

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2745

Introduced by Assembly Member Holden

February 19, 2016

An act to amend Sections 2088, 2221, 2225, 2441, 2519, 2520, 2529, 3576, and 3577 of, and to add Sections 2522, 2523, 2529.1, 2529.6, 3576.1, ~~and 3576.2~~ 3576.2, *and* 3576.3 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2745, as amended, Holden. Healing arts: licensing and certification.

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law authorizes an applicant for a physician's and surgeon's license who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability to receive a limited license if the applicant pays the license renewal fee and signs an agreement agreeing to limit his or her practice in the manner prescribed by the reviewing physician and agreed to by the board. Existing law makes any person who knowingly provides false information in this agreement subject to any sanctions available to the board. Existing law authorizes the board to require the applicant to obtain an independent clinical evaluation of his or her ability to practice medicine safely as a condition of receiving the limited license. Violation of the act is a crime. Existing law establishes the Contingent Fund of the Medical Board of California, a continuously appropriated fund.

This bill would specify that a licensee who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability is authorized to receive the limited license if the above-described conditions are met. By adding fees for deposit into the Contingent Fund of the Medical Board of California, this bill would make an appropriation.

This bill would also authorize the board to deny a postgraduate training authorization to an applicant who is guilty of unprofessional conduct or of any cause for revocation or suspension of a license.

(2) Existing law authorizes a licensee who demonstrates that he or she is unable to practice medicine due to a disability to request a waiver of the license renewal fee. Under existing law, a licensee granted that waiver is prohibited from practicing medicine until he or she establishes that the disability no longer exists or signs an agreement, under penalty of perjury, agreeing to limit his or her practice in the manner prescribed by the reviewing physician.

This bill would require the board to agree to this limit, would authorize the board to require an independent clinical evaluation, and would subject a person who knowingly provides false information in the agreement to sanctions. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) Existing law authorizes the board, in any investigation that involves the death of a patient, to inspect and copy the medical records of the deceased patient without the authorization of the beneficiary or personal representative of the deceased patient or a court order solely to determine the extent to which the death was the result of the physician and surgeon's violation of the Medical Practice Act, if the board provides a written request to the physician and surgeon that includes a declaration that the board has been unsuccessful in locating or contacting the deceased patient's beneficiary or personal representative after reasonable efforts.

This bill would authorize the board to provide the written request to the facility where the medical records are located or the care to the deceased patient was provided.

(4) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensing and regulation of midwives by the Board of Licensing of the Medical Board of California. Under the act, the board is authorized to suspend or revoke the license of a midwife for specified conduct, including unprofessional conduct consisting of, among other

things, incompetence or gross negligence in carrying out the usual functions of a licensed midwife. A violation of the act is a crime.

This bill would authorize the board to place a license on probation and establish a fee for monitoring a licensee on probation. The bill would also authorize a person whose license has been voluntarily surrendered while under investigation or while charges are pending or whose license has been suspended, revoked, or placed on probation to petition the board for reinstatement or modification of penalty, as specified. The bill would require the revocation of a license for a person required to register as a sex offender, except as specified.

(5) Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status. Existing law authorizes that board to suspend or revoke the exemption of those persons from licensure for unprofessional conduct, as specified.

The bill would include within the definition of unprofessional conduct, among other things, the use of any controlled substance, or the use of any dangerous drugs, as specified, or of alcoholic beverages, as specified. The bill would also require the revocation of a registration for a person required to register as a sex offender, except as specified.

~~(5)~~

(6) Existing law prohibits a person from using the title “certified polysomnographic technologist” or engaging in the practice of polysomnography unless he or she is registered as a certified polysomnographic technologist, is supervised and directed by a licensed physician and surgeon, and meets certain other requirements. Existing law requires polysomnographic technologists to apply to and register with the Medical Board of California and to pay specified fees to be fixed by the board at no more than \$100 each, and to renew their registration biennially for a fee of no more than \$150. Existing law requires the deposit of those fees in the Contingent Fund of the Medical Board of California. Existing law authorizes a registration to be suspended, revoked, or otherwise subject to discipline for specified conduct.

