620.1 is added to the Business and Professions Code, to read:

3620.1. Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 3. Section 3621 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1. A self-sustaining Osteopathic Medical Board of California to consist of five members and to be known as the "Osteopathic Medical Board of California" is hereby created and established. The Governor shall appoint the members of the board, each of whom shall have been a citizen of this state and in active practice for at least five years next preceding his or her appointment. Each of the members shall be appointed from among persons who are graduates of osteopathic schools who hold unrevoked physician's and surgeon's D.O. licenses or certificates to practice in this state. No one residing or practicing outside of this state may be appointed to, or sit as a member of, the board. The Governor shall fill by appointment all vacancies on the board for the unexpired term. The term of office of each member shall be three years; provided, that of the first board appointed, one shall be appointed for one year, two for two years, and two for three years, and that thereafter all appointments shall be for three years, except that appointments to fill vacancies shall be for the unexpired term only. No member shall serve for more than three full consecutive terms. The Governor shall have power to remove from office any member of the board for neglect of duty required by the Osteopathic Act or Medical Practice Act, for no longer complying with the residency or practice requirements of this section, for incompetency, or for unprofessional conduct. Each member of the board shall, before entering upon the duties of his or her office, take the constitutional oath of office. All fees collected on behalf of the Osteopathic Medical Board of California and all receipts of every kind and nature, shall be reported at the beginning of each month for the month preceding, to the Controller and at the same time the entire amount must be paid into the State Treasury and shall be credited to a fund to be known as the Osteopathic Medical Board of California Contingent Fund, which fund is hereby created. The contingent fund shall be for the use of the Osteopathic Medical Board of California and out of it and not otherwise shall be paid all expenses of

the board. Each member of the board shall receive a per diem and expenses as provided in Section 103, provided the fees and other receipts of the board are sufficient to meet this expense.

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

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

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

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

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

Sec.1.5. In addition to the five members of the Osteopathic Medical Board of California as provided for in Section 1, there shall be four public members on the board. The public members shall not be a licensee of any board in Division 2 (commencing with Section 500) of the Business and Professions Code nor of any initiative act referred to in that division. Two public members shall be appointed by the Governor, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Public members shall be appointed for a term of three years provided that, for the first public member appointed by the Senate Committee on Rules, the term of office shall be two years, and for the first public member appointed by the Speaker of the Assembly, the term of office shall be one year, and thereafter all appointments shall be for three years, except that appointments to fill vacancies shall be for the unexpired term only. No public member shall serve for more than three full consecutive terms. Each public member of the board shall receive a per diem and expenses as provided in Section 103, provided the fees and other receipts of the board are sufficient to meet this expense.