

Introduced by Senator Negrete McLeodFebruary 17, 2010

An act to amend Sections 27, 116, 125.9, 155, 159.5, 160, 726, 802.1 803, 803.5, 803.6, and 2715 of, to amend and repeal Section 125.3 of, to add Sections 125.4, 734, 735, 736, 737, 803.7, 1699.2, 2372, 2669.2, 2770.18, 3534.12, 4375, and 4873.2 to, to add Article 10.1 (commencing with Section 720), Article 15 (commencing with Section 870), and Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Article 4.7 (commencing with Section 1695) of Chapter 4 of, Article 15 (commencing with Section 2360) of Chapter 5 of, Article 5.5 (commencing with Section 2662) of Chapter 5.7 of, Article 3.1 (commencing with Section 2770) of Chapter 6 of, Article 6.5 (commencing with Section 3534) of Chapter 7.7 of, Article 21 (commencing with Section 4360) of Chapter 9 of, and Article 3.5 (commencing with Section 4860) of Chapter 11 of Division 2 of, the Business and Professions Code, to amend Sections 12529, 12529.5, 12529.6, and 12529.7 of the Government Code, and to amend Section 830.3 of the Penal Code, relating to regulatory boards, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as introduced, Negrete McLeod. Regulatory boards.

Existing law provides for the regulation of healing arts licensees by various boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs.

(1) Existing law requires certain boards within the department to disclose on the Internet information on their respective licensees.

This bill would additionally require specified healing arts boards to disclose on the Internet information on their respective licensees, as

specified. The bill would also declare the intent of the Legislature that the department establish an information technology system to create and update healing arts license information and track enforcement cases pertaining to these licensees.

Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

This bill would additionally authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.

Existing law authorizes an administrative law judge to order a licensee in a disciplinary proceeding to pay, upon request of the licensing authority, a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

This bill would instead authorize any entity within the department or the administrative law judge to order a licensee or applicant in any penalty or disciplinary hearing to pay a sum not to exceed the actual costs of the investigation, prosecution, and enforcement of the case within 30 days of the effective date of an order to pay costs. The bill would also authorize any entity within the department to request that the administrative law judge charge a licensee on probation the costs of the monitoring of his or her probation, and would prohibit relicensure if those costs are not paid. The bill would authorize any board within the department to contract with a collection agency for the purpose of collecting outstanding fees, fines, or cost recovery amounts, and would authorize the release of personal information, including the birth date, telephone number, and social security number of the person who owes that money to the board.

Existing law provides for the regulation of citation or administrative fine assessments issued pursuant to a citation. Hearings to contest citations or administrative fine assessments are conducted pursuant to a formal adjudication process.

This bill would authorize healing arts boards to proceed pursuant to an alternative adjudication process, as specified.

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging

a felony against the licensee or he or she has been convicted of a felony or misdemeanor.

This bill would expand that requirement to a licensee of any healing arts board, as specified, would require those licensees to submit a written report, and would further require a report upon the arrest of the licensee or when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state.

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licentiate has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licentiate.

This bill would instead make those provisions applicable to any described healing arts board. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.

(2) Under existing law, healing arts licensees are regulated by various healing arts boards and these boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their laws and regulations. Existing law requires or authorizes a healing arts board to appoint an executive officer or an executive director to, among other things, perform duties delegated by the board.

This bill would authorize the executive officer or the executive director of specified healing arts licensing boards, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense, appear at the hearing, or has agreed to surrender his or her license, to adopt a proposed default decision or a proposed settlement agreement. The bill would also authorize a healing arts board to enter into a settlement with a licensee or applicant prior to the issuance of an accusation or statement of issues against the licensee or applicant.

Upon receipt of evidence that a licensee of a healing arts board has engaged in conduct that poses an imminent risk of harm to the public

health, safety, or welfare, or has failed to comply with a request to inspect or copy records, the bill would authorize the executive officer of the healing arts board to petition the director or his or her designee to issue a temporary order that the licensee cease all practice and activities under his or her license. The bill would require the executive officer to provide notice to the licensee of the hearing at least one hour prior to the hearing and would provide a mechanism for the presentation of evidence and oral or written arguments. The bill would allow for the permanent revocation of the license if the director makes a determination that the action is necessary to protect the public health, safety, or welfare.

The bill would also provide that the license of a licensee shall be suspended if the licensee is incarcerated after the conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses; a violation for the use of dangerous drugs or controlled substances would also constitute unprofessional conduct and a crime, thereby imposing a state-mandated local program.

The bill would prohibit the issuance of a healing arts license to any person who is a registered sex offender, and would provide for the revocation of a license upon the conviction of certain sex offenses, as defined. The bill would provide that the commission of, and conviction for, any act of sexual abuse, misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration as a sex offender, be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

The bill would also prohibit a licensee of healing arts boards from including certain provisions in an agreement to settle a civil dispute arising from his or her practice, as specified. The bill would make a licensee or a health care facility that fails to comply with a patient's medical record request, as specified, within 10 days, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program.

The bill would authorize the Attorney General and his or her investigative agents and the healing arts boards to inquire into any alleged violation of the laws under the board's jurisdiction and to inspect

documents subject to specified procedures. The bill would also set forth procedures related to the inspection of patient records and patient confidentiality. The bill would require cooperation between state agencies and healing arts boards when investigating a licensee, and would require a state agency to provide to the board all records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide records to a healing arts board upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

The bill would require the healing arts boards to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of consumer calls received by the board, the total number of complaint forms received by the board, the total number of convictions reported to the board, and the total number of licensees in diversion or on probation for alcohol or drug abuse. The bill would require the healing arts boards to search specified national databases prior to licensure of an applicant or licensee who holds a license in another state, and would authorize a healing arts board to charge a fee for the cost of conducting the search.

The bill would authorize the healing arts boards to refuse to issue a license to an applicant if the applicant appears to be unable to practice safely due to mental illness or chemical dependency, subject to specified procedural requirements and medical examinations. The bill would also authorize the healing arts boards to issue limited licenses to practice to an applicant with a disability, as specified.

(3) This bill would make it a crime to violate any of the provisions of (2) above; to engage in the practice of healing arts without a current and valid license, except as specified; to fraudulently buy, sell, or obtain a license to practice healing arts; or to represent oneself as engaging or authorized to engage in healing arts if he or she is not authorized to do so. By creating new crimes, the bill would impose a state-mandated local program.

This bill would also provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.

(4) Existing law requires regulatory fees to be deposited into special funds within the Professions and Vocations Fund, and certain of those special funds are continuously appropriated for those purposes. Those funds are created, and those fees are set, by the Legislature by statute or, if specified, by administrative regulation.

This bill would authorize the Department of Consumer Affairs to adjust those healing arts regulatory fees consistent with the California Consumer Price Index. By adding a new source of revenue for deposit into certain continuously appropriated funds, the bill would make an appropriation.

(5) Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

This bill would authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Medical Board of California or provided by the Department of Justice. The bill would also provide within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.

Existing law provides that the chief and all investigators of the Division of Investigation of the department and all investigators of the Medical Board of California have the authority of peace officers.

This bill would include within that provision investigators of the Board of Registered Nursing and would also provide that investigators employed by the Medical Board of California, the Dental Board of California, and the Board of Registered Nursing are not required to be employed by the division. The bill would also authorize the Board of Registered Nursing to employ nurse consultants and other personnel as it deems necessary.

(6) Existing law establishes diversion and recovery programs to identify and rehabilitate dentists, osteopathic physicians and surgeons, physical therapists and physical therapy assistants, registered nurses, physician assistants, pharmacists and intern pharmacists, and veterinarians and registered veterinary technicians whose competency may be impaired due to, among other things, alcohol and drug abuse.

This bill would make the provisions establishing these diversion programs inoperative on January 1, 2013.

(7) Existing law provides in the Department of Justice the Health Quality Enforcement Section, whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California and any committee of the board, the California Podiatric Medicine, and the Board of Psychology.

This bill would require the Health Quality Enforcement Section to provide investigative and prosecutorial services to any healing arts board, as defined, upon request by the executive officer of the board. The bill would also require the Attorney General to assign attorneys employed by the office of the Attorney General to work on location at the Health Quality Enforcement Unit of the Division of Investigation of the Department of Consumer Affairs, as specified.

(8) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Consumer Health Protection Enforcement Act.
- 3 SEC. 2. (a) The Legislature finds and declares the following:
- 4 (1) In recent years, it has been reported that many of the healing
- 5 arts boards within the Department of Consumer Affairs take, on
- 6 average, more than three years to investigate and prosecute
- 7 violations of law, a timeframe that does not adequately protect
- 8 consumers.
- 9 (2) The excessive amount of time that it takes healing arts boards
- 10 to investigate and prosecute licensed professionals who have

1 violated the law has been caused, in part, by legal and procedural
2 impediments to the enforcement programs.

3 (3) Both consumers and licensees have an interest in the quick
4 resolution of complaints and disciplinary actions. Consumers need
5 prompt action against licensees who do not comply with
6 professional standards, and licensees have an interest in timely
7 review of consumer complaints to keep the trust of their patients.

8 (b) It is the intent of the Legislature that the changes made by
9 this act will improve efficiency and increase accountability within
10 the healing arts boards of the Department of Consumer Affairs,
11 and will remain consistent with the long-held paramount goal of
12 consumer protection.

13 (c) It is further the intent of the Legislature that the changes
14 made by this act will provide the healing arts boards within the
15 Department of Consumer Affairs with the regulatory tools and
16 authorities necessary to reduce the average timeframe for
17 investigating and prosecuting violations of law by healing arts
18 practitioners to between 12 and 18 months.

19 SEC. 3. Section 27 of the Business and Professions Code is
20 amended to read:

21 27. (a) ~~Each~~ Every entity specified in subdivision (b) shall
22 provide on the Internet information regarding the status of every
23 license issued by that entity in accordance with the California
24 Public Records Act (Chapter 3.5 (commencing with Section 6250)
25 of Division 7 of Title 1 of the Government Code) and the
26 Information Practices Act of 1977 (Chapter 1 (commencing with
27 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
28 The public information to be provided on the Internet shall include
29 information on suspensions and revocations of licenses issued by
30 the entity and other related enforcement action taken by the entity
31 relative to persons, businesses, or facilities subject to licensure or
32 regulation by the entity. In providing information on the Internet,
33 each entity shall comply with the Department of Consumer Affairs
34 Guidelines for Access to Public Records. The information may
35 not include personal information, including home telephone
36 number, date of birth, or social security number. Each entity shall
37 disclose a licensee's address of record. However, each entity shall
38 allow a licensee to provide a post office box number or other
39 alternate address, instead of his or her home address, as the address
40 of record. This section shall not preclude an entity from also

1 requiring a licensee, who has provided a post office box number
2 or other alternative mailing address as his or her address of record,
3 to provide a physical business address or residence address only
4 for the entity's internal administrative use and not for disclosure
5 as the licensee's address of record or disclosure on the Internet.

6 (b) Each of the following entities within the Department of
7 Consumer Affairs shall comply with the requirements of this
8 section:

9 (1) The Acupuncture Board shall disclose information on its
10 licensees.

11 (2) The Board of Behavioral Sciences shall disclose information
12 on its licensees, including marriage and family therapists, licensed
13 clinical social workers, and licensed educational psychologists.

14 (3) The Dental Board of California shall disclose information
15 on its licensees.

16 (4) The State Board of Optometry shall disclose information
17 regarding certificates of registration to practice optometry,
18 statements of licensure, optometric corporation registrations, branch
19 office licenses, and fictitious name permits of its licensees.

20 (5) The Board for Professional Engineers and Land Surveyors
21 shall disclose information on its registrants and licensees.

22 (6) The Structural Pest Control Board shall disclose information
23 on its licensees, including applicators, field representatives, and
24 operators in the areas of fumigation, general pest and wood
25 destroying pests and organisms, and wood roof cleaning and
26 treatment.

27 (7) The Bureau of Automotive Repair shall disclose information
28 on its licensees, including auto repair dealers, smog stations, lamp
29 and brake stations, smog check technicians, and smog inspection
30 certification stations.

