

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 28, 2015

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN ASSEMBLY JUNE 19, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 7, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 763

Introduced by Senator ~~Leno~~ Hill

February 27, 2015

~~An act to add Sections 19095 and 19161.4 to the Business and Professions Code, relating to home furnishings. An act to amend Sections 803.1 and 2027 of, and to add Sections 1006, 3663.5, and 4962 to, the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 763, as amended, ~~Leno~~ Hill. ~~Juvenile products: flame retardant chemicals. Medical professionals: probation.~~

Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic

Medical Board of California to enforce the Medical Practice Act with respect to its licensees. Existing law, the Naturopathic Doctors Act, establishes the Naturopathic Medicine Committee in the Osteopathic Medical Board of California for the licensing and regulation of naturopathic doctors. Existing law, the Chiropractic Act, enacted by an initiative measure, establishes the State Board of Chiropractic Examiners for the licensing and regulation of chiropractors. Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board for the licensing and regulation of acupuncturists. Existing law authorizes each of these regulatory entities to discipline its licensee by placing her or him on probation, as specified.

Existing law requires the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine to disclose to an inquiring member of the public and to post on their Internet Web sites specified information concerning each licensee including revocations, suspensions, probations, or limitations on practice.

This bill would require the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Naturopathic Medicine Committee, and the Acupuncture Board by January 1, 2018, to make specified information with respect to licensees on probation and licensees practicing under a probationary license available to an inquiring member of the public, on any documents informing the public of individual probation orders, and in plain view on the profile Internet Web pages of licensees subject to probation, as specified.

~~Existing federal law requires the Consumer Product Safety Commission to institute proceedings for the determination of an appropriate flammability standard if the commission finds that such a standard, including labeling, for a mattress, a fabric, related material, or product, may be needed to protect the public. Existing federal law authorizes a state to establish a flammability standard if, among other things, it provides a higher degree of protection from the risk of fire.~~

~~Existing state law, the Home Furnishings and Thermal Insulation Act, provides for the licensure and regulation of upholstered furniture manufacturers by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation. Existing state law requires every upholstered furniture manufacturer to hold a furniture and bedding manufacturer's license. Existing state law also requires every~~

~~upholstered-furniture-retailer-to-hold-a-retail-furniture-dealer's-license. A violation of the act is a crime.~~

~~Existing state law requires upholstered furniture and bedding to contain a specified label that is securely fastened in a manner approved by the bureau in an area open to visible view. Existing state law establishes a standard to produce upholstered furniture which is safer from the hazards associated with smoldering ignition. The standard provides methods for smolder resistance of cover fabrics, barrier materials, resilient filling materials, and decking materials for use in upholstered furniture.~~

~~This bill would require a manufacturer of juvenile products, as defined, that sells juvenile products that contain added flame retardant chemicals, as defined, in California, to include a specified statement on a label, that meets certain labeling requirements.~~

~~The bill would require the manufacturer of the juvenile product to retain sufficient documentation to show whether flame retardant chemicals were added to a juvenile product or component. The bill would provide that a written statement by the supplier of each component attesting that flame retardant chemicals were added or not added is sufficient to make this showing. The bill would require the bureau to assess a fine for a violation of the documentation requirement or for failure to provide, upon request, the required documentation to the bureau, as specified.~~

~~The bill would require a manufacturer of a juvenile product sold in California, upon request, to provide to the bureau, within 30 days of the request, documentation establishing the accuracy of the flame retardant chemical statement on the label. The bill would require the bureau to provide the Department of Toxic Substances Control with samples of the juvenile product or components thereof sold in California from products that are not labeled as containing added flame retardant chemicals for testing for the presence of added flame retardant chemicals, as specified. If the department's testing shows that a juvenile product that is not labeled as containing added flame retardant chemicals is mislabeled because it contains added flame retardant chemicals, the bill would authorize the bureau to assess fines for violations against manufacturers of the juvenile product and component manufacturers, as specified.~~

~~The bill would require the bureau to make information about any determination issued pursuant to its provisions available to the public~~

on its Internet Web site. The bill would also make it the duty of the bureau to receive consumer complaints.

The bill would authorize the bureau to adopt regulations to carry out these provisions. The bill would provide that these provisions would apply to juvenile products manufactured on and after July 1, 2016, for retail sale in the state.

Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

The Home Furnishings and Thermal Insulation Act requires that all mattresses and mattress sets manufactured for sale in this state, and all seating furniture sold or offered for sale for use in this state, be fire retardant, as defined. Existing law requires that all bedding products, other than mattresses and mattress sets, that the bureau determines to contribute to mattress bedding fires comply with specified regulations adopted by the bureau.

Existing law authorizes the chief of the bureau, subject to specified approval, to exempt items of upholstered furniture that are not deemed to be a serious fire hazard from these fire retardant requirements. Existing regulation exempts from these fire retardant requirements specified articles of upholstered furniture that include bassinets, booster seats, and car seats that are not used for, or in, facilities designed for the care or treatment of humans.

This bill would exempt from the aforementioned fire retardant requirements under the act specified articles of juvenile products, as provided.

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

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

- 1 *SECTION 1. Section 803.1 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 *803.1. (a) Notwithstanding any other provision of law, the*
- 4 *Medical Board of California, the Osteopathic Medical Board of*
- 5 *California, the California Board of Podiatric Medicine, and the*

1 Physician Assistant Board shall disclose to an inquiring member
2 of the public information regarding any enforcement actions taken
3 against a licensee, including a former licensee, by the board or by
4 another state or jurisdiction, including all of the following:

5 (1) Temporary restraining orders issued.