This bill would also authorize a registration to be placed on probation if a registrant engages in that conduct and would establish a fee for monitoring a registrant on probation. By increasing fees for deposit into the Contingent Fund, this bill would make an appropriation. The bill

would authorize a person whose registration has been voluntarily surrendered while under investigation or while charges are pending or whose registration has been suspended, revoked, or placed on probation to petition the board for reinstatement or modification of penalty, as specified. The bill would require the revocation of a registration for a person required to register as a sex offender, except as specified. *The bill would authorize the suspension or revocation of a registration for unprofessional conduct, as defined.*

(6)

(7) 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 no reimbursement is required by this act for a specified reason.

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. Section 2088 of the Business and Professions
2 Code is amended to read:

3 2088. (a) An applicant for a physician’s and surgeon’s license
4 or a physician’s and surgeon’s licensee who is otherwise eligible
5 for that license but is unable to practice some aspects of medicine
6 safely due to a disability may receive a limited license if he or she
7 does both of the following:

- 8 (1) Pays the appropriate initial or renewal license fee.
- 9 (2) Signs an agreement on a form prescribed by the board in
10 which the applicant or licensee agrees to limit his or her practice
11 in the manner prescribed by the reviewing physician and agreed
12 to by the board.

13 (b) The board may require the applicant or licensee described
14 in subdivision (a) to obtain an independent clinical evaluation of
15 his or her ability to practice medicine safely as a condition of
16 receiving a limited license under this section.

17 (c) Any person who knowingly provides false information in
18 the agreement submitted pursuant to subdivision (a) shall be subject
19 to any sanctions available to the board.

20 SEC. 2. Section 2221 of the Business and Professions Code is
21 amended to read:

1 2221. (a) The board may deny a physician's and surgeon's
2 certificate *or postgraduate training authorization letter* to an
3 applicant guilty of unprofessional conduct or of any cause that
4 would subject a licensee to revocation or suspension of his or her
5 ~~license; or, the license~~. The board in its sole discretion, may issue
6 a probationary physician's and surgeon's certificate to an applicant
7 subject to terms and conditions, including, but not limited to, any
8 of the following conditions of probation:

9 (1) Practice limited to a supervised, structured environment
10 where the licensee's activities shall be supervised by another
11 physician and surgeon.

12 (2) Total or partial restrictions on drug prescribing privileges
13 for controlled substances.

14 (3) Continuing medical or psychiatric treatment.

15 (4) Ongoing participation in a specified rehabilitation program.

16 (5) Enrollment and successful completion of a clinical training
17 program.

18 (6) Abstention from the use of alcohol or drugs.

19 (7) Restrictions against engaging in certain types of medical
20 practice.

21 (8) Compliance with all provisions of this chapter.

22 (9) Payment of the cost of probation monitoring.

23 (b) The board may modify or terminate the terms and conditions
24 imposed on the probationary certificate upon receipt of a petition
25 from the licensee. The board may assign the petition to an
26 administrative law judge designated in Section 11371 of the
27 Government Code. After a hearing on the petition, the
28 administrative law judge shall provide a proposed decision to the
29 board.

30 (c) The board shall deny a physician's and surgeon's certificate
31 to an applicant who is required to register pursuant to Section 290
32 of the Penal Code. This subdivision does not apply to an applicant
33 who is required to register as a sex offender pursuant to Section
34 290 of the Penal Code solely because of a misdemeanor conviction
35 under Section 314 of the Penal Code.

36 (d) An applicant shall not be eligible to reapply for a physician's
37 and surgeon's certificate for a minimum of three years from the
38 effective date of the denial of his or her application, except that
39 the board may, in its discretion and for good cause demonstrated,

1 permit reapplication after not less than one year has elapsed from
2 the effective date of the denial.