31 (8) The Bureau of Electronic and Appliance Repair shall disclose
32 information on its licensees, including major appliance repair
33 dealers, combination dealers (electronic and appliance), electronic
34 repair dealers, service contract sellers, and service contract
35 administrators.

36 (9) The Cemetery and Funeral Bureau shall disclose information
37 on its licensees, including cemetery brokers, cemetery salespersons,
38 cemetery managers, crematory managers, cemetery authorities,
39 crematories, cremated remains disposers, embalmers, funeral
40 establishments, and funeral directors.

1 (10) The Professional Fiduciaries Bureau shall disclose
2 information on its licensees.

3 (11) The Contractors' State License Board shall disclose
4 information on its licensees in accordance with Chapter 9
5 (commencing with Section 7000) of Division 3. In addition to
6 information related to licenses as specified in subdivision (a), the
7 board shall also disclose information provided to the board by the
8 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

9 (12) The Board of Psychology shall disclose information on its
10 licensees, including psychologists, psychological assistants, and
11 registered psychologists.

12 (13) The Bureau for Private Postsecondary Education shall
13 disclose information on private postsecondary institutions under
14 its jurisdiction, including disclosure of notices to comply issued
15 pursuant to Section 94935 of the Education Code.

16 (14) *The Board of Registered Nursing shall disclose information*
17 *on its licensees.*

18 (15) *The Board of Vocational Nursing and Psychiatric*
19 *Technicians of the State of California shall disclose information*
20 *on its licensees.*

21 (16) *The Veterinary Medical Board shall disclose information*
22 *on its licensees and registrants.*

23 (17) *The Physical Therapy Board of California shall disclose*
24 *information on its licensees.*

25 (18) *The California State Board of Pharmacy shall disclose*
26 *information on its licensees.*

27 (19) *The Speech-Language Pathology and Audiology and*
28 *Hearing Aid Dispensers Board shall disclose information on its*
29 *licensees.*

30 (20) *The Respiratory Care Board of California shall disclose*
31 *information on its licensees.*

32 (21) *The California Board of Occupational Therapy shall*
33 *disclose information on its licensees.*

34 (22) *The Naturopathic Medicine Committee of the Osteopathic*
35 *Medical Board of California shall disclose information on its*
36 *licensees.*

37 (23) *The Physician Assistant Committee of the Medical Board*
38 *of California shall disclose information on its licensees.*

39 (24) *The Dental Hygiene Committee of California shall disclose*
40 *information on its licensees.*

1 (c) “Internet” for the purposes of this section has the meaning
2 set forth in paragraph (6) of subdivision ~~(e)~~ (f) of Section 17538.

3 SEC. 4. Section 116 of the Business and Professions Code is
4 amended to read:

5 116. (a) The director *or his or her designee* may audit and
6 review, upon his or her own initiative, or upon the request of a
7 consumer or licensee, inquiries and complaints regarding licensees,
8 dismissals of disciplinary cases, the opening, conduct, or closure
9 of investigations, informal conferences, and discipline short of
10 formal accusation by *any of the Medical Board of California, the*
11 *allied health professional boards, and the California Board of*
12 *Podiatric Medicine; healing arts boards defined in Section 720.*
13 The director may make recommendations for changes to the
14 disciplinary system to the appropriate board, the Legislature, or
15 both.

16 (b) The director shall report to the Chairpersons of the Senate
17 Business and Professions Committee and the Assembly Health
18 Committee annually, ~~commencing March 1, 1995,~~ regarding his
19 or her findings from any audit, review, or monitoring and
20 evaluation conducted pursuant to this section.

21 SEC. 5. Section 125.3 of the Business and Professions Code,
22 as amended by Section 2 of Chapter 223 of the Statutes of 2006,
23 is amended to read:

24 125.3. (a) (1) Except as otherwise provided by law, in any
25 order issued in resolution of a *penalty or disciplinary proceeding*
26 *or hearing on a citation issued pursuant to Section 125.9 or*
27 *regulations adopted thereto,* before any board ~~within the~~
28 ~~department or before the Osteopathic Medical Board,~~ upon request
29 ~~of the entity bringing the proceeding specified in Section 101,~~ the
30 *board or the administrative law judge may direct a licensee any*
31 *licensee or applicant* found to have committed a violation or
32 violations of the ~~licensing act~~ law to pay *to the board* a sum not
33 to exceed the ~~reasonable~~ *actual* costs of the investigation,
34 *prosecution,* and enforcement of the case.

35 (2) *In an order issued pursuant to paragraph (1) that places a*
36 *license on probation, the administrative law judge may direct a*
37 *licensee to pay the board’s actual costs of monitoring that licensee*
38 *while he or she remains on probation, if so requested by the entity*
39 *bringing the proceeding. The board shall provide the*

1 *administrative law judge with a good faith estimate of the probation*
2 *monitoring costs at the time of the request.*

3 (b) In the case of a disciplined licentiate that is a corporation or
4 a partnership, the order may be made against the licensed corporate
5 entity or licensed partnership.

6 (c) A certified copy of the actual costs, or a good faith estimate
7 of costs where actual costs are not available, signed by the entity
8 bringing the proceeding or its designated representative shall be
9 prima facie evidence of ~~reasonable~~ *actual* costs of investigation
10 ~~and~~, prosecution, *and enforcement* of the case. The costs shall
11 include the amount of investigative, *prosecution*, and enforcement
12 costs up to the date of the hearing, including, but not limited to,
13 charges imposed by the Attorney General.

14 (d) The administrative law judge shall make a proposed finding
15 of the amount of ~~reasonable~~ *actual* costs of investigation ~~and~~,
16 prosecution, *and enforcement* of the case *and probation monitoring*
17 *costs* when requested pursuant to subdivision (a). The finding of
18 the administrative law judge with regard to costs shall not be
19 reviewable by the board to increase ~~the~~ *any* cost award. The board
20 may reduce or eliminate the cost award, or remand to the
21 administrative law judge if the proposed decision fails to make a
22 finding on costs requested pursuant to subdivision (a).

23 (e) If an order for recovery of costs is made ~~and~~, *payment is due*
24 *and payable 30 days after the effective date of the order. If* timely
25 payment is not made as directed in the board's decision, the board
26 may enforce the order for repayment in any appropriate court. This
27 right of enforcement shall be in addition to any other rights the
28 board may have as to any licentiate to pay costs.

29 (f) In any action for recovery of costs, proof of the board's
30 decision shall be conclusive proof of the validity of the order of
31 payment and the terms for payment.

32 (g) (1) Except as provided in paragraph (2), the board shall not
33 renew or reinstate the license of any licentiate who has failed to
34 pay all of the costs ordered under this section.

35 (2) Notwithstanding paragraph (1), the board may, in its
36 discretion, conditionally renew or reinstate for a maximum of one
37 year the license of any licentiate who demonstrates financial
38 hardship and who enters into a formal agreement with the board
39 to reimburse the board within that one-year period for the unpaid
40 costs.

1 (h) All costs recovered under this section shall be considered a
2 reimbursement for costs incurred and shall be deposited in the
3 fund of the board recovering the costs to be available upon
4 appropriation by the Legislature.

5 (i) Nothing in this section shall preclude a board from including
6 the recovery of the costs of investigation, *prosecution*, and
7 enforcement of a case in any stipulated settlement.

8 (j) This section does not apply to any board if a specific statutory
9 provision in that board’s licensing act provides for *broader*
10 *authority for the* recovery of costs in an administrative disciplinary
11 proceeding.

12 (k) Notwithstanding the provisions of this section, the Medical
13 Board of California shall not request nor obtain from a physician
14 and surgeon, investigation and prosecution costs for a disciplinary
15 proceeding against the licentiate. The board shall ensure that this
16 subdivision is revenue neutral with regard to it and that any loss
17 of revenue or increase in costs resulting from this subdivision is
18 offset by an increase in the amount of the initial license fee and
19 the biennial renewal fee, as provided in subdivision (e) of Section
20 2435.

21 (l) *For purposes of this chapter, costs of prosecution shall*
22 *include, but not be limited to, costs of attorneys, expert consultants,*
23 *witnesses, any administrative filing and service fees, and any other*
24 *cost associated with the prosecution of the case.*

25 SEC. 6. Section 125.3 of the Business and Professions Code,
26 as added by Section 1 of Chapter 1059 of the Statutes of 1992, is
27 repealed.

28 ~~125.3.— (a) Except as otherwise provided by law, in any order~~
29 ~~issued in resolution of a disciplinary proceeding before any board~~
30 ~~within the department or before the Osteopathic Medical Board,~~
31 ~~upon request of the entity bringing the proceeding may request the~~
32 ~~administrative law judge to direct a licentiate found to have~~
33 ~~committed a violation or violations of the licensing act to pay a~~
34 ~~sum not to exceed the reasonable costs of the investigation and~~
35 ~~enforcement of the case.~~

36 ~~(b) In the case of a disciplined licentiate that is a corporation or~~
37 ~~a partnership, the order may be made against the licensed corporate~~
38 ~~entity or licensed partnership.~~

39 ~~(e) A certified copy of the actual costs, or a good faith estimate~~
40 ~~of costs where actual costs are not available, signed by the entity~~

1 bringing the proceeding or its designated representative shall be
2 prima facie evidence of reasonable costs of investigation and
3 prosecution of the case. The costs shall include the amount of
4 investigative and enforcement costs up to the date of the hearing,
5 including, but not limited to, charges imposed by the Attorney
6 General.

7 (d) The administrative law judge shall make a proposed finding
8 of the amount of reasonable costs of investigation and prosecution
9 of the case when requested pursuant to subdivision (a). The finding
10 of the administrative law judge with regard to costs shall not be
11 reviewable by the board to increase the cost award. The board may
12 reduce or eliminate the cost award, or remand to the administrative
13 law judge where the proposed decision fails to make a finding on
14 costs requested pursuant to subdivision (a).

15 (e) Where an order for recovery of costs is made and timely
16 payment is not made as directed in the board's decision, the board
17 may enforce the order for repayment in any appropriate court. This
18 right of enforcement shall be in addition to any other rights the
19 board may have as to any licentiate to pay costs.

20 (f) In any action for recovery of costs, proof of the board's
21 decision shall be conclusive proof of the validity of the order of
22 payment and the terms for payment.

23 (g) (1) Except as provided in paragraph (2), the board shall not
24 renew or reinstate the license of any licentiate who has failed to
25 pay all of the costs ordered under this section.

26 (2) Notwithstanding paragraph (1), the board may, in its
27 discretion, conditionally renew or reinstate for a maximum of one
28 year the license of any licentiate who demonstrates financial
29 hardship and who enters into a formal agreement with the board
30 to reimburse the board within that one-year period for the unpaid
31 costs.

32 (h) All costs recovered under this section shall be considered a
33 reimbursement for costs incurred and shall be deposited in the
34 fund of the board recovering the costs to be available upon
35 appropriation by the Legislature.

36 (i) Nothing in this section shall preclude a board from including
37 the recovery of the costs of investigation and enforcement of a
38 case in any stipulated settlement.

1 ~~(j) This section does not apply to any board if a specific statutory~~
2 ~~provision in that board's licensing act provides for recovery of~~
3 ~~costs in an administrative disciplinary proceeding.~~

4 SEC. 7. Section 125.4 is added to the Business and Professions
5 Code, to read:

6 125.4. Notwithstanding any other provision of law, a board
7 may contract with a collection agency for the purpose of collecting
8 outstanding fees, fines, or cost recovery amounts from any person
9 who owes that money to the board, and, for those purposes, may
10 provide to the collection agency the personal information of that
11 person, including his or her birth date, telephone number, and
12 social security number. The contractual agreement shall provide
13 that the collection agency may use or release personal information
14 only as authorized by the contract, and shall provide safeguards
15 to ensure that the personal information is protected from
16 unauthorized disclosure. The contractual agreement shall hold the
17 collection agency liable for the unauthorized use or disclosure of
18 personal information received or collected under this section.

