

AMENDED IN ASSEMBLY APRIL 18, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1848

Introduced by Assembly Member Atkins

February 22, 2012

An act to add Section 2076.6 to the Business and Professions Code, relating to healing arts, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1848, as amended, Atkins. Physicians and surgeons: expert witness testimony.

Existing law, the Medical Practice Act, provides for the licensing and regulation of physicians and surgeons in the state by the Medical Board of California under the Department of Consumer Affairs. Existing law provides exceptions from those licensing requirements to permit physicians and surgeons who are licensed in another state to practice medicine in California in specified circumstances.

This bill would require a physician and surgeon who is licensed in another state to file ~~an application~~ *a request for authorization* and a fee with the board and receive ~~approval~~ *authorization*, as specified, prior to ~~offering~~ *providing* expert witness testimony related to the practice of medicine in any legal proceeding in the state. A physician and surgeon so ~~approved~~ *authorized* would be subject to discipline by the board.

This bill would ~~make an appropriation because the application fees would require the filing fee for a request for authorization to be deposited into the Contingent Fund of the Medical Board of California; a continuously appropriated fund to be used, upon appropriation by the~~

Legislature, for developing the authorization process and processing requests.

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

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

1 SECTION 1. Section 2076.6 is added to the Business and
2 Professions Code, to read:

3 2076.6. (a) A physician and surgeon who holds an active and
4 valid license to practice medicine in another state shall file a written
5 ~~application~~ request for authorization with the board, using a form
6 that the board shall create, and receive the approval of the board
7 prior to providing expert witness testimony, under oath, relating
8 to the practice of medicine in any legal proceeding in the state.
9 ~~The application shall contain:~~ *Prior to providing that testimony,*
10 *the person shall do all of the following:*

11 (1) *Obtain authorization from the board to provide expert*
12 *witness testimony after submitting to the board a copy of his or*
13 *her valid license or certificate from each state in which the person*
14 *holds licensure or certification and a photographic identification*
15 *issued by one of those states in which the person holds licensure*
16 *or certification. The board shall notify the person, within 20*
17 *calendar days of receiving a request for authorization, whether*
18 *the board has approved or denied that request. If the person*
19 *requests authorization to testify within 20 calendar days of the*
20 *board's receipt of the person's request for authorization, the board*
21 *shall make reasonable efforts to notify the person whether that*
22 *request is approved or denied within that shorter time period.*

23 (2) *Satisfy the following requirements:*

24 (A) *The person has not committed any act or been convicted of*
25 *a crime constituting grounds for denial of licensure or registration*
26 *under Section 480 and is in good standing in each state in which*
27 *he or she holds licensure or certification.*

28 (B) *The person has the appropriate education and experience*
29 *to provide expert witness testimony, as determined by the board.*

30 (C) *The person shall agree to comply with all applicable*
31 *practice requirements set forth in this division and the regulations*
32 *adopted pursuant to this division.*

1 (3) *Submit to the board, on a form prescribed by the board, a*
2 *request for authorization to provide expert witness testimony.*

3 (4) *Submit a statement declaring whether the person has*
4 *previously held or applied for a California medical license and*
5 *whether that license or application was ever suspended, revoked,*
6 *or denied.*

7 ~~(1) The applicant's legal name, mailing address, and telephone~~
8 ~~number.~~

9 ~~(2) The names of all jurisdictions where the applicant holds,~~
10 ~~has held, or has applied for, a license to practice medicine, the~~
11 ~~current status of each license or application, and the name of any~~
12 ~~jurisdictions in which a license or application has been suspended,~~
13 ~~revoked, or denied.~~

14 ~~(3) A statement declaring whether the applicant has previously~~
15 ~~held or applied for a California medical license and whether that~~
16 ~~license or application was ever suspended, revoked, or denied.~~

17 ~~(4) A~~

18 (5) *Submit a list of any felonies or misdemeanors of which the*
19 *applicant person has been convicted in any jurisdiction.*

20 ~~(5) A~~

21 (6) *Submit a statement indicating whether the applicant person*
22 *has previously applied for, or held, an expert witness certificate*
23 *registration and whether any previous expert witness certificate*
24 *registration has been revoked by the board, or a similar board,*
25 *committee, medical society, or administrative body in any other*
26 *jurisdiction.*

27 (7) *Submit any additional information required by the board.*

28 (b) ~~The application request~~ shall be accompanied by a fee in an
29 amount set by the board *by regulation* sufficient to cover the
30 reasonable costs of processing the ~~application request~~. All fees
31 collected under this section shall be deposited in the Contingent
32 Fund of the Medical Board of California *and shall be available,*
33 *upon appropriation by the Legislature, to cover the cost of*
34 *developing the authorization process and processing the requests*
35 *for authorization.*

36 (c) If the board fails to approve or deny the ~~application request~~
37 within ~~10-20~~ business days after receipt of the ~~application request~~
38 and payment of the ~~application filing~~ fee, the ~~application request~~
39 shall be deemed approved. The board shall issue an expert witness

1 ~~certificate registration~~ to all approved ~~applicants~~ *requesters*. The
2 ~~certificate registration~~ shall be valid for two years from issuance.

3 (d) An expert witness-~~certificate registration~~ does not authorize
4 the holder to practice medicine, as described in Section 2052. An
5 expert witness-~~certificate registration~~ shall be treated as a license
6 in any disciplinary action and the holder of the-~~certificate~~
7 *registration* shall be subject to discipline by the board.

8 (e) A physician and surgeon who is authorized under this section
9 to provide expert testimony relating to the practice of medicine
10 shall be deemed to consent to the jurisdiction, and regulatory and
11 disciplinary powers, of the board and shall be subject to the
12 provisions of Section 2234.

13 (f) An expert witness-~~certificate registration~~ issued pursuant to
14 this section shall be disclosed upon request to a member of the
15 public and shall be posted on the board's Internet Web site.