3 ~~SEC. 2.~~

4 *SEC. 3.* Section 2225 of the Business and Professions Code is
5 amended to read:

6 2225. (a) Notwithstanding Section 2263 and any other law
7 making a communication between a physician and surgeon or a
8 doctor of podiatric medicine and his or her patients a privileged
9 communication, those provisions shall not apply to investigations
10 or proceedings conducted under this chapter. Members of the
11 board, the Senior Assistant Attorney General of the Health Quality
12 Enforcement Section, members of the California Board of Podiatric
13 Medicine, and deputies, employees, agents, and representatives of
14 the board or the California Board of Podiatric Medicine and the
15 Senior Assistant Attorney General of the Health Quality
16 Enforcement Section shall keep in confidence during the course
17 of investigations, the names of any patients whose records are
18 reviewed and shall not disclose or reveal those names, except as
19 is necessary during the course of an investigation, unless and until
20 proceedings are instituted. The authority of the board or the
21 California Board of Podiatric Medicine and the Health Quality
22 Enforcement Section to examine records of patients in the office
23 of a physician and surgeon or a doctor of podiatric medicine is
24 limited to records of patients who have complained to the board
25 or the California Board of Podiatric Medicine about that licensee.

26 (b) Notwithstanding any other law, the Attorney General and
27 his or her investigative agents, and investigators and representatives
28 of the board or the California Board of Podiatric Medicine, may
29 inquire into any alleged violation of the Medical Practice Act or
30 any other federal or state law, regulation, or rule relevant to the
31 practice of medicine or podiatric medicine, whichever is applicable,
32 and may inspect documents relevant to those investigations in
33 accordance with the following procedures:

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

36 (2) Any document relevant to the business operations of a
37 licensee, and not involving medical records attributable to
38 identifiable patients, may be inspected and copied if relevant to
39 an investigation of a licensee.

1 (c) (1) Notwithstanding subdivision (b) or any other law, in
2 any investigation that involves the death of a patient, the board
3 may inspect and copy the medical records of the deceased patient
4 without the authorization of the beneficiary or personal
5 representative of the deceased patient or a court order solely for
6 the purpose of determining the extent to which the death was the
7 result of the physician and surgeon's conduct in violation of the
8 Medical Practice Act, if the board provides a written request to
9 either the physician and surgeon or the facility where the medical
10 records are located or the care to the deceased patient was provided,
11 that includes a declaration that the board has been unsuccessful in
12 locating or contacting the deceased patient's beneficiary or personal
13 representative after reasonable efforts. Nothing in this subdivision
14 shall be construed to allow the board to inspect and copy the
15 medical records of a deceased patient without a court order when
16 the beneficiary or personal representative of the deceased patient
17 has been located and contacted but has refused to consent to the
18 board inspecting and copying the medical records of the deceased
19 patient.

20 (2) The Legislature finds and declares that the authority created
21 in the board pursuant to this section, and a physician and surgeon's
22 compliance with this section, are consistent with the public interest
23 and benefit activities of the federal Health Insurance Portability
24 and Accountability Act (HIPAA).

25 (d) In all cases in which documents are inspected or copies of
26 those documents are received, their acquisition or review shall be
27 arranged so as not to unnecessarily disrupt the medical and business
28 operations of the licensee or of the facility where the records are
29 kept or used.

30 (e) If documents are lawfully requested from licensees in
31 accordance with this section by the Attorney General or his or her
32 agents or deputies, or investigators of the board or the California
33 Board of Podiatric Medicine, the documents shall be provided
34 within 15 business days of receipt of the request, unless the licensee
35 is unable to provide the documents within this time period for good
36 cause, including, but not limited to, physical inability to access
37 the records in the time allowed due to illness or travel. Failure to
38 produce requested documents or copies thereof, after being
39 informed of the required deadline, shall constitute unprofessional
40 conduct. The board may use its authority to cite and fine a

1 physician and surgeon for any violation of this section. This remedy
2 is in addition to any other authority of the board to sanction a
3 licensee for a delay in producing requested records.

4 (f) Searches conducted of the office or medical facility of any
5 licensee shall not interfere with the recordkeeping format or
6 preservation needs of any licensee necessary for the lawful care
7 of patients.