19 SEC. 8. Section 125.9 of the Business and Professions Code
20 is amended to read:

21 125.9. (a) Except with respect to persons regulated under
22 Chapter 11 (commencing with Section 7500), and Chapter 11.6
23 (commencing with Section 7590) of Division 3, any board, bureau,
24 ~~or~~ commission, *or committee* within the department, the board
25 created by the Chiropractic Initiative Act, and the Osteopathic
26 Medical Board of California, may establish, by regulation, a system
27 for the issuance to a licensee of a citation ~~which~~ *that* may contain
28 an order of abatement or an order to pay an administrative fine
29 assessed by the board, bureau, ~~or~~ commission, *or committee* where
30 the licensee is in violation of the applicable licensing act or any
31 regulation adopted pursuant thereto.

32 (b) The system shall contain the following provisions:

33 (1) Citations shall be in writing and shall describe with
34 particularity the nature of the violation, including specific reference
35 to the provision of law determined to have been violated.

36 (2) Whenever appropriate, the citation shall contain an order of
37 abatement fixing a reasonable time for abatement of the violation.

38 (3) In no event shall the administrative fine assessed by the
39 board, bureau, ~~or~~ commission, *or committee* exceed five thousand
40 dollars (\$5,000) for each inspection or each investigation made

1 with respect to the violation, or five thousand dollars (\$5,000) for
2 each violation or count if the violation involves fraudulent billing
3 submitted to an insurance company, the Medi-Cal program, or
4 Medicare. In assessing a fine, the board, bureau, ~~or~~ commission,
5 *or committee* shall give due consideration to the appropriateness
6 of the amount of the fine with respect to factors such as the gravity
7 of the violation, the good faith of the licensee, and the history of
8 previous violations.

9 (4) A citation or fine assessment issued pursuant to a citation
10 shall inform the licensee that if he or she desires a hearing to
11 ~~contest~~ *appeal* the finding of a violation, that hearing shall be
12 requested by written notice to the board, bureau, ~~or~~ commission,
13 *or committee* within 30 days of the date of issuance of the citation
14 or assessment. If a hearing is not requested pursuant to this section,
15 payment of any fine shall not constitute an admission of the
16 violation charged. Hearings shall be held pursuant to Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3 of Title
18 2 of the Government Code *or, at the discretion of a healing arts*
19 *board, as defined in Section 720, pursuant to paragraph (5).*

20 (5) (A) *If the healing arts board is a board or committee, the*
21 *executive officer and two members of that board or committee*
22 *shall hear the appeal and issue a citation decision. A licensee*
23 *desiring to appeal the citation decision shall file a written appeal*
24 *of the citation decision with the board or committee within 30 days*
25 *of issuance of the decision. The appeal shall be considered by the*
26 *board or committee itself and shall issue a written decision on the*
27 *appeal. The members of the board or committee who issued the*
28 *citation decision shall not participate in the appeal before the*
29 *board or committee unless one or both of the members are needed*
30 *to establish a quorum to act on the appeal.*

31 (B) *If the healing arts board is a bureau, the director shall*
32 *appoint a designee to hear the appeal and issue a citation decision.*
33 *A licensee desiring to appeal the citation decision shall file a*
34 *written appeal of the citation decision with the bureau within 30*
35 *days of issuance of the decision. The appeal shall be considered*
36 *by the director or his or her designee who shall issue a written*
37 *decision on the appeal.*

38 (C) *The hearings specified in this paragraph are not subject to*
39 *the provisions of Chapter 5 (commencing with Section 11500) of*
40 *Part 1 of Division 3 of Title 2 of the Government Code.*

1 (D) A healing arts board may adopt regulations to implement
2 this paragraph, which may include the use of telephonic hearings.

3 (5)

4 (6) Failure of a licensee to pay a fine within 30 days of the date
5 of assessment, unless the citation is being appealed, may result in
6 disciplinary action being taken by the board, bureau, ~~or~~
7 commission, *or committee*. Where a citation is not contested and
8 a fine is not paid, the full amount of the assessed fine shall be
9 added to the fee for renewal of the license. A license shall not be
10 renewed without payment of the renewal fee and fine.

11 (c) The system may contain the following provisions:

12 (1) A citation may be issued without the assessment of an
13 administrative fine.

14 (2) Assessment of administrative fines may be limited to only
15 particular violations of the applicable licensing act.

16 (d) Notwithstanding any other provision of law, if a fine is paid
17 to satisfy an assessment based on the finding of a violation,
18 payment of the fine shall be represented as satisfactory resolution
19 of the matter for purposes of public disclosure.

20 (e) Administrative fines collected pursuant to this section shall
21 be deposited in the special fund of the particular board, bureau, ~~or~~
22 commission, *or committee*.

23 SEC. 9. Section 155 of the Business and Professions Code is
24 amended to read:

25 155. (a) In accordance with Section 159.5, the director may
26 employ such investigators, inspectors, and deputies as are necessary
27 properly to investigate and prosecute all violations of any law, the
28 enforcement of which is charged to the department or to any board,
29 agency, or commission in the department.

30 (b) It is the intent of the Legislature that inspectors used by
31 boards, bureaus, or commissions in the department shall not be
32 required to be employees of the Division of Investigation, but may
33 either be employees of, or under contract to, the boards, bureaus,
34 or commissions. Contracts for services shall be consistent with
35 Article 4.5 (commencing with Section 19130) of Chapter 6 of Part
36 2 of Division 5 of Title 2 of the Government Code. All civil service
37 employees currently employed as inspectors whose functions are
38 transferred as a result of this section shall retain their positions,
39 status, and rights in accordance with Section 19994.10 of the
40 Government Code and the State Civil Service Act (Part 2

1 (commencing with Section 18500) of Division 5 of Title 2 of the
2 Government Code).

3 (c) *Investigators used by any healing arts board, as defined in*
4 *Section 720, shall not be required to be employees of the Division*
5 *of Investigation and the healing arts board may contract for*
6 *investigative services provided by the Medical Board of California*
7 *or provided by the Department of Justice.*

8 (e)

9 (d) Nothing in this section limits the authority of, or prohibits,
10 investigators in the Division of Investigation in the conduct of
11 inspections or investigations of any licensee, or in the conduct of
12 investigations of any officer or employee of a board or the
13 department at the specific request of the director or his or her
14 designee.

15 SEC. 10. Section 159.5 of the Business and Professions Code
16 is amended to read:

17 159.5. There is in the department the Division of Investigation.
18 The division is in *the* charge of a person with the title of chief of
19 the division. *There is in the division the Health Quality*
20 *Enforcement Unit. The primary responsibility of the unit is to*
21 *investigate complaints against licensees and applicants within the*
22 *jurisdiction of the healing arts boards specified in Section 720.*

23 Except as provided in Section 16 of Chapter 1394 of the Statutes
24 of 1970, all positions for the personnel necessary to provide
25 investigative services, as specified in Section 160 of this code and
26 in subdivision (b) of Section 830.3 of the Penal Code, ~~to the~~
27 ~~agencies in the department~~ shall be in the division and the
28 personnel shall be appointed by the director. ~~However, if, pursuant~~
29 ~~to the Governor's Reorganization Plan No. 2 of the 1970 Regular~~
30 ~~Session, any agency has any investigative, inspectional, or auditing~~
31 ~~positions of its own, the agency shall retain those positions until~~
32 ~~the director determines, after consultation with, and consideration~~
33 ~~of, the views of the particular agency concerned, that the positions~~
34 ~~should be transferred to the division in the interests of efficient,~~
35 ~~economical, and effective service to the public, at which time they~~
36 ~~shall be so transferred.~~

37 SEC. 11. Section 160 of the Business and Professions Code is
38 amended to read:

39 160. (a) The Chief and ~~all~~ *designated* investigators of the
40 Division of Investigation of the department ~~and all, designated~~

1 investigators of the Medical Board of California ~~and~~, *designated*
2 *investigators of the Dental Board of Dental Examiners California,*
3 *and designated investigators of the Board of Registered Nursing*
4 have the authority of peace officers while engaged in exercising
5 the powers granted or performing the duties imposed upon them
6 or the division in investigating the laws administered by the various
7 boards comprising the department or commencing directly or
8 indirectly any criminal prosecution arising from any investigation
9 conducted under these laws. All persons herein referred to shall
10 be deemed to be acting within the scope of employment with
11 respect to all acts and matters in this section set forth.

12 *(b) The Division of Investigation, the Medical Board of*
13 *California, the Dental Board of California, and the Board of*
14 *Registered Nursing may employ investigators who are not peace*
15 *officers to provide investigative services.*

16 SEC. 12. Article 10.1 (commencing with Section 720) is added
17 to Chapter 1 of Division 2 of the Business and Professions Code,
18 to read:

19

20 Article 10.1. Healing Arts Licensing Enforcement

21

22 720. (a) Unless otherwise provided, as used in this article, the
23 term “healing arts board” shall include all of the following:

- 24 (1) The Dental Board of California.
25 (2) The Medical Board of California.
26 (3) The State Board of Optometry.
27 (4) The California State Board of Pharmacy.
28 (5) The Board of Registered Nursing.
29 (6) The Board of Behavioral Sciences.
30 (7) The Board of Vocational Nursing and Psychiatric
31 Technicians of the State of California.
32 (8) The Respiratory Care Board of California.
33 (9) The Acupuncture Board.
34 (10) The Board of Psychology.
35 (11) The California Board of Podiatric Medicine.
36 (12) The Physical Therapy Board of California.
37 (13) The Physician Assistant Committee of the Medical Board
38 of California.
39 (14) The Speech-Language Pathology and Audiology and
40 Hearing Aid Dispensers Board.

- 1 (15) The California Board of Occupational Therapy.
2 (16) The Osteopathic Medical Board of California.
3 (17) The Naturopathic Medicine Committee of the Osteopathic
4 Medical Board of California.
5 (18) The Dental Hygiene Committee of California.
6 (19) The Veterinary Medical Board.

7 (b) Unless otherwise provided, as used in this article, “board”
8 means all healing arts boards described under subdivision (a) and
9 “licensee” means a licensee of a healing arts board described in
10 subdivision (a).

11 720.2. (a) The executive officer or executive director of a
12 healing arts board may adopt a proposed default decision where
13 an administrative action to revoke a license has been filed and the
14 licensee has failed to file a notice of defense or to appear at the
15 hearing and a proposed default decision revoking the license has
16 been issued.

17 (b) The executive officer or executive director of a healing arts
18 board may adopt a proposed settlement agreement where an
19 administrative action to revoke a license has been filed by the
20 healing arts board and the licensee has agreed to surrender his or
21 her license.

22 720.4. (a) Notwithstanding Section 11415.60 of the
23 Government Code, a healing arts board may enter into a settlement
24 with a licensee or applicant prior to the board’s issuance of an
25 accusation or statement of issues against that licensee or applicant,
26 as applicable.

27 (b) No person who enters a settlement pursuant to this section
28 may petition to modify the terms of the settlement or petition for
29 early termination of probation, if probation is part of the settlement.

30 (c) Any settlement executed pursuant to this section shall be
31 considered discipline and a public record and shall be posted on
32 the applicable board’s Internet Web site.

33 720.6. (a) Notwithstanding any other provision of law, upon
34 receipt of evidence that a licensee of a healing arts board has
35 engaged in conduct that poses an imminent risk of serious harm
36 to the public health, safety, or welfare, or has failed to comply
37 with a request to inspect or copy records made pursuant to Section
38 720.16, the executive officer of that board may petition the director
39 to issue a temporary order that the licensee cease all practice and
40 activities that require a license by that board.

1 (b) (1) The executive officer of the healing arts board shall, to
2 the extent practicable, provide telephonic, electronic mail, message,
3 or facsimile written notice to the licensee of a hearing on the
4 petition at least 24 hours prior to the hearing. The licensee and his
5 or her counsel and the executive officer or his or her designee shall
6 have the opportunity to present oral or written argument before
7 the director. After presentation of the evidence and consideration
8 of any arguments presented, the director may issue an order that
9 the licensee cease all practice and activities that require a license
10 by that board when, in the opinion of the director, the action is
11 necessary to protect the public health, safety, or welfare.

12 (2) The hearing specified in this subdivision shall not be subject
13 to the provisions of Chapter 5 (commencing with Section 11500)
14 of Part 1 of Division 3 of Title 2 of the Government Code.

