

AMENDED IN ASSEMBLY AUGUST 22, 2014

AMENDED IN ASSEMBLY AUGUST 4, 2014

AMENDED IN ASSEMBLY JUNE 30, 2014

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN SENATE APRIL 7, 2014

SENATE BILL

No. 1159

Introduced by Senator Lara

February 20, 2014

An act to amend ~~Section~~ *Sections 30, 2103, 2111, 2112, 2113, 2115, 3624, and 6533* of, and to add *Section 135.5* to, the Business and Professions Code, to amend Section 17520 of the Family Code, and to amend Section 19528 of the Revenue and Taxation Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, as amended, Lara. Professions and vocations: license applicants: individual tax identification number.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, among other licensing bodies. Existing law requires those licensing bodies to require a licensee, at the time of issuance of the license, to provide its federal employer identification number if the licensee is a partnership, or his or her social security number for all other licensees. Existing law requires those licensing bodies to report to the Franchise Tax Board any licensee who fails to provide the federal employer identification number or social security number, and subjects

the licensee to a penalty for failing to provide the information after notification, as specified.

This bill, *no later than January 1, 2016*, would require those licensing bodies to require an applicant ~~other than a partnership~~ to provide either an individual tax identification number or social security number ~~and would if the applicant is an individual~~. *The bill would require the licensing bodies to report to the Franchise Tax Board, and subject a licensee to a penalty, for failure to provide that information, as described above. The bill would prohibit, except as specified, any entity within the department from denying licensure to an applicant based on his or her citizenship status or immigration status. The bill would require every board within the department to implement regulatory and procedural changes necessary to implement these provisions no later than January 1, 2016, and would authorize implementation at an any time prior to that date.* The bill would make other conforming changes.

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

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

- 1 SECTION 1. Section 30 of the Business and Professions Code
- 2 is amended to read:
- 3 30. (a) (1) Notwithstanding any other law, any board, as
- 4 defined in Section 22, and the State Bar and the Bureau of Real
- 5 Estate shall, at the time of issuance of the license, require that the
- 6 applicant provide its federal employer identification number, if
- 7 the applicant is a partnership, or the applicant's ~~individual taxpayer~~
- 8 ~~identification number~~ or social security number for all other
- 9 applicants.
- 10 (2) *No later than January 1, 2016, in accordance with Section*
- 11 *135.5, a board, as defined in Section 22, and the State Bar and*
- 12 *the Bureau of Real Estate shall require either the individual*
- 13 *taxpayer identification number or social security number if the*
- 14 *applicant is an individual for purposes of this subdivision.*
- 15 (b) A licensee failing to provide the federal employer
- 16 identification number, or the individual taxpayer identification
- 17 number or social security number shall be reported by the licensing
- 18 board to the Franchise Tax Board. If the licensee fails to provide
- 19 that information after notification pursuant to paragraph (1) of
- 20 subdivision (b) of Section 19528 of the Revenue and Taxation

1 Code, the licensee shall be subject to the penalty provided in
2 paragraph (2) of subdivision (b) of Section 19528 of the Revenue
3 and Taxation Code.

4 (c) In addition to the penalty specified in subdivision (b), a
5 licensing board may not process an application for an initial license
6 unless the applicant provides its federal employer identification
7 number, or individual taxpayer identification number or social
8 security number where requested on the application.

9 (d) A licensing board shall, upon request of the Franchise Tax
10 Board, furnish to the Franchise Tax Board the following
11 information with respect to every licensee:

12 (1) Name.

13 (2) Address or addresses of record.

14 (3) Federal employer identification number if the licensee is a
15 partnership, or the licensee's individual taxpayer identification
16 number or social security number for all other licensees.

17 (4) Type of license.

18 (5) Effective date of license or a renewal.

19 (6) Expiration date of license.

20 (7) Whether license is active or inactive, if known.

21 (8) Whether license is new or a renewal.

22 (e) For the purposes of this section:

23 (1) "Licensee" means a person or entity, other than a
24 corporation, authorized by a license, certificate, registration, or
25 other means to engage in a business or profession regulated by
26 this code or referred to in Section 1000 or 3600.

27 (2) "License" includes a certificate, registration, or any other
28 authorization needed to engage in a business or profession
29 regulated by this code or referred to in Section 1000 or 3600.

30 (3) "Licensing board" means any board, as defined in Section
31 22, the State Bar, and the Bureau of Real Estate.

32 (f) The reports required under this section shall be filed on
33 magnetic media or in other machine-readable form, according to
34 standards furnished by the Franchise Tax Board.

35 (g) Licensing boards shall provide to the Franchise Tax Board
36 the information required by this section at a time that the Franchise
37 Tax Board may require.

38 (h) Notwithstanding Chapter 3.5 (commencing with Section
39 6250) of Division 7 of Title 1 of the Government Code, a federal
40 employer identification number, individual taxpayer identification

1 number, or social security number furnished pursuant to this section
2 shall not be deemed to be a public record and shall not be open to
3 the public for inspection.

4 (i) A deputy, agent, clerk, officer, or employee of a licensing
5 board described in subdivision (a), or any former officer or
6 employee or other individual who, in the course of his or her
7 employment or duty, has or has had access to the information
8 required to be furnished under this section, may not disclose or
9 make known in any manner that information, except as provided
10 in this section to the Franchise Tax Board or as provided in
11 subdivision (k).

12 (j) It is the intent of the Legislature in enacting this section to
13 utilize the federal employer identification number, individual
14 taxpayer identification number, or social security number for the
15 purpose of establishing the identification of persons affected by
16 state tax laws and for purposes of compliance with Section 17520
17 of the Family Code and, to that end, the information furnished
18 pursuant to this section shall be used exclusively for those
19 purposes.

20 (k) If the board utilizes a national examination to issue a license,
21 and if a reciprocity agreement or comity exists between the State
22 of California and the state requesting release of the individual
23 taxpayer identification number or social security number, any
24 deputy, agent, clerk, officer, or employee of any licensing board
25 described in subdivision (a) may release an individual taxpayer
26 identification number or social security number to an examination
27 or licensing entity, only for the purpose of verification of licensure
28 or examination status.