8 ~~SEC. 3.~~

9 *SEC. 4.* Section 2441 of the Business and Professions Code is
10 amended to read:

11 2441. (a) Any licensee who demonstrates to the satisfaction
12 of the board that he or she is unable to practice medicine due to a
13 disability may request a waiver of the license renewal fee. The
14 granting of a waiver shall be at the discretion of the board and may
15 be terminated at any time. Waivers shall be based on the inability
16 of a licensee to practice medicine. A licensee whose renewal fee
17 has been waived pursuant to this section shall not engage in the
18 practice of medicine unless and until the licensee pays the current
19 renewal fee and does either of the following:

20 (1) Establishes to the satisfaction of the board, on a form
21 prescribed by the board and signed under penalty of perjury, that
22 the licensee’s disability either no longer exists or does not affect
23 his or her ability to practice medicine safely.

24 (2) Signs an agreement on a form prescribed by the board, signed
25 under penalty of perjury, in which the licensee agrees to limit his
26 or her practice in the manner prescribed by the reviewing physician
27 and agreed to by the board.

28 (b) The board may require the licensee described in paragraph
29 (2) of subdivision (a) to obtain an independent clinical evaluation
30 of his or her ability to practice medicine safely as a condition of
31 receiving a disability license under this section.

32 (c) Any person who knowingly provides false information in
33 the agreement submitted pursuant to paragraph (2) of subdivision
34 (a) shall be subject to any sanctions available to the board.

35 ~~SEC. 4.~~

36 *SEC. 5.* Section 2519 of the Business and Professions Code is
37 amended to read:

38 2519. The board may suspend, revoke, or place on probation
39 the license of a midwife for any of the following:

1 (a) Unprofessional conduct, which includes, but is not limited
2 to, all of the following:

3 (1) Incompetence or gross negligence in carrying out the usual
4 functions of a licensed midwife.

5 (2) Conviction of a violation of Section 2052, in which event,
6 the record of the conviction shall be conclusive evidence thereof.

7 (3) The use of advertising that is fraudulent or misleading.

8 (4) Obtaining or possessing in violation of law, or prescribing,
9 or except as directed by a licensed physician and surgeon, dentist,
10 or podiatrist administering to himself or herself, or furnishing or
11 administering to another, any controlled substance as defined in
12 Division 10 (commencing with Section 11000) of the Health and
13 Safety Code or any dangerous drug as defined in Article 8
14 (commencing with Section 4210) of Chapter 9 of Division 2 of
15 the Business and Professions Code.

16 (5) The use of any controlled substance as defined in Division
17 10 (commencing with Section 11000) of the Health and Safety
18 Code, or any dangerous drug as defined in Article 8 (commencing
19 with Section 4210) of Chapter 9 of Division 2 of the Business and
20 Professions Code, or alcoholic beverages, to an extent or in a
21 manner dangerous or injurious to himself or herself, any other
22 person, or the public or to the extent that this use impairs his or
23 her ability to conduct with safety to the public the practice
24 authorized by his or her license.

25 (6) Conviction of a criminal offense involving the prescription,
26 consumption, or self-administration of any of the substances
27 described in paragraphs (4) and (5), or the possession of, or
28 falsification of, a record pertaining to, the substances described in
29 paragraph (4), in which event the record of the conviction is
30 conclusive evidence thereof.

31 (7) Commitment or confinement by a court of competent
32 jurisdiction for intemperate use of or addiction to the use of any
33 of the substances described in paragraphs (4) and (5), in which
34 event the court order of commitment or confinement is prima facie
35 evidence of such commitment or confinement.

36 (8) Falsifying, or making grossly incorrect, grossly inconsistent,
37 or unintelligible entries in any hospital, patient, or other record
38 pertaining to the substances described in subdivision (a).

39 (b) Procuring a license by fraud or misrepresentation.

1 (c) Conviction of a crime substantially related to the
2 qualifications, functions, and duties of a midwife, as determined
3 by the board.

4 (d) Procuring, aiding, abetting, attempting, agreeing to procure,
5 offering to procure, or assisting at, a criminal abortion.

6 (e) Violating or attempting to violate, directly or indirectly, or
7 assisting in or abetting the violation of, or conspiring to violate
8 any provision or term of this chapter.

9 (f) Making or giving any false statement or information in
10 connection with the application for issuance of a license.