15 (c) Any order to cease practice issued pursuant to this section
16 shall automatically be vacated within 120 days of issuance, or until
17 the healing arts board, pursuant to Section 494, files a petition for
18 an interim suspension order and the petition is denied or granted,
19 whichever occurs first.

20 (d) A licensee who fails or refuses to comply with an order of
21 the director to cease practice pursuant to this section is subject to
22 disciplinary action to revoke or suspend his or her license by his
23 or her respective healing arts board and an administrative fine
24 assessed by the board not to exceed twenty-five thousand dollars
25 (\$25,000). The remedies provided herein are in addition to any
26 other authority of the healing arts board to sanction a licensee for
27 practicing or engaging in activities subject to the jurisdiction of
28 the board without proper legal authority.

29 (e) Upon receipt of new information, the executive officer for
30 the healing arts board who requested the temporary suspension
31 order shall review the basis for the license suspension to determine
32 if the grounds for the suspension continue to exist. The executive
33 officer shall immediately notify the director if the executive officer
34 believes that the licensee no longer poses an imminent risk of
35 serious harm to the public health, safety, or welfare or that the
36 licensee has complied with the request to inspect or copy records
37 pursuant to Section 720.16. The director shall review the
38 information from the executive officer and may vacate the
39 suspension order, if he or she believes that the suspension is no
40 longer necessary to protect the public health, safety, or welfare.

1 (f) Any petition and order to cease practice shall be displayed
2 on the Internet Web site of the applicable healing arts board, except
3 that if the petition is not granted or the director vacates the
4 suspension order pursuant to subdivision (e), the petition and order
5 shall be removed from the respective board's Internet Web site.

6 (g) If the position of director is vacant, the chief deputy director
7 of the department shall fulfill the duties of this section.

8 (h) Temporary suspension orders shall be subject to judicial
9 review pursuant to Section 1094.5 of the Code of Civil Procedure
10 and shall be heard only in the superior court in, and for, the
11 Counties of Sacramento, San Francisco, Los Angeles, or San
12 Diego.

13 720.8. (a) The license of a licensee of a healing arts board
14 shall be suspended automatically during any time that the licensee
15 is incarcerated after conviction of a felony, regardless of whether
16 the conviction has been appealed. The healing arts board shall,
17 immediately upon receipt of the certified copy of the record of
18 conviction, determine whether the license of the licensee has been
19 automatically suspended by virtue of his or her incarceration, and
20 if so, the duration of that suspension. The healing arts board shall
21 notify the licensee of the license suspension and of his or her right
22 to elect to have the issue of penalty heard as provided in
23 subdivision (d).

24 (b) Upon receipt of the certified copy of the record of conviction,
25 if after a hearing before an administrative law judge from the Office
26 of Administrative Law it is determined that the felony for which
27 the licensee was convicted was substantially related to the
28 qualifications, functions, or duties of a licensee, the board shall
29 suspend the license until the time for appeal has elapsed, if no
30 appeal has been taken, or until the judgment of conviction has been
31 affirmed on appeal or has otherwise become final, and until further
32 order of the healing arts board.

33 (c) Notwithstanding subdivision (b), a conviction of a charge
34 of violating any federal statute or regulation or any statute or
35 regulation of this state, regulating dangerous drugs or controlled
36 substances, or a conviction of Section 187, 261, 262, or 288 of the
37 Penal Code, shall be conclusively presumed to be substantially
38 related to the qualifications, functions, or duties of a licensee and
39 no hearing shall be held on this issue. However, upon its own
40 motion or for good cause shown, the healing arts board may decline

1 to impose or may set aside the suspension when it appears to be
2 in the interest of justice to do so, with due regard to maintaining
3 the integrity of, and confidence in, the practice regulated by the
4 healing arts board.

5 (d) (1) Discipline may be ordered against a licensee in
6 accordance with the laws and regulations of the healing arts board
7 when the time for appeal has elapsed, the judgment of conviction
8 has been affirmed on appeal, or an order granting probation is
9 made suspending the imposition of sentence, irrespective of a
10 subsequent order under Section 1203.4 of the Penal Code allowing
11 the person to withdraw his or her plea of guilty and to enter a plea
12 of not guilty, setting aside the verdict of guilty, or dismissing the
13 accusation, complaint, information, or indictment.

14 (2) The issue of penalty shall be heard by an administrative law
15 judge from the Office of Administrative Law. The hearing shall
16 not be had until the judgment of conviction has become final or,
17 irrespective of a subsequent order under Section 1203.4 of the
18 Penal Code, an order granting probation has been made suspending
19 the imposition of sentence; except that a licensee may, at his or
20 her option, elect to have the issue of penalty decided before those
21 time periods have elapsed. Where the licensee so elects, the issue
22 of penalty shall be heard in the manner described in subdivision
23 (b) at the hearing to determine whether the conviction was
24 substantially related to the qualifications, functions, or duties of a
25 licensee. If the conviction of a licensee who has made this election
26 is overturned on appeal, any discipline ordered pursuant to this
27 section shall automatically cease. Nothing in this subdivision shall
28 prohibit the healing arts board from pursuing disciplinary action
29 based on any cause other than the overturned conviction.

30 (e) The record of the proceedings resulting in a conviction,
31 including a transcript of the testimony in those proceedings, may
32 be received in evidence.

33 (f) Any other provision of law setting forth a procedure for the
34 suspension or revocation of a license issued by a healing arts board
35 shall not apply to proceedings conducted pursuant to this section.

36 720.10. Except as otherwise provided, any proposed decision
37 or decision issued under this article in accordance with the
38 procedures set forth in Chapter 5 (commencing with Section 11500)
39 of Part 1 of Division 3 of Title 2 of the Government Code, that
40 contains any finding of fact that the licensee or registrant engaged

1 in any act of sexual contact, as defined in subdivision (c) of Section
2 729, with a patient, or has committed an act or been convicted of
3 a sex offense as defined in Section 44010 of the Education Code,
4 shall contain an order of revocation. The revocation shall not be
5 stayed by the administrative law judge. Unless otherwise provided
6 in the laws and regulations of the healing arts board, the patient
7 shall no longer be considered a patient of the licensee when the
8 order for medical services and procedures provided by the licensee
9 is terminated, discontinued, or not renewed by the prescribing
10 physician and surgeon.

11 720.12. (a) Except as otherwise provided, with regard to an
12 individual who is required to register as a sex offender pursuant
13 to Section 290 of the Penal Code, or the equivalent in another state
14 or territory, under military law, or under federal law, the healing
15 arts board shall be subject to the following requirements:

16 (1) The healing arts board shall deny an application by the
17 individual for licensure in accordance with the procedures set forth
18 in Chapter 5 (commencing with Section 11500) of Part 1 of
19 Division 3 of Title 2 of the Government Code.

20 (2) If the individual is licensed under this division, the healing
21 arts board shall promptly revoke the license of the individual in
22 accordance with the procedures set forth in Chapter 5 (commencing
23 with Section 11500) of Part 1 of Division 3 of Title 2 of the
24 Government Code. The healing arts board shall not stay the
25 revocation and place the license on probation.

26 (3) The healing arts board shall not reinstate or reissue the
27 individual's license. The healing arts board shall not issue a stay
28 of license denial and place the license on probation.

29 (b) This section shall not apply to any of the following:

30 (1) An individual who has been relieved under Section 290.5
31 of the Penal Code of his or her duty to register as a sex offender,
32 or whose duty to register has otherwise been formally terminated
33 under California law or the law of the jurisdiction that requires his
34 or her registration as a sex offender.

35 (2) An individual who is required to register as a sex offender
36 pursuant to Section 290 of the Penal Code solely because of a
37 misdemeanor conviction under Section 314 of the Penal Code.
38 However, nothing in this paragraph shall prohibit the healing arts
39 board from exercising its discretion to discipline a licensee under

1 any other provision of state law based upon the licensee's
2 conviction under Section 314 of the Penal Code.

3 (3) Any administrative adjudication proceeding under Chapter
4 5 (commencing with Section 11500) of Part 1 of Division 3 of
5 Title 2 of the Government Code that is fully adjudicated prior to
6 January 1, 2008. A petition for reinstatement of a revoked or
7 surrendered license shall be considered a new proceeding for
8 purposes of this paragraph, and the prohibition against reinstating
9 a license to an individual who is required to register as a sex
10 offender shall be applicable.

11 720.14. (a) A licensee of a healing arts board shall not include
12 or permit to be included any of the following provisions in an
13 agreement to settle a civil dispute arising from his or her practice,
14 whether the agreement is made before or after the filing of an
15 action:

16 (1) A provision that prohibits another party to the dispute from
17 contacting or cooperating with the healing arts board.

18 (2) A provision that prohibits another party to the dispute from
19 filing a complaint with the healing arts board.

20 (3) A provision that requires another party to the dispute to
21 withdraw a complaint he or she has filed with the healing arts
22 board.

23 (b) A provision described in subdivision (a) is void as against
24 public policy.

25 (c) A violation of this section constitutes unprofessional conduct
26 and may subject the licensee to disciplinary action.

27 (d) If a board complies with Section 2220.7, that board shall
28 not be subject to the requirements of this section.

29 720.16. (a) Notwithstanding any other provision of law making
30 a communication between a licensee of a healing arts board and
31 his or her patients a privileged communication, those provisions
32 shall not apply to investigations or proceedings conducted by a
33 healing arts board. Members of a healing arts board, deputies,
34 employees, agents, the office of the Attorney General, and
35 representatives of the board shall keep in confidence during the
36 course of investigations the names of any patients whose records
37 are reviewed and may not disclose or reveal those names, except
38 as is necessary during the course of an investigation, unless and
39 until proceedings are instituted. The authority under this
40 subdivision to examine records of patients in the office of a licensee

1 is limited to records of patients who have complained to the healing
2 arts board about that licensee.

3 (b) Notwithstanding any other provision of law, the Attorney
4 General and his or her investigative agents, and a healing arts board
5 and its investigators and representatives may inquire into any
6 alleged violation of the laws under the jurisdiction of the healing
7 arts board or any other federal or state law, regulation, or rule
8 relevant to the practice regulated by the healing arts board,
9 whichever is applicable, and may inspect documents relevant to
10 those investigations in accordance with the following procedures:

11 (1) Any document relevant to an investigation may be inspected,
12 and copies may be obtained, where patient consent is given.

13 (2) Any document relevant to the business operations of a
14 licensee, and not involving medical records attributable to
15 identifiable patients, may be inspected and copied where relevant
16 to an investigation of a licensee.

17 (c) In all cases where documents are inspected or copies of those
18 documents are received, their acquisition or review shall be
19 arranged so as not to unnecessarily disrupt the medical and business
20 operations of the licensee or of the facility where the records are
21 kept or used.

22 (d) Where certified documents are lawfully requested from
23 licensees in accordance with this section by the Attorney General
24 or his or her agents or deputies, or investigators of any board, the
25 documents shall be provided within 10 business days of receipt of
26 the request, unless the licensee is unable to provide the certified
27 documents within this time period for good cause, including, but
28 not limited to, physical inability to access the records in the time
29 allowed due to illness or travel. Failure to produce requested
30 certified documents or copies thereof, after being informed of the
31 required deadline, shall constitute unprofessional conduct. A
32 healing arts board may use its authority to cite and fine a licensee
33 for any violation of this section. This remedy is in addition to any
34 other authority of the healing arts board to sanction a licensee for
35 a delay in producing requested records.

36 (e) Searches conducted of the office or medical facility of any
37 licensee shall not interfere with the recordkeeping format or
38 preservation needs of any licensee necessary for the lawful care
39 of patients.

1 (f) The licensee shall cooperate with the healing arts board in
2 furnishing information or assistance as may be required, including,
3 but not limited to, participation in an interview with investigators
4 or representatives of the healing arts board.

5 (g) If a board complies with Section 2225, that board shall not
6 be subject to the requirements of this section.