29 (l) For the purposes of enforcement of Section 17520 of the
30 Family Code, and notwithstanding any other law, a board, as
31 defined in Section 22, and the State Bar and the Bureau of Real
32 Estate shall at the time of issuance of the license require that each
33 licensee provide the individual taxpayer identification number or
34 social security number of each individual listed on the license and
35 any person who qualifies *for* the license. For the purposes of this
36 subdivision, “licensee” means an entity that is issued a license by
37 any board, as defined in Section 22, the State Bar, the Bureau of
38 Real Estate, and the Department of Motor Vehicles.

39 *SEC. 2. Section 135.5 is added to the Business and Professions*
40 *Code, to read:*

1 135.5. (a) *The Legislature finds and declares that it is in the*
2 *best interests of the State of California to provide persons who are*
3 *not lawfully present in the United States with the state benefits*
4 *provided by all licensing acts of entities within the department,*
5 *and therefore enacts this section pursuant to subsection (d) of*
6 *Section 1621 of Title 8 of the United States Code.*

7 (b) *Notwithstanding subdivision (a) of Section 30, and except*
8 *as required by subdivision (e) of Section 7583.23, no entity within*
9 *the department shall deny licensure to an applicant based on his*
10 *or her citizenship status or immigration status.*

11 (c) *Every board within the department shall implement all*
12 *required regulatory or procedural changes necessary to implement*
13 *this section no later than January 1, 2016. A board may implement*
14 *the provisions of this section at any time prior to January 1, 2016.*

15 SEC. 3. *Section 2103 of the Business and Professions Code is*
16 *amended to read:*

17 2103. ~~An applicant who is a citizen of the United States shall~~
18 ~~be eligible for a physician's and surgeon's certificate if he or she~~
19 ~~has completed the following requirements:~~

20 (a) Submitted official evidence satisfactory to the board of
21 completion of a resident course or professional instruction
22 equivalent to that required in Section 2089 in a medical school
23 located outside the United States or Canada. However, nothing in
24 this section shall be construed to require the board to evaluate for
25 equivalency any coursework obtained at a medical school
26 disapproved by the board pursuant to Article 4 (commencing with
27 Section 2080).

28 (b) Submitted official evidence satisfactory to the board of
29 completion of all formal requirements of the medical school for
30 graduation, except the applicant shall not be required to have
31 completed an internship or social service or be admitted or licensed
32 to practice medicine in the country in which the professional
33 instruction was completed.

34 (c) Attained a score satisfactory to an approved medical school
35 on a qualifying examination acceptable to the board.

36 (d) Successfully completed one academic year of supervised
37 clinical training in a program approved by the board pursuant to
38 Section 2104. The board shall also recognize as compliance with
39 this subdivision the successful completion of a one-year supervised
40 clinical medical internship operated by a medical school pursuant

1 to Chapter 85 of the Statutes of 1972 and as amended by Chapter
2 888 of the Statutes of 1973 as the equivalent of the year of
3 supervised clinical training required by this section.

4 (1) Training received in the academic year of supervised clinical
5 training approved pursuant to Section 2104 shall be considered as
6 part of the total academic curriculum for purposes of meeting the
7 requirements of Sections 2089 and 2089.5.

8 (2) An applicant who has passed the basic science and English
9 language examinations required for certification by the Educational
10 Commission for Foreign Medical Graduates may present evidence
11 of those passing scores along with a certificate of completion of
12 one academic year of supervised clinical training in a program
13 approved by the board pursuant to Section 2104 in satisfaction of
14 the formal certification requirements of subdivision (b) of Section
15 2102.

16 (e) Satisfactorily completed the postgraduate training required
17 under Section 2096.

18 (f) Passed the written examination required for certification as
19 a physician and surgeon under this chapter.

20 *SEC. 4. Section 2111 of the Business and Professions Code is*
21 *amended to read:*

22 2111. (a) Physicians who are not citizens but who meet the
23 requirements of subdivision (b), ~~are legally admitted to the United~~
24 ~~States;~~ (b) and who seek postgraduate study in an approved medical
25 school may, after receipt of an appointment from the dean of the
26 California medical school and application to and approval by the
27 Division of Licensing, be permitted to participate in the
28 professional activities of the department or division in the medical
29 school to which they are appointed. The physician shall be under
30 the direction of the head of the department to which he or she is
31 appointed, supervised by the staff of the medical school's medical
32 center, and known for these purposes as a "visiting fellow." The
33 visiting fellow shall wear a visible name tag containing the title
34 "visiting fellow" when he or she provides clinical services.

35 (b) (1) Application for approval shall be made on a form
36 prescribed by the division and shall be accompanied by a fee fixed
37 by the division in an amount necessary to recover the actual
38 application processing costs of the program. The application shall
39 show that the person does not immediately qualify for a physician's
40 and surgeon's certificate under this chapter and that the person has

1 completed at least three years of postgraduate basic residency
2 requirements. The application shall include a written statement of
3 the recruitment procedures followed by the medical school before
4 offering the appointment to the applicant.

5 (2) Approval shall be granted only for appointment to one
6 medical school, and no physician shall be granted more than one
7 approval for the same period of time.

8 (3) Approval may be granted for a maximum of three years and
9 shall be renewed annually. The medical school shall submit a
10 request for renewal on a form prescribed by the division, which
11 shall be accompanied by a renewal fee fixed by the division in a
12 amount necessary to recover the actual application processing costs
13 of the program.

14 (c) Except to the extent authorized by this section, the visiting
15 fellow may not engage in the practice of medicine. Neither the
16 visiting fellow nor the medical school may assess any charge for
17 the medical services provided by the visiting fellow, and the
18 visiting fellow may not receive any other compensation therefor.

19 (d) The time spent under appointment in a medical school
20 pursuant to this section may not be used to meet the requirements
21 for licensure under Section 2102.

22 (e) The division shall notify both the visiting fellow and the
23 dean of the appointing medical school of any complaint made
24 about the visiting fellow.

25 The division may terminate its approval of an appointment for
26 any act that would be grounds for discipline if done by a licensee.
27 The division shall provide both the visiting fellow and the dean of
28 the medical school with a written notice of termination including
29 the basis for that termination. The visiting fellow may, within 30
30 days after the date of the notice of termination, file a written appeal
31 to the division. The appeal shall include any documentation the
32 visiting fellow wishes to present to the division.

33 (f) Nothing in this section shall preclude any United States
34 citizen who has received his or her medical degree from a medical
35 school located in a foreign country and recognized by the division
36 from participating in any program established pursuant to this
37 section.