11 (g) Impersonating any applicant or acting as proxy for an
12 applicant in any examination required under this chapter for the
13 issuance of a license or a certificate.

14 (h) Impersonating another licensed practitioner, or permitting
15 or allowing another person to use his or her license or certificate
16 for the purpose of providing midwifery services.

17 (i) Aiding or assisting, or agreeing to aid or assist any person
18 or persons, whether a licensed physician or not, in the performance
19 of or arranging for a violation of any of the provisions of Article
20 12 (commencing with Section 2221) of Chapter 5.

21 (j) Failing to do any of the following when required pursuant
22 to Section 2507:

- 23 (1) Consult with a physician and surgeon.
- 24 (2) Refer a client to a physician and surgeon.
- 25 (3) Transfer a client to a hospital.

26 ~~SEC. 5.~~

27 *SEC. 6.* Section 2520 of the Business and Professions Code is
28 amended to read:

29 2520. (a) (1) The fee to be paid upon the filing of a license
30 application shall be fixed by the board at not less than seventy-five
31 dollars (\$75) nor more than three hundred dollars (\$300).

32 (2) The fee for renewal of the midwife license shall be fixed by
33 the board at not less than fifty dollars (\$50) nor more than two
34 hundred dollars (\$200).

35 (3) The delinquency fee for renewal of the midwife license shall
36 be 50 percent of the renewal fee in effect on the date of the renewal
37 of the license, but not less than twenty-five dollars (\$25) nor more
38 than fifty dollars (\$50).

39 (4) The fee for the examination shall be the cost of administering
40 the examination to the applicant, as determined by the organization

1 that has entered into a contract with the board for the purposes set
2 forth in subdivision (a) of Section 2512.5. Notwithstanding
3 subdivision (c), that fee may be collected and retained by that
4 organization.

5 (b) The fee for monitoring a licensee on probation shall be the
6 cost of monitoring, as fixed by the board.

7 (c) The fees prescribed by this article shall be deposited in the
8 Licensed Midwifery Fund, which is hereby established, and shall
9 be available, upon appropriation, to the board for the purposes of
10 this article.

11 ~~SEC. 6.~~

12 *SEC. 7.* Section 2522 is added to the Business and Professions
13 Code, to read:

14 2522. (a) A person whose license has been voluntarily
15 surrendered while under investigation or while charges are pending
16 or whose license has been revoked or suspended or placed on
17 probation, may petition the board for reinstatement or modification
18 of penalty, including modification or termination of probation.

19 (b) The person may file the petition after a period of not less
20 than the following minimum periods have elapsed from the
21 effective date of the surrender of the license or the decision
22 ordering that disciplinary action:

23 (1) At least three years for reinstatement of a license surrendered
24 or revoked for unprofessional conduct, except that the board may,
25 for good cause shown, specify in a revocation order that a petition
26 for reinstatement may be filed after two years.

27 (2) At least two years for early termination of probation of three
28 years or more.

29 (3) At least one year for modification of a condition, or
30 reinstatement of a license surrendered or revoked for mental or
31 physical illness, or termination of probation of less than three years.

32 (c) The petition shall state any facts as may be required by the
33 board. The petition shall be accompanied by at least two verified
34 recommendations from midwives licensed in any state who have
35 personal knowledge of the activities of the petitioner since the
36 disciplinary penalty was imposed.

37 (d) The petition may be heard by a panel of the board. The board
38 may assign the petition to an administrative law judge designated
39 in Section 11371 of the Government Code. After a hearing on the
40 petition, the administrative law judge shall provide a proposed

1 decision to the board, which shall be acted upon in accordance
2 with Section 2335.

3 (e) The panel of the board or the administrative law judge
4 hearing the petition may consider all activities of the petitioner
5 since the disciplinary action was taken, the offense for which the
6 petitioner was disciplined, the petitioner's activities during the
7 time the license was in good standing, and the petitioner's
8 rehabilitative efforts, general reputation for truth, and professional
9 ability. The hearing may be continued from time to time as the
10 administrative law judge designated in Section 11371 of the
11 Government Code finds necessary.