7 720.18. (a) (1) Notwithstanding any other provision of law,
8 a licensee who fails or refuses to comply with a request for the
9 certified medical records of a patient, that is accompanied by that
10 patient's written authorization for release of records to a healing
11 arts board, within 10 days of receiving the request and
12 authorization, shall pay to the healing arts board a civil penalty of
13 one thousand dollars (\$1,000) per day for each day that the
14 documents have not been produced after the 10th day, up to one
15 hundred thousand dollars (\$100,000), unless the licensee is unable
16 to provide the documents within this time period for good cause.

17 (2) A health care facility shall comply with a request for the
18 certified medical records of a patient that is accompanied by that
19 patient's written authorization for release of records to a healing
20 arts board together with a notice citing this section and describing
21 the penalties for failure to comply with this section. Failure to
22 provide the authorizing patient's certified medical records to the
23 healing arts board within 10 days of receiving the request,
24 authorization, and notice shall subject the health care facility to a
25 civil penalty, payable to the healing arts board, of up to one
26 thousand dollars (\$1,000) per day for each day that the documents
27 have not been produced after the 10th day, up to one hundred
28 thousand dollars (\$100,000), unless the health care facility is unable
29 to provide the documents within this time period for good cause.
30 This paragraph shall not require health care facilities to assist a
31 healing arts board in obtaining the patient's authorization. A
32 healing arts board shall pay the reasonable costs of copying the
33 certified medical records, but shall not be required to make that
34 payment prior to the production of the medical records.

35 (b) (1) A licensee who fails or refuses to comply with a court
36 order, issued in the enforcement of a subpoena, mandating the
37 release of records to a healing arts board, shall pay to the healing
38 arts board a civil penalty of up to one thousand dollars (\$1,000)
39 per day for each day that the documents have not been produced
40 after the date by which the court order requires the documents to

1 be produced, unless it is determined that the order is unlawful or
2 invalid. Any statute of limitations applicable to the filing of an
3 accusation by the healing arts board shall be tolled during the
4 period the licensee is out of compliance with the court order and
5 during any related appeals.

6 (2) Any licensee who fails or refuses to comply with a court
7 order, issued in the enforcement of a subpoena, mandating the
8 release of records to a board is guilty of a misdemeanor punishable
9 by a fine payable to the board not to exceed five thousand dollars
10 (\$5,000). The fine shall be added to the licensee’s renewal fee if
11 it is not paid by the next succeeding renewal date. Any statute of
12 limitations applicable to the filing of an accusation by a healing
13 arts board shall be tolled during the period the licensee is out of
14 compliance with the court order and during any related appeals.

15 (3) A health care facility that fails or refuses to comply with a
16 court order, issued in the enforcement of a subpoena, mandating
17 the release of patient records to a healing arts board, that is
18 accompanied by a notice citing this section and describing the
19 penalties for failure to comply with this section, shall pay to the
20 healing arts board a civil penalty of up to one thousand dollars
21 (\$1,000) per day for each day that the documents have not been
22 produced, up to one hundred thousand dollars (\$100,000), after
23 the date by which the court order requires the documents to be
24 produced, unless it is determined that the order is unlawful or
25 invalid. Any statute of limitations applicable to the filing of an
26 accusation by the board against a licensee shall be tolled during
27 the period the health care facility is out of compliance with the
28 court order and during any related appeals.

29 (4) Any health care facility that fails or refuses to comply with
30 a court order, issued in the enforcement of a subpoena, mandating
31 the release of records to a healing arts board is guilty of a
32 misdemeanor punishable by a fine payable to the board not to
33 exceed five thousand dollars (\$5,000). Any statute of limitations
34 applicable to the filing of an accusation by the healing arts board
35 against a licensee shall be tolled during the period the health care
36 facility is out of compliance with the court order and during any
37 related appeals.

38 (c) Multiple acts by a licensee in violation of subdivision (b)
39 shall be punishable by a fine not to exceed five thousand dollars
40 (\$5,000) or by imprisonment in a county jail not exceeding six

1 months, or by both that fine and imprisonment. Multiple acts by
2 a health care facility in violation of subdivision (b) shall be
3 punishable by a fine not to exceed five thousand dollars (\$5,000),
4 shall be reported to the State Department of Public Health, and
5 shall be considered as grounds for disciplinary action with respect
6 to licensure, including suspension or revocation of the license or
7 certificate.

8 (d) A failure or refusal of a licensee to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to the healing arts board constitutes
11 unprofessional conduct and is grounds for suspension or revocation
12 of his or her license.

13 (e) Imposition of the civil penalties authorized by this section
14 shall be in accordance with the Administrative Procedure Act
15 (Chapter 5 (commencing with Section 11500) of Division 3 of
16 Title 2 of the Government Code). Any civil penalties paid to, or
17 received by, a healing arts board pursuant to this section shall be
18 deposited into the fund administered by the healing arts board.

19 (f) For purposes of this section, “certified medical records”
20 means a copy of the patient’s medical records authenticated by the
21 licensee or health care facility, as appropriate, on a form prescribed
22 by the licensee’s board.

23 (g) For purposes of this section, a “health care facility” means
24 a clinic or health facility licensed or exempt from licensure
25 pursuant to Division 2 (commencing with Section 1200) of the
26 Health and Safety Code.

27 (h) If a board complies with Section 1684.5, 2225.5, or 2969,
28 that board shall not be subject to the requirements of this section.

29 (i) This section shall not apply to a licensee who does not have
30 access to, or control over, certified medical records.

31 720.20. (a) Notwithstanding any other provision of law, a state
32 agency shall, upon receiving a request in writing from a healing
33 arts board, immediately provide to the healing arts board all records
34 in the custody of the state agency, including, but not limited to,
35 confidential records, medical records, and records related to closed
36 or open investigations.

37 (b) If a state agency has knowledge that a person it is
38 investigating is licensed by a healing arts board, the state agency
39 shall notify the healing arts board that it is conducting an
40 investigation against one of its licentiates. The notification of

1 investigation to the healing arts board is to include the name,
2 address, and, if known, the professional licensure type and license
3 number of the person being investigated and the name and address
4 or telephone number of a person who can be contacted for further
5 information about the investigation. The state agency shall
6 cooperate with the healing arts board in providing any requested
7 information.

8 720.22. Notwithstanding any other provision of law, all local
9 and state law enforcement agencies, state and local governments,
10 state agencies, licensed health care facilities, and employers of a
11 licensee of a healing arts board shall provide records to the healing
12 arts board upon request prior to receiving payment from the board.

13 720.24. (a) Any employer of a health care licensee shall report
14 to the board the suspension or termination for cause, or any
15 resignation in lieu of suspension or termination for cause, of any
16 health care licensee in its employ within five business days. The
17 report shall not be made until after the conclusion of the review
18 process specified in Section 52.3 of Title 2 of the California Code
19 of Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d
20 194, for public employees. This required reporting shall not
21 constitute a waiver of confidentiality of medical records. The
22 information reported or disclosed shall be kept confidential except
23 as provided in subdivision (c) of Section 800 and shall not be
24 subject to discovery in civil cases.

25 (b) For purposes of the section, “suspension or termination for
26 cause” is defined as suspension or termination from employment
27 for any of the following reasons:

28 (1) Use of controlled substances or alcohol to the extent that it
29 impairs the licensee’s ability to safely practice.

30 (2) Unlawful sale of a controlled substance or other prescription
31 items.

32 (3) Patient or client abuse, neglect, physical harm, or sexual
33 contact with a patient or client.

34 (4) Falsification of medical records.

35 (5) Gross negligence or incompetence.

36 (6) Theft from a patient or client, any other employee, or the
37 employer.

38 (c) Failure of an employer to make a report required by this
39 section is punishable by an administrative fine not to exceed one
40 hundred thousand dollars (\$100,000) per violation.

1 (d) Pursuant to Section 43.8 of the Civil Code, no person shall
2 incur any civil penalty as a result of making any report required
3 by this chapter.

4 (e) This section shall not apply to any of the reporting
5 requirements under Section 805.

6 720.26. (a) Each healing arts board shall report annually to
7 the department and the Legislature, not later than October 1 of
8 each year, the following information:

9 (1) The total number of consumer calls received by the board
10 and the number of consumer calls or letters designated as
11 discipline-related complaints.

12 (2) The total number of complaint forms received by the board.

13 (3) The total number of reports received by the board pursuant
14 to Sections 801, 801.01, and 803, as applicable.

15 (4) The total number of coroner reports received by the board.

16 (5) The total number of convictions reported to the board.

17 (6) The total number of criminal filings reported to the board.

18 (7) If the board is authorized to receive reports pursuant to
19 Section 805, the total number of Section 805 reports received by
20 the board, 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
23 by the board with respect to the reports, and their disposition.

24 (8) The total number of complaints closed or resolved without
25 discipline, prior to accusation.

26 (9) The total number of complaints and reports referred for
27 formal investigation.

28 (10) The total number of accusations filed and the final
29 disposition of accusations through the board and court review,
30 respectively.

31 (11) The total number of citations issued, with fines and without
32 fines, and the number of public letters of reprimand, letters of
33 admonishment, or other similar action issued, if applicable.

34 (12) The total number of final licensee disciplinary actions
35 taken, by category.

36 (13) The total number of cases in process for more than six
37 months, more than 12 months, more than 18 months, and more
38 than 24 months, from receipt of a complaint by the board.

39 (14) The average and median time in processing complaints,
40 from original receipt of the complaint by the board, for all cases,

1 at each stage of the disciplinary process and court review,
2 respectively.

3 (15) The total number of licensees in diversion or on probation
4 for alcohol or drug abuse or mental disorder, and the number of
5 licensees successfully completing diversion programs or probation,
6 and failing to do so, respectively.

7 (16) The total number of probation violation reports and
8 probation revocation filings, and their dispositions.

9 (17) The total number of petitions for reinstatement, and their
10 dispositions.

11 (18) The total number of caseloads of investigators for original
12 cases and for probation cases, respectively.

13 (b) “Action,” for purposes of this section, includes proceedings
14 brought by, or on behalf of, the healing arts board against licensees
15 for unprofessional conduct that have not been finally adjudicated,
16 as well as disciplinary actions taken against licensees.

17 (c) If a board complies with Section 2313, that board shall not
18 be subject to the requirements of this section.

19 720.28. Unless otherwise provided, on or after July 1, 2013,
20 every healing arts board shall post on the Internet the following
21 information in its possession, custody, or control regarding every
22 licensee for which the board licenses:

23 (a) With regard to the status of every healing arts license,
24 whether or not the licensee is in good standing, subject to a
25 temporary restraining order, subject to an interim suspension order,
26 subject to a restriction or cease practice ordered pursuant to Section
27 23 of the Penal Code, or subject to any of the enforcement actions
28 described in Section 803.1.

29 (b) With regard to prior discipline of a licensee, whether or not
30 the licensee has been subject to discipline by the healing arts board
31 or by the board of another state or jurisdiction, as described in
32 Section 803.1.

33 (c) Any felony conviction of a licensee reported to the healing
34 arts board after January 3, 1991.

35 (d) All current accusations filed by the Attorney General,
36 including those accusations that are on appeal. For purposes of
37 this paragraph, “current accusation” means an accusation that has
38 not been dismissed, withdrawn, or settled, and has not been finally
39 decided upon by an administrative law judge and the board unless
40 an appeal of that decision is pending.

1 (e) Any malpractice judgment or arbitration award imposed
2 against a licensee and reported to the healing arts board after
3 January 1, 1993.

4 (f) Any hospital disciplinary action imposed against a licensee
5 that resulted in the termination or revocation of a licensee's hospital
6 staff privileges for a medical disciplinary cause or reason pursuant
7 to Section 720.18 or 805.

8 (g) Any misdemeanor conviction of a licensee that results in a
9 disciplinary action or an accusation that is not subsequently
10 withdrawn or dismissed.

11 (h) Appropriate disclaimers and explanatory statements to
12 accompany the above information, including an explanation of
13 what types of information are not disclosed. These disclaimers and
14 statements shall be developed by the healing arts board and shall
15 be adopted by regulation.

16 720.30. (a) The office of the Attorney General shall serve, or
17 submit to a healing arts board for service, an accusation within 60
18 calendar days of receipt from the healing arts board.