38 *SEC. 5. Section 2112 of the Business and Professions Code is*
39 *amended to read:*

1 2112. (a) Physicians who are not citizens ~~but are legally~~
2 ~~admitted to the United States~~ and who seek postgraduate study,
3 may, after application to and approval by the Division of Licensing,
4 be permitted to participate in a fellowship program in a specialty
5 or subspecialty field, providing the fellowship program is given
6 in a hospital in this state which is approved by the Joint Committee
7 on Accreditation of Hospitals and providing the service is
8 satisfactory to the division. Such physicians shall at all times be
9 under the direction and supervision of a licensed, board-certified
10 physician and surgeon who is recognized as a clearly outstanding
11 specialist in the field in which the foreign fellow is to be trained.
12 The supervisor, as part of the application process, shall submit his
13 or her curriculum vitae and a protocol of the fellowship program
14 to be completed by the foreign fellow. Approval of the program
15 and supervisor is for a period of one year, but may be renewed
16 annually upon application to and approval by the division. The
17 approval may not be renewed more than four times. The division
18 may determine a fee, based on the cost of operating this program,
19 which shall be paid by the applicant at the time the application is
20 filed.

21 (b) Except to the extent authorized by this section, no such
22 visiting physician may engage in the practice of medicine or receive
23 compensation therefor. The time spent under appointment in a
24 medical school pursuant to this section may not be used to meet
25 the requirements for licensure under Section 2101 or 2102.

26 (c) Nothing in this section shall preclude any United States
27 citizen who has received his or her medical degree from a medical
28 school located in a foreign country from participating in any
29 program established pursuant to this section.

30 *SEC. 6. Section 2113 of the Business and Professions Code is*
31 *amended to read:*

32 2113. (a) Any person who does not immediately qualify for
33 a physician's and surgeon's certificate under this chapter and who
34 is offered by the dean of an approved medical school in this state
35 a full-time faculty position may, after application to and approval
36 by the Division of Licensing, be granted a certificate of registration
37 to engage in the practice of medicine only to the extent that the
38 practice is incident to and a necessary part of his or her duties as
39 approved by the division in connection with the faculty position.
40 A certificate of registration does not authorize a registrant to admit

1 patients to a nursing or a skilled or assisted living facility unless
2 that facility is formally affiliated with the sponsoring medical
3 school. A clinical fellowship shall not be submitted as a faculty
4 service appointment.

5 (b) Application for a certificate of registration shall be made on
6 a form prescribed by the division and shall be accompanied by a
7 registration fee fixed by the division in a amount necessary to
8 recover the actual application processing costs of the program. To
9 qualify for the certificate, an applicant shall submit all of the
10 following:

11 ~~(1) Documentary evidence satisfactory to the division that the~~
12 ~~applicant is a United States citizen or is legally admitted to the~~
13 ~~United States.~~

14 ~~(2)~~

15 (1) If the applicant is a graduate of a medical school other than
16 in the United States or Canada, documentary evidence satisfactory
17 to the division that he or she has been licensed to practice medicine
18 and surgery for not less than four years in another state or country
19 whose requirements for licensure are satisfactory to the division,
20 or has been engaged in the practice of medicine in the United States
21 for at least four years in approved facilities, or has completed a
22 combination of that licensure and training.

23 ~~(3)~~

24 (2) If the applicant is a graduate of an approved medical school
25 in the United States or Canada, documentary evidence that he or
26 she has completed a resident course of professional instruction as
27 required in Section 2089.

28 ~~(4)~~

29 (3) Written certification by the head of the department in which
30 the applicant is to be appointed of all of the following:

31 (A) The applicant will be under his or her direction.

32 (B) The applicant will not be permitted to practice medicine
33 unless incident to and a necessary part of his or her duties as
34 approved by the division in subdivision (a).

35 (C) The applicant will be accountable to the medical school's
36 department chair or division chief for the specialty in which the
37 applicant will practice.

38 (D) The applicant will be proctored in the same manner as other
39 new faculty members, including, as appropriate, review by the
40 medical staff of the school's medical center.

1 (E) The applicant will not be appointed to a supervisory position
2 at the level of a medical school department chair or division chief.

3 ~~(5)~~

4 (4) Demonstration by the dean of the medical school that the
5 applicant has the requisite qualifications to assume the position to
6 which he or she is to be appointed and that shall include a written
7 statement of the recruitment procedures followed by the medical
8 school before offering the faculty position to the applicant.

9 (c) A certificate of registration shall be issued only for a faculty
10 position at one approved medical school, and no person shall be
11 issued more than one certificate of registration for the same period
12 of time.

13 (d) (1) A certificate of registration is valid for one year from
14 its date of issuance and may be renewed twice.

15 A request for renewal shall be submitted on a form prescribed
16 by the division and shall be accompanied by a renewal fee fixed
17 by the division in an amount necessary to recover the actual
18 application processing costs of the program.

19 (2) The dean of the medical school may request renewal of the
20 registration by submitting a plan at the beginning of the third year
21 of the registrant's appointment demonstrating the registrant's
22 continued progress toward licensure and, if the registrant is a
23 graduate of a medical school other than in the United States or
24 Canada, that the registrant has been issued a certificate by the
25 Educational Commission for Foreign Medical Graduates. The
26 division may, in its discretion, extend the registration for a two-year
27 period to facilitate the registrant's completion of the licensure
28 process.

29 (e) If the registrant is a graduate of a medical school other than
30 in the United States or Canada, he or she shall meet the
31 requirements of Section 2102 or 2135, as appropriate, in order to
32 obtain a physician's and surgeon's certificate. Notwithstanding
33 any other provision of law, the division may accept clinical practice
34 in an appointment pursuant to this section as qualifying time to
35 meet the postgraduate training requirements in Section 2102, and
36 may, in its discretion, waive the examination and the Educational
37 Commission for Foreign Medical Graduates certification
38 requirements specified in Section 2102 in the event the registrant
39 applies for a physician's and surgeon's certificate. As a condition
40 to waiving any examination or the Educational Commission for

1 Foreign Medical Graduates certification requirement, the division
2 in its discretion, may require an applicant to pass the clinical
3 competency examination referred to in subdivision (d) of Section
4 2135. The division shall not waive any examination for an applicant
5 who has not completed at least one year in the faculty position.