12 (f) The administrative law judge designated in Section 11371
13 of the Government Code reinstating a license or modifying a
14 penalty may recommend the imposition of any terms and conditions
15 deemed necessary.

16 (g) No petition shall be considered while the petitioner is under
17 sentence for any criminal offense, including any period during
18 which the petitioner is on court-imposed probation or parole. No
19 petition shall be considered while there is an accusation or petition
20 to revoke probation pending against the person. The board may
21 deny without a hearing or argument any petition filed pursuant to
22 this section within a period of two years from the effective date
23 of the prior decision following a hearing under this section.

24 ~~SEC. 7.~~

25 *SEC. 8.* Section 2523 is added to the Business and Professions
26 Code, to read:

27 2523. (a) Except as provided in subdivisions (b) and (c), the
28 board shall revoke the license of any person who has been required
29 to register as a sex offender pursuant to Section 290 of the Penal
30 ~~Code.~~ *Code for conduct that occurred on or after January 1, 2017.*

31 (b) This section shall not apply to a person who is required to
32 register as a sex offender pursuant to Section 290 of the Penal
33 Code solely because of a misdemeanor conviction under Section
34 314 of the Penal Code.

35 (c) This section shall not apply to a person who has been relieved
36 under Section 290.5 of the Penal Code of his or her duty to register
37 as a sex offender, or whose duty to register has otherwise been
38 formally terminated under California law.

39 (d) *A proceeding to revoke a license pursuant to this section*
40 *shall be conducted in accordance with chapter 5 (commencing*

1 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
2 *Government Code.*

3 *SEC. 9. Section 2529 of the Business and Professions Code is*
4 *amended to read:*

5 2529. (a) Graduates of the Southern California Psychoanalytic
6 Institute, the Los Angeles Psychoanalytic Society and Institute,
7 the San Francisco Psychoanalytic Institute, the San Diego
8 Psychoanalytic Center, or institutes deemed equivalent by the
9 Medical Board of California who have completed clinical training
10 in psychoanalysis may engage in psychoanalysis as an adjunct to
11 teaching, training, or research and hold themselves out to the public
12 as psychoanalysts, and students in those institutes may engage in
13 psychoanalysis under supervision, if the students and graduates
14 do not hold themselves out to the public by any title or description
15 of services incorporating the words “psychological,”
16 “psychologist,” “psychology,” “psychometrists,” “psychometrics,”
17 or “psychometry,” or that they do not state or imply that they are
18 licensed to practice psychology.

19 (b) Those students and graduates seeking to engage in
20 psychoanalysis under this chapter shall register with the Medical
21 Board of California, presenting evidence of their student or
22 graduate status. The board may suspend or revoke the exemption
23 of those persons for unprofessional conduct as defined in Sections
24 726, 2234, ~~and 2235~~, 2235, and 2529.1

25 *SEC. 10. Section 2529.1 is added to the Business and*
26 *Professions Code, to read:*

27 2529.1. (a) *The use of any controlled substance or the use of*
28 *any of the dangerous drugs specified in Section 4022, or of*
29 *alcoholic beverages, to the extent, or in such a manner as to be*
30 *dangerous or injurious to the registrant, or to any other person*
31 *or to the public, or to the extent that this use impairs the ability of*
32 *the registrant to practice safely or more than one misdemeanor*
33 *or any felony conviction involving the use, consumption, or*
34 *self-administration of any of the substances referred to in this*
35 *section, or any combination thereof, constitutes unprofessional*
36 *conduct. The record of the conviction is conclusive evidence of*
37 *this unprofessional conduct.*

38 (b) *A plea or verdict of guilty or a conviction following a plea*
39 *of nolo contendere is deemed to be a conviction within the meaning*
40 *of this section. The board may order discipline of the registrant*

1 *in accordance with Section 2227 or may order the denial of the*
2 *registration when the time for appeal has elapsed or the judgment*
3 *of conviction has been affirmed on appeal or when an order*
4 *granting probation is made suspending imposition of sentence,*
5 *irrespective of a subsequent order under the provisions of Section*
6 *1203.4 of the Penal Code allowing this person to withdraw his or*
7 *her plea of guilty and to enter a plea of not guilty, or setting aside*
8 *the verdict of guilty, or dismissing the accusation, complaint,*
9 *information, or indictment.*