19 (b) The office of the Attorney General shall serve, or submit to
20 a healing arts board for service, a default decision within five days
21 following the time period allowed for the filing of a notice of
22 defense.

23 (c) The office of the Attorney General shall set a hearing date
24 within three days of receiving a notice of defense, unless the
25 healing arts board gives the office of the Attorney General
26 instruction otherwise.

27 720.32. (a) Whenever it appears that an applicant for a license,
28 certificate, or permit from a healing arts board may be unable to
29 practice his or her profession safely because the applicant's ability
30 to practice would be impaired due to mental illness, or physical
31 illness affecting competency, the healing arts board may order the
32 applicant to be examined by one or more physicians and surgeons
33 or psychologists designated by the healing arts board. The report
34 of the examiners shall be made available to the applicant and may
35 be received as direct evidence in proceedings conducted pursuant
36 to Chapter 2 (commencing with Section 480) of Division 1.5.

37 (b) An applicant's failure to comply with an order issued under
38 subdivision (a) shall authorize the board to deny an applicant a
39 license, certificate, or permit.

1 (c) A healing arts board shall not grant a license, certificate, or
2 permit until it has received competent evidence of the absence or
3 control of the condition that caused its action and until it is satisfied
4 that with due regard for the public health and safety the person
5 may safely practice the profession for which he or she seeks
6 licensure.

7 720.34. (a) An applicant for a license, certificate, or permit
8 from a healing arts board who is otherwise eligible for that license
9 but is unable to practice some aspects of his or her profession
10 safely due to a disability may receive a limited license if he or she
11 does both of the following:

- 12 (1) Pays the initial licensure fee.
- 13 (2) Signs an agreement on a form prescribed by the healing arts
14 board in which the applicant agrees to limit his or her practice in
15 the manner prescribed by the healing arts board.

16 (b) The healing arts board may require the applicant described
17 in subdivision (a) to obtain an independent clinical evaluation of
18 his or her ability to practice safely as a condition of receiving a
19 limited license under this section.

20 (c) Any person who knowingly provides false information in
21 the agreement submitted pursuant to subdivision (a) shall be subject
22 to any sanctions available to the healing arts board.

23 720.35. (a) Each healing arts board shall conduct a search on
24 the National Practitioner Data Bank and the Healthcare Integrity
25 and Protection Data Bank prior to granting or renewing a license,
26 certificate, or permit to an applicant who is licensed by another
27 state.

28 (b) A healing arts board may charge a fee to cover the actual
29 cost to conduct the search specified in subdivision (a).

30 720.36. Unless it is otherwise expressly provided, any person,
31 whether licensed pursuant to this division or not, who violates any
32 provision of this article is guilty of a misdemeanor and shall be
33 punished by a fine of not less than two hundred dollars (\$200) nor
34 more than one thousand two hundred dollars (\$1,200), or by
35 imprisonment for a term of not less than 60 days nor no more than
36 180 days, or by both the fine and imprisonment.

37 SEC. 13. Section 726 of the Business and Professions Code is
38 amended to read:

39 726. (a) The commission of any act of sexual abuse,
40 misconduct, or relations with a patient, client, or customer

1 constitutes unprofessional conduct and grounds for disciplinary
2 action for any person licensed under this division, *and* under any
3 initiative act referred to in this division ~~and under Chapter 17~~
4 ~~(commencing with Section 9000) of Division 3.~~

5 *(b) For purposes of Division 1.5 (commencing with Section*
6 *475), and the licensing laws and regulations of a healing arts*
7 *board, as defined in Section 720, the commission of, and conviction*
8 *for, any act of sexual abuse, sexual misconduct, or attempted sexual*
9 *misconduct, whether or not with a patient, or conviction of a felony*
10 *requiring registration pursuant to Section 290 of the Penal Code*
11 *shall be considered a crime substantially related to the*
12 *qualifications, functions, or duties of a licensee of a healing arts*
13 *board.*

14 **This**

15 *(c) This section shall not apply to sexual contact between a*
16 *physician and surgeon and his or her spouse or person in an*
17 *equivalent domestic relationship when that physician and surgeon*
18 *provides medical treatment, other than psychotherapeutic treatment,*
19 *to his or her spouse or person in an equivalent domestic*
20 *relationship.*

21 SEC. 14. Section 734 is added to the Business and Professions
22 Code, to read:

23 734. (a) The conviction of a charge of violating any federal
24 statute or regulation or any statute or regulation of this state
25 regulating dangerous drugs or controlled substances constitutes
26 unprofessional conduct. The record of the conviction is conclusive
27 evidence of the unprofessional conduct. A plea or verdict of guilty
28 or a conviction following a plea of nolo contendere is deemed to
29 be a conviction within the meaning of this section.

30 (b) Discipline may be ordered against a licensee in accordance
31 with the laws and regulations of the healing arts board or the board
32 may order the denial of the license when the time for appeal has
33 elapsed, or the judgment of conviction has been affirmed on appeal,
34 or when an order granting probation is made suspending the
35 imposition of sentence, irrespective of a subsequent order under
36 the provisions of Section 1203.4 of the Penal Code allowing that
37 person to withdraw his or her plea of guilty and to enter a plea of
38 not guilty, or setting aside the verdict of guilty, or dismissing the
39 accusation, complaint, information, or indictment.

1 SEC. 15. Section 735 is added to the Business and Professions
2 Code, to read:

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

6 SEC. 16. Section 736 is added to the Business and Professions
7 Code, to read:

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

19 (b) A plea or verdict of guilty or a conviction following a plea
20 of nolo contendere is deemed to be a conviction within the meaning
21 of this section. Discipline may be ordered against a licensee in
22 accordance with the laws and regulations of the healing arts board
23 or the board may order the denial of the license when the time for
24 appeal has elapsed or the judgment of conviction has been affirmed
25 on appeal or when an order granting probation is made suspending
26 imposition of sentence, irrespective of a subsequent order under
27 the provisions of Section 1203.4 of the Penal Code allowing that
28 person to withdraw his or her plea of guilty and to enter a plea of
29 not guilty, or setting aside the verdict of guilty, or dismissing the
30 accusation, complaint, information, or indictment.

31 (c) A violation of subdivision (a) is a misdemeanor punishable
32 by a fine of up to ten thousand dollars (\$10,000), imprisonment
33 in the county jail of up to six months, or both the fine and
34 imprisonment.

35 SEC. 17. Section 737 is added to the Business and Professions
36 Code, to read:

37 737. It shall be unprofessional conduct for any licensee of a
38 healing arts board to fail to comply with the following:

1 (a) Furnish information in a timely manner to the healing arts
2 board or the board’s investigators or representatives if legally
3 requested by the board.

4 (b) Cooperate and participate in any disciplinary investigation
5 or other regulatory or disciplinary proceeding pending against
6 himself or herself. However, this subdivision shall not be construed
7 to deprive a licensee of any privilege guaranteed by the Fifth
8 Amendment to the Constitution of the United States, or any other
9 constitutional or statutory privileges. This subdivision shall not
10 be construed to require a licensee to cooperate with a request that
11 requires him or her to waive any constitutional or statutory
12 privilege or to comply with a request for information or other
13 matters within an unreasonable period of time in light of the time
14 constraints of the licensee’s practice. Any exercise by a licensee
15 of any constitutional or statutory privilege shall not be used against
16 the licensee in a regulatory or disciplinary proceeding against him
17 or her.

18 SEC. 18. Section 802.1 of the Business and Professions Code
19 is amended to read:

20 802.1. (a) (1) ~~A physician and surgeon, osteopathic physician~~
21 ~~and surgeon, and a doctor of podiatric medicine~~ *A licensee of a*
22 *healing arts board defined under Section 720 shall submit a written*
23 *report either of any of the following to the entity that issued his or*
24 *her license:*

25 (A) The bringing of an indictment or information charging a
26 felony against the licensee.

27 (B) *The arrest of the licensee.*

28 ~~(B)~~

29 (C) The conviction of the licensee, including any verdict of
30 guilty, or plea of guilty or no contest, of any felony or
31 misdemeanor.

32 (D) *Any disciplinary action taken by another licensing entity*
33 *or authority of this state or of another state.*

34 (2) The report required by this subdivision shall be made in
35 writing within 30 days of the date of the bringing of the indictment
36 ~~or information or of the charging of a felony, the arrest, the~~
37 *conviction, or the disciplinary action.*

38 (b) Failure to make a report required by this section shall be a
39 public offense punishable by a fine not to exceed five thousand
40 dollars (\$5,000).

1 SEC. 19. Section 803 of the Business and Professions Code is
2 amended to read:

3 803. (a) Except as provided in subdivision (b), within 10 days
4 after a judgment by a court of this state that a person who holds a
5 license, certificate, or other similar authority from ~~the Board of~~
6 ~~Behavioral Sciences or from an agency mentioned in subdivision~~
7 ~~(a) of Section 800 (except a person licensed pursuant to Chapter~~
8 ~~3 (commencing with Section 1200))~~ *a healing arts board defined*
9 *in Section 720*, has committed a crime, or is liable for any death
10 or personal injury resulting in a judgment for an amount in excess
11 of thirty thousand dollars (\$30,000) caused by his or her
12 negligence, error or omission in practice, or his or her rendering
13 unauthorized professional services, the clerk of the court that
14 rendered the judgment shall report that fact to the agency that
15 issued the license, certificate, or other similar authority.

16 (b) For purposes of a physician and surgeon, osteopathic
17 physician and surgeon, or doctor of podiatric medicine, who is
18 liable for any death or personal injury resulting in a judgment of
19 any amount caused by his or her negligence, error or omission in
20 practice, or his or her rendering unauthorized professional services,
21 the clerk of the court that rendered the judgment shall report that
22 fact to the ~~agency~~ *board* that issued the license.

23 SEC. 20. Section 803.5 of the Business and Professions Code
24 is amended to read:

25 803.5. (a) The district attorney, city attorney, or other
26 prosecuting agency shall notify the ~~Medical Board of California,~~
27 ~~the Osteopathic Medical Board of California, the California Board~~
28 ~~of Podiatric Medicine, the State Board of Chiropractic Examiners,~~
29 ~~or other appropriate allied health board,~~ *healing arts board defined*
30 *in Section 720* and the clerk of the court in which the charges have
31 been filed, of any filings against a licensee of that board charging
32 a felony immediately upon obtaining information that the defendant
33 is a licensee of the board. The notice shall identify the licensee
34 and describe the crimes charged and the facts alleged. The
35 prosecuting agency shall also notify the clerk of the court in which
36 the action is pending that the defendant is a licensee, and the clerk
37 shall record prominently in the file that the defendant holds a
38 license from one of the boards described above.

39 (b) The clerk of the court in which a licensee of one of the
40 boards is convicted of a crime shall, within 48 hours after the

1 conviction, transmit a certified copy of the record of conviction
2 to the applicable board.

3 SEC. 21. Section 803.6 of the Business and Professions Code
4 is amended to read:

5 803.6. (a) The clerk of the court shall transmit any felony
6 preliminary hearing transcript concerning a defendant licensee to
7 ~~the Medical Board or other appropriate allied health board, as~~
8 ~~applicable~~; *the appropriate healing arts boards defined in Section*
9 *720* where the total length of the transcript is under 800 pages and
10 shall notify the appropriate board of any proceeding where the
11 transcript exceeds that length.

12 (b) In any case where a probation report on a licensee is prepared
13 for a court pursuant to Section 1203 of the Penal Code, a copy of
14 that report shall be transmitted by the probation officer to the
15 *appropriate* board.

16 SEC. 22. Section 803.7 is added to the Business and Professions
17 Code, to read:

18 803.7. The Department of Justice shall ensure that subsequent
19 reports authorized to be issued to any board identified in Section
20 101 are submitted to that board within 30 days from notification
21 of subsequent arrests, convictions, or other updates.

22 SEC. 23. Article 15 (commencing with Section 870) is added
23 to Chapter 1 of Division 2 of the Business and Professions Code,
24 to read:

25

26 Article 15. Healing Arts Licensing Fees

27

28 870. (a) Notwithstanding any provision of law establishing a
29 fee or a fee range in this division, the department may annually
30 establish a maximum fee amount for each healing arts board, as
31 defined in Section 720, adjusted consistent with the California
32 Consumer Price Index.