6 (f) Except to the extent authorized by this section, the registrant
7 shall not engage in the practice of medicine, bill individually for
8 medical services provided by the registrant, or receive
9 compensation therefor, unless he or she is issued a physician's and
10 surgeon's certificate.

11 (g) When providing clinical services, the registrant shall wear
12 a visible name tag containing the title "visiting professor" or
13 "visiting faculty member," as appropriate, and the institution at
14 which the services are provided shall obtain a signed statement
15 from each patient to whom the registrant provides services
16 acknowledging that the patient understands that the services are
17 provided by a person who does not hold a physician's and
18 surgeon's certificate but who is qualified to participate in a special
19 program as a visiting professor or faculty member.

20 (h) The division shall notify both the registrant and the dean of
21 the medical school of a complaint made about the registrant. The
22 division may terminate a registration for any act that would be
23 grounds for discipline if done by a licensee. The division shall
24 provide both the registrant and the dean of the medical school with
25 written notice of the termination and the basis for that termination.
26 The registrant may, within 30 days after the date of the notice of
27 termination, file a written appeal to the division. The appeal shall
28 include any documentation the registrant wishes to present to the
29 division.

30 *SEC. 7. Section 2115 of the Business and Professions Code is*
31 *amended to read:*

32 2115. (a) Physicians who are not citizens ~~but are legally~~
33 ~~admitted to the United States~~ and who seek postgraduate study
34 may, after application to and approval by the Division of Licensing,
35 be permitted to participate in a fellowship program in a specialty
36 or subspecialty field, providing the fellowship program is given
37 in a clinic or hospital in a medically underserved area of this state
38 that is licensed by the State Department of Health Services or is
39 exempt from licensure pursuant to subdivision (b) or (c) of Section
40 1206 of the Health and Safety Code, and providing service is

1 satisfactory to the division. These physicians shall at all times be
2 under the direction and supervision of a licensed, board certified
3 physician and surgeon who has an appointment with a medical
4 school in California and is a specialist in the field in which the
5 fellow is to be trained. The supervisor, as part of the application
6 process, shall submit his or her curriculum vitae and a protocol of
7 the fellowship program to be completed by the foreign fellow.
8 Approval of the program and supervisor is for a period of one year,
9 but may be renewed annually upon application to and approval by
10 the division. The approval may not be renewed more than four
11 times. The division may determine a fee, based on the cost of
12 operating this program, which shall be paid by the applicant at the
13 time the application is filed.

14 (b) Except to the extent authorized by this section, no visiting
15 physician may engage in the practice of medicine or receive
16 compensation therefor. The time spent under appointment in a
17 clinic pursuant to this section may not be used to meet the
18 requirements for licensure under Section 2102.

19 (c) Nothing in this section shall preclude any United States
20 citizen who has received his or her medical degree from a medical
21 school located in a foreign country from participating in any
22 program established pursuant to this section.

23 (d) For purposes of this section, a medically underserved area
24 means a federally designated Medically Underserved Area, a
25 federally designated Health Professional Shortage Area, and any
26 other clinic or hospital determined by the board to be medically
27 underserved. Clinics or hospitals determined by the board pursuant
28 to this subdivision shall be reported to the Office of Statewide
29 Health Planning and Development.

30 *SEC. 8. Section 3624 of the Business and Professions Code is*
31 *amended to read:*

32 3624. (a) The committee may grant a certificate of registration
33 to practice naturopathic medicine to a person who does not hold
34 a naturopathic doctor's license under this chapter and is offered a
35 faculty position by the dean of a naturopathic medical education
36 program approved by the committee, if all of the following
37 requirements are met to the satisfaction of the committee:

38 ~~(1) The applicant furnishes documentary evidence that he or~~
39 ~~she is a United States citizen or is legally admitted to the United~~
40 ~~States.~~

1 ~~(2)~~
2 (1) The applicant submits an application on a form prescribed
3 by the committee.

4 ~~(3)~~
5 (2) The dean of the naturopathic medical education program
6 demonstrates that the applicant has the requisite qualifications to
7 assume the position to which he or she is to be appointed.

8 ~~(4)~~
9 (3) The dean of the naturopathic medical education program
10 certifies in writing to the committee that the applicant will be under
11 his or her direction and will not be permitted to practice
12 naturopathic medicine unless incident to and a necessary part of
13 the applicant's duties as approved by the committee.

14 (b) The holder of a certificate of registration issued under this
15 section shall not receive compensation for or practice naturopathic
16 medicine unless it is incidental to and a necessary part of the
17 applicant's duties in connection with the holder's faculty position.

18 (c) A certificate of registration issued under this section is valid
19 for two years.

20 *SEC. 9. Section 6533 of the Business and Professions Code is*
21 *amended to read:*

22 6533. In order to meet the qualifications for licensure as a
23 professional fiduciary a person shall meet all of the following
24 requirements:

25 (a) Be at least 21 years of age.

26 ~~(b) Be a United States citizen, or be legally admitted to the~~
27 ~~United States.~~

28 ~~(c)~~

29 (b) Have not committed any acts that are grounds for denial of
30 a license under Section 480 or 6536.

31 ~~(d)~~

32 (c) Submit fingerprint images as specified in Section 6533.5 in
33 order to obtain criminal offender record information.

34 ~~(e)~~

35 (d) Have completed the required prelicensing education
36 described in Section 6538.

37 ~~(f)~~

38 (e) Have passed the licensing examination administered by the
39 bureau pursuant to Section 6539.