10 *SEC. 11. Section 2529.6 is added to the Business and*
11 *Professions Code, to read:*

12 *2529.6. (a) Except as provided in subdivisions (b) and (c), the*
13 *board shall revoke the registration of any person who has been*
14 *required to register as a sex offender pursuant to Section 290 of*
15 *the Penal Code for conduct that occurred on or after January 1,*
16 *2017.*

17 *(b) This section shall not apply to a person who is required to*
18 *register as a sex offender pursuant to Section 290 of the Penal*
19 *Code solely because of a misdemeanor conviction under Section*
20 *314 of the Penal Code.*

21 *(c) This section shall not apply to a person who has been*
22 *relieved under Section 290.5 of the Penal Code of his or her duty*
23 *to register as a sex offender, or whose duty to register has*
24 *otherwise been formally terminated under California law.*

25 *(d) A proceeding to revoke a registration pursuant to this section*
26 *shall be conducted in accordance with chapter 5 (commencing*
27 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
28 *Government Code.*

29 ~~SEC. 8.~~

30 *SEC. 12. Section 3576 of the Business and Professions Code*
31 *is amended to read:*

32 *3576. (a) A registration under this chapter may be denied,*
33 *suspended, revoked, placed on probation, or otherwise subjected*
34 *to discipline for any of the following by the holder:*

35 *(1) Incompetence, gross negligence, or repeated similar*
36 *negligent acts performed by the registrant.*

37 *(2) An act of dishonesty or fraud.*

38 *(3) Committing any act or being convicted of a crime*
39 *constituting grounds for denial of licensure or registration under*
40 *Section 480.*

1 (4) Violating or attempting to violate this chapter or any
2 regulation adopted under this chapter.

3 (b) Proceedings under this section shall be conducted in
4 accordance with Chapter 5 (commencing with Section 11500) of
5 Part 1 of Division 3 of Title 2 of the Government Code, and the
6 board shall have all powers granted therein.

7 ~~SEC. 9.~~

8 *SEC. 13.* Section 3576.1 is added to the Business and
9 Professions Code, to read:

10 3576.1. (a) A person whose registration has been voluntarily
11 surrendered while under investigation or while charges are pending
12 or whose registration has been revoked or suspended or placed on
13 probation, may petition the board for reinstatement or modification
14 of penalty, including modification or termination of probation.

15 (b) The person may file the petition after a period of not less
16 than the following minimum periods have elapsed from the
17 effective date of the surrender of the registration or the decision
18 ordering that disciplinary action:

19 (1) At least three years for reinstatement of a registration
20 surrendered or revoked for unprofessional conduct, except that the
21 board may, for good cause shown, specify in a revocation order
22 that a petition for reinstatement may be filed after two years.

23 (2) At least two years for early termination of probation of three
24 years or more.

25 (3) At least one year for modification of a condition, or
26 reinstatement of a registration surrendered or revoked for mental
27 or physical illness, or termination of probation of less than three
28 years.

29 (c) The petition shall state any facts as may be required by the
30 board. The petition shall be accompanied by at least two verified
31 recommendations from polysomnographic technologists registered
32 in any state who have personal knowledge of the activities of the
33 petitioner since the disciplinary penalty was imposed.

34 (d) The petition may be heard by a panel of the board. The board
35 may assign the petition to an administrative law judge designated
36 in Section 11371 of the Government Code. After a hearing on the
37 petition, the administrative law judge shall provide a proposed
38 decision to the board, which shall be acted upon in accordance
39 with Section 2335.

1 (e) The panel of the board or the administrative law judge
2 hearing the petition may consider all activities of the petitioner
3 since the disciplinary action was taken, the offense for which the
4 petitioner was disciplined, the petitioner's activities during the
5 time the registration was in good standing, and the petitioner's
6 rehabilitative efforts, general reputation for truth, and professional
7 ability. The hearing may be continued from time to time as the
8 administrative law judge designated in Section 11371 of the
9 Government Code finds necessary.