33 (b) The department shall promulgate regulations pursuant to
34 the Administrative Procedures Act to establish the maximum fee
35 amount calculated pursuant to subdivision (a).

36 (c) A healing arts board, as defined in Section 720, shall
37 establish, through regulations, the specific amount of all fees
38 authorized by statute at a level that is at or below the amount
39 established pursuant to subdivision (b).

1 SEC. 24. Article 16 (commencing with Section 880) is added
2 to Chapter 1 of Division 2 of the Business and Professions Code,
3 to read:

4
5 Article 16. Unlicensed Practice

6
7 880. (a) (1) It is a public offense, punishable by a fine not to
8 exceed one hundred thousand dollars (\$100,000), by imprisonment
9 in a county jail not to exceed one year, or by both that fine and
10 imprisonment, for a person to do any of the following:

11 (A) Any person who does not hold a current and valid license
12 to practice a healing art under this division who engages in that
13 practice.

14 (B) Any person who fraudulently buys, sells, or obtains a license
15 to practice any healing art in this division or to violate any
16 provision of this division.

17 (C) Any person who represents himself or herself as engaging
18 or authorized to engage in a healing art of this division who is not
19 authorized to do so.

20 (2) Subparagraph (A) of paragraph (1) shall not apply to any
21 person who is already being charged with a crime under the specific
22 healing arts licensing provisions for which he or she engaged in
23 unauthorized practice.

24 (b) Notwithstanding any other provision of law, any person who
25 is licensed under this division, but who is not authorized to provide
26 some or all services of another healing art, who practices or
27 supervises the practice of those unauthorized services, is guilty of
28 a public crime, punishable by a fine not to exceed one hundred
29 thousand dollars (\$100,000), by imprisonment in a county jail not
30 to exceed one year, or by both that fine and imprisonment.

31 SEC. 25. Section 1699.2 is added to the Business and
32 Professions Code, to read:

33 1699.2. This article shall remain in effect only until January
34 1, 2013, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before January 1, 2013, deletes or extends
36 that date.

37 SEC. 26. Section 2372 is added to the Business and Professions
38 Code, to read:

1 2372. This article shall remain in effect only until January 1,
2 2013, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, 2013, deletes or extends that date.

4 SEC. 27. Section 2669.2 is added to the Business and
5 Professions Code, to read:

6 2669.2. This article shall remain in effect only until January
7 1, 2013, and as of that date is repealed, unless a later enacted
8 statute, that is enacted before January 1, 2013, deletes or extends
9 that date.

10 SEC. 28. Section 2715 of the Business and Professions Code
11 is amended to read:

12 2715. The board shall prosecute all persons guilty of violating
13 the provisions of this chapter.

14 ~~Except as provided by Section 159.5, the~~

15 *The board, in accordance with the provisions of the Civil Service*
16 *Law, may employ such investigators, nurse consultants, and other*
17 *personnel as it deems necessary to carry into effect the provisions*
18 *of this chapter. Investigators employed by the board shall be*
19 *provided special training in investigating nursing practice*
20 *activities.*

21 The board shall have and use a seal bearing the name “Board of
22 Registered Nursing.” The board may adopt, amend, or repeal, in
23 accordance with the provisions of Chapter 4.5 (commencing with
24 ~~Section 11371), 11371) of Part 1, 1 of Division 3, 3 of Title 2 of~~
25 the Government Code, such rules and regulations as may be
26 reasonably necessary to enable it to carry into effect the provisions
27 of this chapter.

28 SEC. 29. Section 2770.18 is added to the Business and
29 Professions Code, to read:

30 2770.18. This article shall remain in effect only until January
31 1, 2013, and as of that date is repealed, unless a later enacted
32 statute, that is enacted before January 1, 2013, deletes or extends
33 that date.

34 SEC. 30. Section 3534.12 is added to the Business and
35 Professions Code, to read:

36 3534.12. This article shall remain in effect only until January
37 1, 2013, and as of that date is repealed, unless a later enacted
38 statute, that is enacted before January 1, 2013, deletes or extends
39 that date.

1 SEC. 31. Section 4375 is added to the Business and Professions
2 Code, to read:

3 4375. This article shall remain in effect only until January 1,
4 2013, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, 2013, deletes or extends that date.

6 SEC. 32. Section 4873.2 is added to the Business and
7 Professions Code, to read:

8 4873.2. This article shall remain in effect only until January
9 1, 2013, and as of that date is repealed, unless a later enacted
10 statute, that is enacted before January 1, 2013, deletes or extends
11 that date.

12 SEC. 33. Section 12529 of the Government Code, as amended
13 by Section 8 of Chapter 505 of the Statutes of 2009, is amended
14 to read:

15 12529. (a) There is in the Department of Justice the Health
16 Quality Enforcement Section. The primary responsibility of the
17 section is to investigate and prosecute proceedings against licensees
18 and applicants within the jurisdiction of the Medical Board of
19 California, the California Board of Podiatric Medicine, the Board
20 of Psychology, ~~or~~ any committee under the jurisdiction of the
21 Medical Board of California, *or any other healing arts board, as*
22 *defined in Section 720 of the Business and Professions Code, as*
23 *requested by the executive officer of that board.*

24 (b) The Attorney General shall appoint a Senior Assistant
25 Attorney General of the Health Quality Enforcement Section. The
26 Senior Assistant Attorney General of the Health Quality
27 Enforcement Section shall be an attorney in good standing licensed
28 to practice in the State of California, experienced in prosecutorial
29 or administrative disciplinary proceedings and competent in the
30 management and supervision of attorneys performing those
31 functions.

32 (c) The Attorney General shall ensure that the Health Quality
33 Enforcement Section is staffed with a sufficient number of
34 experienced and able employees that are capable of handling the
35 most complex and varied types of disciplinary actions against the
36 licensees of the ~~board~~ boards.

37 (d) Funding for the Health Quality Enforcement Section shall
38 be budgeted in consultation with the Attorney General from the
39 special funds financing the operations of the Medical Board of
40 California, the California Board of Podiatric Medicine, the Board

1 of Psychology, ~~and~~ the committees under the jurisdiction of the
2 Medical Board of California, *and any other healing arts board,*
3 *as defined in Section 720 of the Business and Professions Code,*
4 with the intent that the expenses be proportionally shared as to
5 services rendered.

6 (e) This section shall remain in effect only until January 1, 2013,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2013, deletes or extends that date.

9 SEC. 34. Section 12529 of the Government Code, as amended
10 by Section 9 of Chapter 505 of the Statutes of 2009, is amended
11 to read:

12 12529. (a) There is in the Department of Justice the Health
13 Quality Enforcement Section. The primary responsibility of the
14 section is to prosecute proceedings against licensees and applicants
15 within the jurisdiction of the Medical Board of California, the
16 California Board of Podiatric Medicine, the Board of Psychology,
17 ~~or~~ any committee under the jurisdiction of the Medical Board of
18 California, *or any other healing arts board, as defined in Section*
19 *720 of the Business and Professions Code, as requested by the*
20 *executive officer of that board,* and to provide ongoing review of
21 the investigative activities conducted in support of those
22 prosecutions, as provided in subdivision (b) of Section 12529.5.

23 (b) The Attorney General shall appoint a Senior Assistant
24 Attorney General of the Health Quality Enforcement Section. The
25 Senior Assistant Attorney General of the Health Quality
26 Enforcement Section shall be an attorney in good standing licensed
27 to practice in the State of California, experienced in prosecutorial
28 or administrative disciplinary proceedings and competent in the
29 management and supervision of attorneys performing those
30 functions.

31 (c) The Attorney General shall ensure that the Health Quality
32 Enforcement Section is staffed with a sufficient number of
33 experienced and able employees that are capable of handling the
34 most complex and varied types of disciplinary actions against the
35 licensees of the ~~board~~ boards.

36 (d) Funding for the Health Quality Enforcement Section shall
37 be budgeted in consultation with the Attorney General from the
38 special funds financing the operations of the Medical Board of
39 California, the California Board of Podiatric Medicine, the Board
40 of Psychology, ~~and~~ the committees under the jurisdiction of the

1 Medical Board of California, *and any other healing arts board,*
2 *as defined in Section 720 of the Business and Professions Code,*
3 *with the intent that the expenses be proportionally shared as to*
4 *services rendered.*

5 (e) This section shall become operative January 1, 2013.

6 SEC. 35. Section 12529.5 of the Government Code, as amended
7 by Section 10 of Chapter 505 of the Statutes of 2009, is amended
8 to read:

9 12529.5. (a) All complaints or relevant information concerning
10 licensees that are within the jurisdiction of the Medical Board of
11 California, the California Board of Podiatric Medicine, or the
12 Board of Psychology shall be made available to the Health Quality
13 Enforcement Section. *Complaints or relevant information may be*
14 *referred to the Health Quality Enforcement Section as determined*
15 *by the executive officer of any other healing arts board, as defined*
16 *in Section 720 of the Business and Professions Code.*

17 (b) The Senior Assistant Attorney General of the Health Quality
18 Enforcement Section shall assign attorneys to work on location at
19 the intake unit of the ~~boards described in subdivision (d) of Section~~
20 ~~12529~~ *Medical Board of California, the California Board of*
21 *Podiatric Medicine, or the Board of Psychology, and shall assign*
22 *attorneys to work on location at the Health Quality Enforcement*
23 *Unit of the Division of Investigation of the Department of*
24 *Consumer Affairs to assist in evaluating and screening complaints*
25 *and to assist in developing uniform standards and procedures for*
26 *processing complaints.*

27 (c) The Senior Assistant Attorney General or his or her deputy
28 attorneys general shall assist the ~~boards or~~ committees, *and the*
29 *Division of Investigation* in designing and providing initial and
30 in-service training programs for staff of the boards or committees,
31 including, but not limited to, information collection and
32 investigation.

33 (d) The determination to bring a disciplinary proceeding against
34 a licensee of the boards shall be made by the executive officer of
35 the boards or committees as appropriate in consultation with the
36 senior assistant.

37 (e) This section shall remain in effect only until January 1, 2013,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2013, deletes or extends that date.

1 SEC. 36. Section 12529.5 of the Government Code, as amended
2 by Section 11 of Chapter 505 of the Statutes of 2009, is amended
3 to read:

4 12529.5. (a) All complaints or relevant information concerning
5 licensees that are within the jurisdiction of the Medical Board of
6 California, the California Board of Podiatric Medicine, or the
7 Board of Psychology shall be made available to the Health Quality
8 Enforcement Section. *Complaints or relevant information may be*
9 *referred to the Health Quality Enforcement Section as determined*
10 *by the executive officer of any other healing arts board, as defined*
11 *in Section 720 of the Business and Professions Code.*

12 (b) The Senior Assistant Attorney General of the Health Quality
13 Enforcement Section shall assign attorneys to assist the boards in
14 intake and investigations, *shall assign attorneys to work on location*
15 *at the Health Quality Enforcement Unit of the Division of*
16 *Investigation of the Department of Consumer Affairs*, and to direct
17 discipline-related prosecutions. Attorneys shall be assigned to
18 work closely with each major intake and investigatory unit of the
19 boards, to assist in the evaluation and screening of complaints from
20 receipt through disposition and to assist in developing uniform
21 standards and procedures for the handling of complaints and
22 investigations.

23 A deputy attorney general of the Health Quality Enforcement
24 Section shall frequently be available on location at each of the
25 working offices at the major investigation centers of the boards,
26 to provide consultation and related services and engage in case
27 review with the boards' investigative, medical advisory, and intake
28 staff *and the Division of Investigation*. The Senior Assistant
29 Attorney General and deputy attorneys general working at his or
30 her direction shall consult as appropriate with the investigators of
31 the boards, medical advisors, and executive staff in the
32 investigation and prosecution of disciplinary cases.

33 (c) The Senior Assistant Attorney General or his or her deputy
34 attorneys general shall assist the boards or committees in designing
35 and providing initial and in-service training programs for staff of
36 the boards or committees, including, but not limited to, information
37 collection and investigation.