40 ~~(g)~~

- 1 (f) Have at least one of the following:
- 2 (1) A baccalaureate degree of arts or sciences from a college or
- 3 university accredited by a nationally recognized accrediting body
- 4 of colleges and universities or a higher level of education.
- 5 (2) An associate of arts or sciences degree from a college or
- 6 university accredited by a nationally recognized accrediting body
- 7 of colleges and universities, and at least three years of experience
- 8 working as a professional fiduciary or working with substantive
- 9 fiduciary responsibilities for a professional fiduciary, public
- 10 agency, or financial institution acting as a conservator, guardian,
- 11 trustee, personal representative, or agent under a power of attorney.
- 12 (3) Experience of not less than five years, prior to July 1, 2012,
- 13 working as a professional fiduciary or working with substantive
- 14 fiduciary responsibilities for a professional fiduciary, public
- 15 agency, or financial institution acting as a conservator, guardian,
- 16 trustee, personal representative, or agent under a power of attorney.
- 17 ~~(h)~~
- 18 (g) Agree to adhere to the Professional Fiduciaries Code of
- 19 Ethics and to all statutes and regulations.
- 20 ~~(i)~~
- 21 (h) Consent to the bureau conducting a credit check on the
- 22 applicant.
- 23 ~~(j)~~
- 24 (i) File a completed application for licensure with the bureau
- 25 on a form provided by the bureau and signed by the applicant under
- 26 penalty of perjury.
- 27 ~~(k)~~
- 28 (j) Submit with the license application a nonrefundable
- 29 application fee, as specified in this chapter.
- 30 ~~SEC. 2.~~
- 31 *SEC. 10.* Section 17520 of the Family Code is amended to
- 32 read:
- 33 17520. (a) As used in this section:
- 34 (1) “Applicant” means a person applying for issuance or renewal
- 35 of a license.
- 36 (2) “Board” means an entity specified in Section 101 of the
- 37 Business and Professions Code, the entities referred to in Sections
- 38 1000 and 3600 of the Business and Professions Code, the State
- 39 Bar, the Bureau of Real Estate, the Department of Motor Vehicles,
- 40 the Secretary of State, the Department of Fish and ~~Game~~, *Wildlife*,

1 and any other state commission, department, committee, examiner,
2 or agency that issues a license, certificate, credential, permit,
3 registration, or any other authorization to engage in a business,
4 occupation, or profession, or to the extent required by federal law
5 or regulations, for recreational purposes. This term includes all
6 boards, commissions, departments, committees, examiners, entities,
7 and agencies that issue a license, certificate, credential, permit,
8 registration, or any other authorization to engage in a business,
9 occupation, or profession. The failure to specifically name a
10 particular board, commission, department, committee, examiner,
11 entity, or agency that issues a license, certificate, credential, permit,
12 registration, or any other authorization to engage in a business,
13 occupation, or profession does not exclude that board, commission,
14 department, committee, examiner, entity, or agency from this term.

15 (3) “Certified list” means a list provided by the local child
16 support agency to the Department of Child Support Services in
17 which the local child support agency verifies, under penalty of
18 perjury, that the names contained therein are support obligors found
19 to be out of compliance with a judgment or order for support in a
20 case being enforced under Title IV-D of the *federal* Social Security
21 Act.

22 (4) “Compliance with a judgment or order for support” means
23 that, as set forth in a judgment or order for child or family support,
24 the obligor is no more than 30 calendar days in arrears in making
25 payments in full for current support, in making periodic payments
26 in full, whether court ordered or by agreement with the local child
27 support agency, on a support arrearage, or in making periodic
28 payments in full, whether court ordered or by agreement with the
29 local child support agency, on a judgment for reimbursement for
30 public assistance, or has obtained a judicial finding that equitable
31 estoppel as provided in statute or case law precludes enforcement
32 of the order. The local child support agency is authorized to use
33 this section to enforce orders for spousal support only when the
34 local child support agency is also enforcing a related child support
35 obligation owed to the obligee parent by the same obligor, pursuant
36 to Sections 17400 and 17604.

37 (5) “License” includes membership in the State Bar, and a
38 certificate, credential, permit, registration, or any other
39 authorization issued by a board that allows a person to engage in
40 a business, occupation, or profession, or to operate a commercial

1 motor vehicle, including appointment and commission by the
2 Secretary of State as a notary public. “License” also includes any
3 driver’s license issued by the Department of Motor Vehicles, any
4 commercial fishing license issued by the Department of Fish and
5 ~~Game, Wildlife~~, and to the extent required by federal law or
6 regulations, any license used for recreational purposes. This term
7 includes all licenses, certificates, credentials, permits, registrations,
8 or any other authorization issued by a board that allows a person
9 to engage in a business, occupation, or profession. The failure to
10 specifically name a particular type of license, certificate, credential,
11 permit, registration, or other authorization issued by a board that
12 allows a person to engage in a business, occupation, or profession,
13 does not exclude that license, certificate, credential, permit,
14 registration, or other authorization from this term.

15 (6) “Licensee” means a person holding a license, certificate,
16 credential, permit, registration, or other authorization issued by a
17 board, to engage in a business, occupation, or profession, or a
18 commercial driver’s license as defined in Section 15210 of the
19 Vehicle Code, including an appointment and commission by the
20 Secretary of State as a notary public. “Licensee” also means a
21 person holding a driver’s license issued by the Department of
22 Motor Vehicles, a person holding a commercial fishing license
23 issued by the Department of Fish and Game, and to the extent
24 required by federal law or regulations, a person holding a license
25 used for recreational purposes. This term includes all persons
26 holding a license, certificate, credential, permit, registration, or
27 any other authorization to engage in a business, occupation, or
28 profession, and the failure to specifically name a particular type
29 of license, certificate, credential, permit, registration, or other
30 authorization issued by a board does not exclude that person from
31 this term. For licenses issued to an entity that is not an individual
32 person, “licensee” includes an individual who is either listed on
33 the license or who qualifies for the license.

34 (b) The local child support agency shall maintain a list of those
35 persons included in a case being enforced under Title IV-D of the
36 *federal* Social Security Act against whom a support order or
37 judgment has been rendered by, or registered in, a court of this
38 state, and who are not in compliance with that order or judgment.
39 The local child support agency shall submit a certified list with
40 the names, social security numbers, and last known addresses of

1 these persons and the name, address, and telephone number of the
2 local child support agency who certified the list to the department.
3 The local child support agency shall verify, under penalty of
4 perjury, that the persons listed are subject to an order or judgment
5 for the payment of support and that these persons are not in
6 compliance with the order or judgment. The local child support
7 agency shall submit to the department an updated certified list on
8 a monthly basis.

9 (c) The department shall consolidate the certified lists received
10 from the local child support agencies and, within 30 calendar days
11 of receipt, shall provide a copy of the consolidated list to each
12 board that is responsible for the regulation of licenses, as specified
13 in this section.