10 (f) The administrative law judge designated in Section 11371
11 of the Government Code reinstating a registration or modifying a
12 penalty may recommend the imposition of any terms and conditions
13 deemed necessary.

14 (g) No petition shall be considered while the petitioner is under
15 sentence for any criminal offense, including any period during
16 which the petitioner is on court-imposed probation or parole. No
17 petition shall be considered while there is an accusation or petition
18 to revoke probation pending against the person. The board may
19 deny without a hearing or argument any petition filed pursuant to
20 this section within a period of two years from the effective date
21 of the prior decision following a hearing under this section.

22 ~~SEC. 10.~~

23 *SEC. 14.* Section 3576.2 is added to the Business and
24 Professions Code, to read:

25 3576.2. (a) Except as provided in subdivisions (b) and (c), the
26 board shall revoke the registration of any person who has been
27 required to register as a sex offender pursuant to Section 290 of
28 the Penal Code ~~for conduct that occurred on or after January 1,~~
29 *2017.*

30 (b) This section shall not apply to a person who is required to
31 register as a sex offender pursuant to Section 290 of the Penal
32 Code solely because of a misdemeanor conviction under Section
33 314 of the Penal Code.

34 (c) This section shall not apply to a person who has been relieved
35 under Section 290.5 of the Penal Code of his or her duty to register
36 as a sex offender, or whose duty to register has otherwise been
37 formally terminated under California law.

38 (d) *A proceeding to revoke a registration pursuant to this section*
39 *shall be conducted in accordance with chapter 5 (commencing*

1 with Section 11500) of Part 1 of Division 3 of Title 2 of the
2 Government Code.

3 SEC. 15. Section 3576.3 is added to the Business and
4 Professions Code, to read:

5 3576.3. (a) The board may suspend or revoke the registration
6 of a polysomnographic technologist, polysomnographic technician,
7 or polysomnographic trainee for unprofessional conduct as
8 described in this section.

9 (b) The use 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
12 or injurious to the registrant, or to any other person or to the
13 public, or to the extent that this use impairs the ability of the
14 registrant to practice safely or more than one misdemeanor or any
15 felony conviction involving the use, consumption, or
16 self-administration of any of the substances referred to in this
17 section, or any combination thereof, constitutes unprofessional
18 conduct. The record of the conviction is conclusive evidence of
19 this unprofessional conduct.

20 (c) A plea or verdict of guilty or a conviction following a plea
21 of nolo contendere is deemed to be a conviction within the meaning
22 of this section. The board may order discipline of the registrant
23 in accordance with Section 2227 or may order the denial of the
24 registration when the time for appeal has elapsed or the judgment
25 of conviction has been affirmed on appeal or when an order
26 granting probation is made suspending imposition of sentence,
27 irrespective of a subsequent order under the provisions of Section
28 1203.4 of the Penal Code allowing this person to withdraw his or
29 her plea of guilty and to enter a plea of not guilty, or setting aside
30 the verdict of guilty, or dismissing the accusation, complaint,
31 information, or indictment.

32 ~~SEC. 11.~~

33 SEC. 16. Section 3577 of the Business and Professions Code
34 is amended to read:

35 3577. (a) Each person who applies for registration under this
36 chapter shall pay into the Contingent Fund of the Medical Board
37 of California a fee to be fixed by the board at a sum not in excess
38 of one hundred dollars (\$100).

39 (b) Each person to whom registration is granted under this
40 chapter shall pay into the Contingent Fund of the Medical Board

1 of California a fee to be fixed by the board at a sum not in excess
2 of one hundred dollars (\$100).

3 (c) The registration shall expire after two years. The registration
4 may be renewed biennially at a fee which shall be paid into the
5 Contingent Fund of the Medical Board of California to be fixed
6 by the board at a sum not in excess of one hundred fifty dollars
7 (\$150).

8 (d) The fee for monitoring a licensee on probation shall be the
9 cost of monitoring, as fixed by the board.

10 (e) The money in the Contingent Fund of the Medical Board of
11 California that is collected pursuant to this section shall be used
12 for the administration of this chapter.

13 ~~SEC. 12.~~

14 *SEC. 17.* No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.