38 (d) The determination to bring a disciplinary proceeding against
39 a licensee of the boards shall be made by the executive officer of

1 the boards or committees as appropriate in consultation with the
2 senior assistant.

3 (e) This section shall become operative January 1, 2013.

4 SEC. 37. Section 12529.6 of the Government Code is amended
5 to read:

6 12529.6. (a) The Legislature finds and declares that the
7 ~~Medical Board of California~~ *healing arts boards, as defined in*
8 *Section 720 of the Business and Professions Code*, by ensuring
9 the quality and safety of ~~medical health care, performs~~ *perform*
10 one of the most critical functions of state government. Because of
11 the critical importance of ~~the~~ *a* board's public health and safety
12 function, the complexity of cases involving alleged misconduct
13 by ~~physicians and surgeons~~ *health care practitioners*, and the
14 evidentiary burden in ~~the~~ *a* *healing arts* board's disciplinary cases,
15 the Legislature finds and declares that using a vertical enforcement
16 and prosecution model for those investigations is in the best
17 interests of the people of California.

18 (b) Notwithstanding any other provision of law, ~~as of January~~
19 ~~1, 2006~~, each complaint that is referred to a district office of the
20 ~~board~~ *Medical Board of California, the California Board of*
21 *Podiatric Medicine, the Board of Psychology, or the Health Quality*
22 *Enforcement Unit* for investigation shall be simultaneously and
23 jointly assigned to an investigator and to the deputy attorney
24 general in the Health Quality Enforcement Section responsible for
25 prosecuting the case if the investigation results in the filing of an
26 accusation. The joint assignment of the investigator and the deputy
27 attorney general shall exist for the duration of the disciplinary
28 matter. During the assignment, the investigator so assigned shall,
29 under the direction but not the supervision of the deputy attorney
30 general, be responsible for obtaining the evidence required to
31 permit the Attorney General to advise the board on legal matters
32 such as whether the board should file a formal accusation, dismiss
33 the complaint for a lack of evidence required to meet the applicable
34 burden of proof, or take other appropriate legal action.

35 (c) The Medical Board of California, the Department of
36 Consumer Affairs, and the Office of the Attorney General shall,
37 if necessary, enter into an interagency agreement to implement
38 this section.

39 (d) This section does not affect the requirements of Section
40 12529.5 as applied to the Medical Board of California where

1 complaints that have not been assigned to a field office for
2 investigation are concerned.

3 (e) It is the intent of the Legislature to enhance the vertical
4 enforcement and prosecution model as set forth in subdivision (a).
5 The Medical Board of California shall do all of the following:

6 (1) Increase its computer capabilities and compatibilities with
7 the Health Quality Enforcement Section in order to share case
8 information.

9 (2) Establish and implement a plan to ~~locate~~ *collocate, when*
10 *feasible*, its enforcement staff and the staff of the Health Quality
11 Enforcement Section ~~in the same offices, as appropriate~~, in order
12 to carry out the intent of the vertical enforcement and prosecution
13 model.

14 (3) Establish and implement a plan to assist in team building
15 between its enforcement staff and the staff of the Health Quality
16 Enforcement Section in order to ensure a common and consistent
17 knowledge base.

18 (f) This section shall remain in effect only until January 1, 2013,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2013, deletes or extends that date.

21 SEC. 38. Section 12529.7 of the Government Code is amended
22 to read:

23 12529.7. By March 1, 2012, the ~~Medical Board of California~~
24 *Department of Consumer Affairs*, in consultation with the *healing*
25 *arts boards, as defined in Section 720 of the Business and*
26 *Professions Code, and the Department of Justice* ~~and the~~
27 ~~Department of Consumer Affairs~~, shall report and make
28 recommendations to the Governor and the Legislature on the
29 vertical enforcement and prosecution model created under Section
30 12529.6.

31 SEC. 39. Section 830.3 of the Penal Code is amended to read:

32 830.3. The following persons are peace officers whose authority
33 extends to any place in the state for the purpose of performing
34 their primary duty or when making an arrest pursuant to Section
35 836 of the Penal Code as to any public offense with respect to
36 which there is immediate danger to person or property, or of the
37 escape of the perpetrator of that offense, or pursuant to Section
38 8597 or 8598 of the Government Code. These peace officers may
39 carry firearms only if authorized and under those terms and
40 conditions as specified by their employing agencies:

1 (a) Persons employed by the Division of Investigation of the
2 Department of Consumer Affairs and investigators of the Medical
3 Board of California ~~and, the Board of Dental Examiners~~ *Board of*
4 *California, and the Board of Registered Nursing* who are
5 designated by the Director of Consumer Affairs, provided that the
6 primary duty of these peace officers shall be the enforcement of
7 the law as that duty is set forth in Section 160 of the Business and
8 Professions Code.

9 (b) Voluntary fire wardens designated by the Director of
10 Forestry and Fire Protection pursuant to Section 4156 of the Public
11 Resources Code, provided that the primary duty of these peace
12 officers shall be the enforcement of the law as that duty is set forth
13 in Section 4156 of that code.

14 (c) Employees of the Department of Motor Vehicles designated
15 in Section 1655 of the Vehicle Code, provided that the primary
16 duty of these peace officers shall be the enforcement of the law as
17 that duty is set forth in Section 1655 of that code.

18 (d) Investigators of the California Horse Racing Board
19 designated by the board, provided that the primary duty of these
20 peace officers shall be the enforcement of Chapter 4 (commencing
21 with Section 19400) of Division 8 of the Business and Professions
22 Code and Chapter 10 (commencing with Section 330) of Title 9
23 of Part 1 of this code.

24 (e) The State Fire Marshal and assistant or deputy state fire
25 marshals appointed pursuant to Section 13103 of the Health and
26 Safety Code, provided that the primary duty of these peace officers
27 shall be the enforcement of the law as that duty is set forth in
28 Section 13104 of that code.

29 (f) Inspectors of the food and drug section designated by the
30 chief pursuant to subdivision (a) of Section 106500 of the Health
31 and Safety Code, provided that the primary duty of these peace
32 officers shall be the enforcement of the law as that duty is set forth
33 in Section 106500 of that code.

34 (g) All investigators of the Division of Labor Standards
35 Enforcement designated by the Labor Commissioner, provided
36 that the primary duty of these peace officers shall be the
37 enforcement of the law as prescribed in Section 95 of the Labor
38 Code.

39 (h) All investigators of the State Departments of Health Care
40 Services, Public Health, Social Services, Mental Health, and

1 Alcohol and Drug Programs, the Department of Toxic Substances
2 Control, the Office of Statewide Health Planning and Development,
3 and the Public Employees' Retirement System, provided that the
4 primary duty of these peace officers shall be the enforcement of
5 the law relating to the duties of his or her department or office.

6 Notwithstanding any other provision of law, investigators of the
7 Public Employees' Retirement System shall not carry firearms.

8 (i) The Chief of the Bureau of Fraudulent Claims of the
9 Department of Insurance and those investigators designated by the
10 chief, provided that the primary duty of those investigators shall
11 be the enforcement of Section 550.

12 (j) Employees of the Department of Housing and Community
13 Development designated under Section 18023 of the Health and
14 Safety Code, provided that the primary duty of these peace officers
15 shall be the enforcement of the law as that duty is set forth in
16 Section 18023 of that code.

17 (k) Investigators of the office of the Controller, provided that
18 the primary duty of these investigators shall be the enforcement
19 of the law relating to the duties of that office. Notwithstanding any
20 other law, except as authorized by the Controller, the peace officers
21 designated pursuant to this subdivision shall not carry firearms.

22 (l) Investigators of the Department of Corporations designated
23 by the Commissioner of Corporations, provided that the primary
24 duty of these investigators shall be the enforcement of the
25 provisions of law administered by the Department of Corporations.
26 Notwithstanding any other provision of law, the peace officers
27 designated pursuant to this subdivision shall not carry firearms.

28 (m) Persons employed by the Contractors' State License Board
29 designated by the Director of Consumer Affairs pursuant to Section
30 7011.5 of the Business and Professions Code, provided that the
31 primary duty of these persons shall be the enforcement of the law
32 as that duty is set forth in Section 7011.5, and in Chapter 9
33 (commencing with Section 7000) of Division 3, of that code. The
34 Director of Consumer Affairs may designate as peace officers not
35 more than three persons who shall at the time of their designation
36 be assigned to the special investigations unit of the board.
37 Notwithstanding any other provision of law, the persons designated
38 pursuant to this subdivision shall not carry firearms.

39 (n) The Chief and coordinators of the Law Enforcement Division
40 of the Office of Emergency Services.

1 (o) Investigators of the office of the Secretary of State designated
2 by the Secretary of State, provided that the primary duty of these
3 peace officers shall be the enforcement of the law as prescribed
4 in Chapter 3 (commencing with Section 8200) of Division 1 of
5 Title 2 of, and Section 12172.5 of, the Government Code.
6 Notwithstanding any other provision of law, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (p) The Deputy Director for Security designated by Section
9 8880.38 of the Government Code, and all lottery security personnel
10 assigned to the California State Lottery and designated by the
11 director, provided that the primary duty of any of those peace
12 officers shall be the enforcement of the laws related to assuring
13 the integrity, honesty, and fairness of the operation and
14 administration of the California State Lottery.

15 (q) Investigators employed by the Investigation Division of the
16 Employment Development Department designated by the director
17 of the department, provided that the primary duty of those peace
18 officers shall be the enforcement of the law as that duty is set forth
19 in Section 317 of the Unemployment Insurance Code.

20 Notwithstanding any other provision of law, the peace officers
21 designated pursuant to this subdivision shall not carry firearms.

22 (r) The chief and assistant chief of museum security and safety
23 of the California Science Center, as designated by the executive
24 director pursuant to Section 4108 of the Food and Agricultural
25 Code, provided that the primary duty of those peace officers shall
26 be the enforcement of the law as that duty is set forth in Section
27 4108 of the Food and Agricultural Code.

28 (s) Employees of the Franchise Tax Board designated by the
29 board, provided that the primary duty of these peace officers shall
30 be the enforcement of the law as set forth in Chapter 9
31 (commencing with Section 19701) of Part 10.2 of Division 2 of
32 the Revenue and Taxation Code.

33 (t) Notwithstanding any other provision of this section, a peace
34 officer authorized by this section shall not be authorized to carry
35 firearms by his or her employing agency until that agency has
36 adopted a policy on the use of deadly force by those peace officers,
37 and until those peace officers have been instructed in the employing
38 agency's policy on the use of deadly force.

1 Every peace officer authorized pursuant to this section to carry
2 firearms by his or her employing agency shall qualify in the use
3 of the firearms at least every six months.

4 (u) Investigators of the Department of Managed Health Care
5 designated by the Director of the Department of Managed Health
6 Care, provided that the primary duty of these investigators shall
7 be the enforcement of the provisions of laws administered by the
8 Director of the Department of Managed Health Care.
9 Notwithstanding any other provision of law, the peace officers
10 designated pursuant to this subdivision shall not carry firearms.

11 (v) The Chief, Deputy Chief, supervising investigators, and
12 investigators of the Office of Protective Services of the State
13 Department of Developmental Services, provided that the primary
14 duty of each of those persons shall be the enforcement of the law
15 relating to the duties of his or her department or office.

16 SEC. 40. (a) It is the intent of the Legislature that the
17 Department of Consumer Affairs shall, on or before December
18 31, 2012, establish an enterprise information technology system
19 necessary to electronically create and update healing arts license
20 information, track enforcement cases, and allocate enforcement
21 efforts pertaining to healing arts licensees. The Legislature intends
22 the system to be designed as an integrated system to support all
23 business automation requirements of the department's licensing
24 and enforcement functions.

25 (b) The Legislature also intends the department to enter into
26 contracts for telecommunication, programming, data analysis, data
27 processing, and other services necessary to develop, operate, and
28 maintain the enterprise information technology system.

29 SEC. 41. No reimbursement is required by this act pursuant
30 to Section 6 of Article XIII B of the California Constitution for
31 certain costs that may be incurred by a local agency or school
32 district because, in that regard, this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

38 However, if the Commission on State Mandates determines that
39 this act contains other costs mandated by the state, reimbursement
40 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O