14 (d) On or before November 1, 1992, or as soon thereafter as
15 economically feasible, as determined by the department, all boards
16 subject to this section shall implement procedures to accept and
17 process the list provided by the department, in accordance with
18 this section. Notwithstanding any other law, all boards shall collect
19 social security numbers or individual taxpayer identification
20 numbers from all applicants for the purposes of matching the names
21 of the certified list provided by the department to applicants and
22 licensees and of responding to requests for this information made
23 by child support agencies.

24 (e) (1) Promptly after receiving the certified consolidated list
25 from the department, and prior to the issuance or renewal of a
26 license, each board shall determine whether the applicant is on the
27 most recent certified consolidated list provided by the department.
28 The board shall have the authority to withhold issuance or renewal
29 of the license of an applicant on the list.

30 (2) If an applicant is on the list, the board shall immediately
31 serve notice as specified in subdivision (f) on the applicant of the
32 board's intent to withhold issuance or renewal of the license. The
33 notice shall be made personally or by mail to the applicant's last
34 known mailing address on file with the board. Service by mail
35 shall be complete in accordance with Section 1013 of the Code of
36 Civil Procedure.

37 (A) The board shall issue a temporary license valid for a period
38 of 150 days to any applicant whose name is on the certified list if
39 the applicant is otherwise eligible for a license.

1 (B) Except as provided in subparagraph (D), the 150-day time
2 period for a temporary license shall not be extended. Except as
3 provided in subparagraph (D), only one temporary license shall
4 be issued during a regular license term and it shall coincide with
5 the first 150 days of that license term. As this paragraph applies
6 to commercial driver’s licenses, “license term” shall be deemed
7 to be 12 months from the date the application fee is received by
8 the Department of Motor Vehicles. A license for the full or
9 remainder of the license term shall be issued or renewed only upon
10 compliance with this section.

11 (C) In the event that a license or application for a license or the
12 renewal of a license is denied pursuant to this section, any funds
13 paid by the applicant or licensee shall not be refunded by the board.

14 (D) This paragraph shall apply only in the case of a driver’s
15 license, other than a commercial driver’s license. Upon the request
16 of the local child support agency or by order of the court upon a
17 showing of good cause, the board shall extend a 150-day temporary
18 license for a period not to exceed 150 extra days.

19 (3) (A) The department may, when it is economically feasible
20 for the department and the boards to do so as determined by the
21 department, in cases where the department is aware that certain
22 child support obligors listed on the certified lists have been out of
23 compliance with a judgment or order for support for more than
24 four months, provide a supplemental list of these obligors to each
25 board with which the department has an interagency agreement to
26 implement this paragraph. Upon request by the department, the
27 licenses of these obligors shall be subject to suspension, provided
28 that the licenses would not otherwise be eligible for renewal within
29 six months from the date of the request by the department. The
30 board shall have the authority to suspend the license of any licensee
31 on this supplemental list.

32 (B) If a licensee is on a supplemental list, the board shall
33 immediately serve notice as specified in subdivision (f) on the
34 licensee that his or her license will be automatically suspended
35 150 days after notice is served, unless compliance with this section
36 is achieved. The notice shall be made personally or by mail to the
37 licensee’s last known mailing address on file with the board.
38 Service by mail shall be complete in accordance with Section 1013
39 of the Code of Civil Procedure.

40 (C) The 150-day notice period shall not be extended.

1 (D) In the event that any license is suspended pursuant to this
2 section, any funds paid by the licensee shall not be refunded by
3 the board.

4 (E) This paragraph shall not apply to licenses subject to annual
5 renewal or annual fee.

6 (f) Notices shall be developed by each board in accordance with
7 guidelines provided by the department and subject to approval by
8 the department. The notice shall include the address and telephone
9 number of the local child support agency that submitted the name
10 on the certified list, and shall emphasize the necessity of obtaining
11 a release from that local child support agency as a condition for
12 the issuance, renewal, or continued valid status of a license or
13 licenses.

14 (1) In the case of applicants not subject to paragraph (3) of
15 subdivision (e), the notice shall inform the applicant that the board
16 shall issue a temporary license, as provided in subparagraph (A)
17 of paragraph (2) of subdivision (e), for 150 calendar days if the
18 applicant is otherwise eligible and that upon expiration of that time
19 period the license will be denied unless the board has received a
20 release from the local child support agency that submitted the name
21 on the certified list.

22 (2) In the case of licensees named on a supplemental list, the
23 notice shall inform the licensee that his or her license will continue
24 in its existing status for no more than 150 calendar days from the
25 date of mailing or service of the notice and thereafter will be
26 suspended indefinitely unless, during the 150-day notice period,
27 the board has received a release from the local child support agency
28 that submitted the name on the certified list. Additionally, the
29 notice shall inform the licensee that any license suspended under
30 this section will remain so until the expiration of the remaining
31 license term, unless the board receives a release along with
32 applications and fees, if applicable, to reinstate the license during
33 the license term.

34 (3) The notice shall also inform the applicant or licensee that if
35 an application is denied or a license is suspended pursuant to this
36 section, any funds paid by the applicant or licensee shall not be
37 refunded by the board. The Department of Child Support Services
38 shall also develop a form that the applicant shall use to request a
39 review by the local child support agency. A copy of this form shall
40 be included with every notice sent pursuant to this subdivision.

1 (g) (1) Each local child support agency shall maintain review
2 procedures consistent with this section to allow an applicant to
3 have the underlying arrearage and any relevant defenses
4 investigated, to provide an applicant information on the process
5 of obtaining a modification of a support order, or to provide an
6 applicant assistance in the establishment of a payment schedule
7 on arrearages if the circumstances so warrant.

8 (2) It is the intent of the Legislature that a court or local child
9 support agency, when determining an appropriate payment schedule
10 for arrearages, base its decision on the facts of the particular case
11 and the priority of payment of child support over other debts. The
12 payment schedule shall also recognize that certain expenses may
13 be essential to enable an obligor to be employed. Therefore, in
14 reaching its decision, the court or the local child support agency
15 shall consider both of these goals in setting a payment schedule
16 for arrearages.

17 (h) If the applicant wishes to challenge the submission of his
18 or her name on the certified list, the applicant shall make a timely
19 written request for review to the local child support agency who
20 certified the applicant's name. A request for review pursuant to
21 this section shall be resolved in the same manner and timeframe
22 provided for resolution of a complaint pursuant to Section 17800.
23 The local child support agency shall immediately send a release
24 to the appropriate board and the applicant, if any of the following
25 conditions are met:

26 (1) The applicant is found to be in compliance or negotiates an
27 agreement with the local child support agency for a payment
28 schedule on arrearages or reimbursement.

29 (2) The applicant has submitted a request for review, but the
30 local child support agency will be unable to complete the review
31 and send notice of its findings to the applicant within the time
32 specified in Section 17800.

33 (3) The applicant has filed and served a request for judicial
34 review pursuant to this section, but a resolution of that review will
35 not be made within 150 days of the date of service of notice
36 pursuant to subdivision (f). This paragraph applies only if the delay
37 in completing the judicial review process is not the result of the
38 applicant's failure to act in a reasonable, timely, and diligent
39 manner upon receiving the local child support agency's notice of
40 findings.

1 (4) The applicant has obtained a judicial finding of compliance
2 as defined in this section.

3 (i) An applicant is required to act with diligence in responding
4 to notices from the board and the local child support agency with
5 the recognition that the temporary license will lapse or the license
6 suspension will go into effect after 150 days and that the local
7 child support agency and, where appropriate, the court must have
8 time to act within that period. An applicant's delay in acting,
9 without good cause, which directly results in the inability of the
10 local child support agency to complete a review of the applicant's
11 request or the court to hear the request for judicial review within
12 the 150-day period shall not constitute the diligence required under
13 this section which would justify the issuance of a release.

14 (j) Except as otherwise provided in this section, the local child
15 support agency shall not issue a release if the applicant is not in
16 compliance with the judgment or order for support. The local child
17 support agency shall notify the applicant in writing that the
18 applicant may, by filing an order to show cause or notice of motion,
19 request any or all of the following:

20 (1) Judicial review of the local child support agency's decision
21 not to issue a release.

22 (2) A judicial determination of compliance.

23 (3) A modification of the support judgment or order.

24 The notice shall also contain the name and address of the court
25 in which the applicant shall file the order to show cause or notice
26 of motion and inform the applicant that his or her name shall
27 remain on the certified list if the applicant does not timely request
28 judicial review. The applicant shall comply with all statutes and
29 rules of court regarding orders to show cause and notices of motion.

30 This section shall not be deemed to limit an applicant from filing
31 an order to show cause or notice of motion to modify a support
32 judgment or order or to fix a payment schedule on arrearages
33 accruing under a support judgment or order or to obtain a court
34 finding of compliance with a judgment or order for support.

35 (k) The request for judicial review of the local child support
36 agency's decision shall state the grounds for which review is
37 requested and judicial review shall be limited to those stated
38 grounds. The court shall hold an evidentiary hearing within 20
39 calendar days of the filing of the request for review. Judicial review

1 of the local child support agency's decision shall be limited to a
2 determination of each of the following issues:

3 (1) Whether there is a support judgment, order, or payment
4 schedule on arrearages or reimbursement.

5 (2) Whether the petitioner is the obligor covered by the support
6 judgment or order.

7 (3) Whether the support obligor is or is not in compliance with
8 the judgment or order of support.

9 (4) (A) The extent to which the needs of the obligor, taking
10 into account the obligor's payment history and the current
11 circumstances of both the obligor and the obligee, warrant a
12 conditional release as described in this subdivision.

13 (B) The request for judicial review shall be served by the
14 applicant upon the local child support agency that submitted the
15 applicant's name on the certified list within seven calendar days
16 of the filing of the petition. The court has the authority to uphold
17 the action, unconditionally release the license, or conditionally
18 release the license.

19 (C) If the judicial review results in a finding by the court that
20 the obligor is in compliance with the judgment or order for support,
21 the local child support agency shall immediately send a release in
22 accordance with subdivision (l) to the appropriate board and the
23 applicant. If the judicial review results in a finding by the court
24 that the needs of the obligor warrant a conditional release, the court
25 shall make findings of fact stating the basis for the release and the
26 payment necessary to satisfy the unrestricted issuance or renewal
27 of the license without prejudice to a later judicial determination
28 of the amount of support arrearages, including interest, and shall
29 specify payment terms, compliance with which are necessary to
30 allow the release to remain in effect.

31 (l) The department shall prescribe release forms for use by local
32 child support agencies. When the obligor is in compliance, the
33 local child support agency shall mail to the applicant and the
34 appropriate board a release stating that the applicant is in
35 compliance. The receipt of a release shall serve to notify the
36 applicant and the board that, for the purposes of this section, the
37 applicant is in compliance with the judgment or order for support.
38 Any board that has received a release from the local child support
39 agency pursuant to this subdivision shall process the release within
40 five business days of its receipt.

1 If the local child support agency determines subsequent to the
2 issuance of a release that the applicant is once again not in
3 compliance with a judgment or order for support, or with the terms
4 of repayment as described in this subdivision, the local child
5 support agency may notify the board, the obligor, and the
6 department in a format prescribed by the department that the
7 obligor is not in compliance.

8 The department may, when it is economically feasible for the
9 department and the boards to develop an automated process for
10 complying with this subdivision, notify the boards in a manner
11 prescribed by the department, that the obligor is once again not in
12 compliance. Upon receipt of this notice, the board shall
13 immediately notify the obligor on a form prescribed by the
14 department that the obligor's license will be suspended on a
15 specific date, and this date shall be no longer than 30 days from
16 the date the form is mailed. The obligor shall be further notified
17 that the license will remain suspended until a new release is issued
18 in accordance with subdivision (h). Nothing in this section shall
19 be deemed to limit the obligor from seeking judicial review of
20 suspension pursuant to the procedures described in subdivision
21 (k).

22 (m) The department may enter into interagency agreements with
23 the state agencies that have responsibility for the administration
24 of boards necessary to implement this section, to the extent that it
25 is cost effective to implement this section. These agreements shall
26 provide for the receipt by the other state agencies and boards of
27 federal funds to cover that portion of costs allowable in federal
28 law and regulation and incurred by the state agencies and boards
29 in implementing this section. Notwithstanding any other provision
30 of law, revenue generated by a board or state agency shall be used
31 to fund the nonfederal share of costs incurred pursuant to this
32 section. These agreements shall provide that boards shall reimburse
33 the department for the nonfederal share of costs incurred by the
34 department in implementing this section. The boards shall
35 reimburse the department for the nonfederal share of costs incurred
36 pursuant to this section from moneys collected from applicants
37 and licensees.

38 (n) Notwithstanding any other law, in order for the boards
39 subject to this section to be reimbursed for the costs incurred in
40 administering its provisions, the boards may, with the approval of

1 the appropriate department director, levy on all licensees and
2 applicants a surcharge on any fee or fees collected pursuant to law,
3 or, alternatively, with the approval of the appropriate department
4 director, levy on the applicants or licensees named on a certified
5 list or supplemental list, a special fee.

6 (o) The process described in subdivision (h) shall constitute the
7 sole administrative remedy for contesting the issuance of a
8 temporary license or the denial or suspension of a license under
9 this section. The procedures specified in the administrative
10 adjudication provisions of the Administrative Procedure Act
11 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3 of Title
13 2 of the Government Code) shall not apply to the denial,
14 suspension, or failure to issue or renew a license or the issuance
15 of a temporary license pursuant to this section.

16 (p) In furtherance of the public policy of increasing child support
17 enforcement and collections, on or before November 1, 1995, the
18 State Department of Social Services shall make a report to the
19 Legislature and the Governor based on data collected by the boards
20 and the district attorneys in a format prescribed by the State
21 Department of Social Services. The report shall contain all of the
22 following:

23 (1) The number of delinquent obligors certified by district
24 attorneys under this section.

25 (2) The number of support obligors who also were applicants
26 or licensees subject to this section.

27 (3) The number of new licenses and renewals that were delayed,
28 temporary licenses issued, and licenses suspended subject to this
29 section and the number of new licenses and renewals granted and
30 licenses reinstated following board receipt of releases as provided
31 by subdivision (h) by May 1, 1995.

32 (4) The costs incurred in the implementation and enforcement
33 of this section.

34 (q) Any board receiving an inquiry as to the licensed status of
35 an applicant or licensee who has had a license denied or suspended
36 under this section or has been granted a temporary license under
37 this section shall respond only that the license was denied or
38 suspended or the temporary license was issued pursuant to this
39 section. Information collected pursuant to this section by any state
40 agency, board, or department shall be subject to the Information

1 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
2 of Title 1.8 of Part 4 of Division 3 of the Civil Code).

3 (r) Any rules and regulations issued pursuant to this section by
4 any state agency, board, or department may be adopted as
5 emergency regulations in accordance with the rulemaking
6 provisions of the Administrative Procedure Act (Chapter 3.5
7 (commencing with Section 11340) of Part 1 of Division 3 of Title
8 2 of the Government Code). The adoption of these regulations
9 shall be deemed an emergency and necessary for the immediate
10 preservation of the public peace, health, and safety, or general
11 welfare. The regulations shall become effective immediately upon
12 filing with the Secretary of State.

13 (s) The department and boards, as appropriate, shall adopt
14 regulations necessary to implement this section.

15 (t) The Judicial Council shall develop the forms necessary to
16 implement this section, except as provided in subdivisions (f) and
17 (l).

18 (u) The release or other use of information received by a board
19 pursuant to this section, except as authorized by this section, is
20 punishable as a misdemeanor.

21 (v) The State Board of Equalization shall enter into interagency
22 agreements with the department and the Franchise Tax Board that
23 will require the department and the Franchise Tax Board to
24 maximize the use of information collected by the State Board of
25 Equalization, for child support enforcement purposes, to the extent
26 it is cost effective and permitted by the Revenue and Taxation
27 Code.

28 (w) (1) The suspension or revocation of any driver's license,
29 including a commercial driver's license, under this section shall
30 not subject the licensee to vehicle impoundment pursuant to Section
31 14602.6 of the Vehicle Code.

32 (2) Notwithstanding any other law, the suspension or revocation
33 of any driver's license, including a commercial driver's license,
34 under this section shall not subject the licensee to increased costs
35 for vehicle liability insurance.

36 (x) If any provision of this section or the application thereof to
37 any person or circumstance is held invalid, that invalidity shall not
38 affect other provisions or applications of this section which can
39 be given effect without the invalid provision or application, and
40 to this end the provisions of this section are severable.

1 (y) All rights to administrative and judicial review afforded by
2 this section to an applicant shall also be afforded to a licensee.

3 ~~SEC. 3.~~

4 *SEC. 11.* Section 19528 of the Revenue and Taxation Code is
5 amended to read:

6 19528. (a) Notwithstanding any other law, the Franchise Tax
7 Board may require any board, as defined in Section 22 of the
8 Business and Professions Code, and the State Bar, the Bureau of
9 Real Estate, and the Insurance Commissioner (hereinafter referred
10 to as licensing board) to provide to the Franchise Tax Board the
11 following information with respect to every licensee:

12 (1) Name.

13 (2) Address or addresses of record.

14 (3) Federal employer identification number, if the licensee is a
15 partnership, or the licensee's individual taxpayer identification
16 number or social security number of all other licensees.

17 (4) Type of license.

18 (5) Effective date of license or renewal.

19 (6) Expiration date of license.

20 (7) Whether license is active or inactive, if known.

21 (8) Whether license is new or renewal.

22 (b) The Franchise Tax Board may do the following:

23 (1) Send a notice to any licensee failing to provide the federal
24 employer identification number, individual taxpayer identification
25 number, or social security number as required by subdivision (a)
26 of Section 30 of the Business and Professions Code and subdivision
27 (a) of Section 1666.5 of the Insurance Code, describing the
28 information that was missing, the penalty associated with not
29 providing it, and that failure to provide the information within 30
30 days will result in the assessment of the penalty.

31 (2) After 30 days following the issuance of the notice described
32 in paragraph (1), assess a one-hundred-dollar (\$100) penalty, due
33 and payable upon notice and demand, for any licensee failing to
34 provide either its federal employer identification number (if the
35 licensee is a partnership) or his or her individual taxpayer
36 identification number or social security number (for all others) as
37 required in Section 30 of the Business and Professions Code and
38 Section 1666.5 of the Insurance Code.

39 (c) Notwithstanding Chapter 3.5 (commencing with Section
40 6250) of Division 7 of Title 1 of the Government Code, the

1 information furnished to the Franchise Tax Board pursuant to
2 Section 30 of the Business and Professions Code or Section 1666.5
3 of the Insurance Code shall not be deemed to be a public record
4 and shall not be open to the public for inspection.

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