6 (2) Interim suspension orders issued.

7 (3) Revocations, suspensions, probations, or limitations on
8 practice ordered by the board, including those made part of a
9 probationary order or stipulated agreement.

10 (4) Public letters of reprimand issued.

11 (5) Infractions, citations, or fines imposed.

12 (b) Notwithstanding any other ~~provision of law~~, in addition to
13 the information provided in subdivision (a), the Medical Board of
14 California, the Osteopathic Medical Board of California, the
15 California Board of Podiatric Medicine, and the Physician Assistant
16 Board shall disclose to an inquiring member of the public all of
17 the following:

18 (1) Civil judgments in any amount, whether or not vacated by
19 a settlement after entry of the judgment, that were not reversed on
20 appeal and arbitration awards in any amount of a claim or action
21 for damages for death or personal injury caused by the physician
22 and surgeon's negligence, error, or omission in practice, or by his
23 or her rendering of unauthorized professional services.

24 (2) (A) All settlements in the possession, custody, or control
25 of the board shall be disclosed for a licensee in the low-risk
26 category if there are three or more settlements for that licensee
27 within the last 10 years, except for settlements by a licensee
28 regardless of the amount paid where (i) the settlement is made as
29 a part of the settlement of a class claim, (ii) the licensee paid in
30 settlement of the class claim the same amount as the other licensees
31 in the same class or similarly situated licensees in the same class,
32 and (iii) the settlement was paid in the context of a case where the
33 complaint that alleged class liability on behalf of the licensee also
34 alleged a products liability class action cause of action. All
35 settlements in the possession, custody, or control of the board shall
36 be disclosed for a licensee in the high-risk category if there are
37 four or more settlements for that licensee within the last 10 years
38 except for settlements by a licensee regardless of the amount paid
39 where (i) the settlement is made as a part of the settlement of a
40 class claim, (ii) the licensee paid in settlement of the class claim

1 the same amount as the other licensees in the same class or
2 similarly situated licensees in the same class, and (iii) the
3 settlement was paid in the context of a case where the complaint
4 that alleged class liability on behalf of the licensee also alleged a
5 products liability class action cause of action. Classification of a
6 licensee in either a “high-risk category” or a “low-risk category”
7 depends upon the specialty or subspecialty practiced by the licensee
8 and the designation assigned to that specialty or subspecialty by
9 the Medical Board of California, as described in subdivision (f).
10 For the purposes of this paragraph, “settlement” means a settlement
11 of an action described in paragraph (1) entered into by the licensee
12 on or after January 1, 2003, in an amount of thirty thousand dollars
13 (\$30,000) or more.

14 (B) The board shall not disclose the actual dollar amount of a
15 settlement but shall put the number and amount of the settlement
16 in context by doing the following:

17 (i) Comparing the settlement amount to the experience of other
18 licensees within the same specialty or subspecialty, indicating if
19 it is below average, average, or above average for the most recent
20 10-year period.

21 (ii) Reporting the number of years the licensee has been in
22 practice.

23 (iii) Reporting the total number of licensees in that specialty or
24 subspecialty, the number of those who have entered into a
25 settlement agreement, and the percentage that number represents
26 of the total number of licensees in the specialty or subspecialty.

27 (3) Current American Board of Medical Specialties certification
28 or board equivalent as certified by the Medical Board of California,
29 the Osteopathic Medical Board of California, or the California
30 Board of Podiatric Medicine.

31 (4) Approved postgraduate training.

32 (5) Status of the license of a licensee. By January 1, 2004, the
33 Medical Board of California, the Osteopathic Medical Board of
34 California, and the California Board of Podiatric Medicine shall
35 adopt regulations defining the status of a licensee. The board shall
36 employ this definition when disclosing the status of a licensee
37 pursuant to Section 2027. *By January 1, 2018, the Medical Board*
38 *of California, the Osteopathic Medical Board of California, and*
39 *the California Board of Podiatric Medicine shall include the*
40 *information described in paragraph (1) of subdivision (i).*

(6) Any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for medical disciplinary cause or reason, unless a court finds, in a final judgment, that the peer review resulting in the disciplinary action was conducted in bad faith and the licensee notifies the board of that finding. In addition, any exculpatory or explanatory statements submitted by the licensee electronically pursuant to subdivision (f) of that section shall be disclosed. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(c) Notwithstanding any other ~~provision of law~~, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public information received regarding felony convictions of a physician and surgeon or doctor of podiatric medicine.

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

—

"Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor's specialty and the doctor's history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product

1 liability, rather than questions of individual professional
2 competence and because they are brought on a class basis where
3 the economic incentive for settlement is great. The State of
4 California has placed payment amounts into three statistical
5 categories: below average, average, and above average compared
6 to others in the doctor's specialty. To make the best health care
7 decisions, you should view this information in perspective. You
8 could miss an opportunity for high-quality care by selecting a
9 doctor based solely on malpractice history.

10 When considering malpractice data, please keep in mind:

11 Malpractice histories tend to vary by specialty. Some specialties
12 are more likely than others to be the subject of litigation. This
13 report compares doctors only to the members of their specialty,
14 not to all doctors, in order to make an individual doctor's history
15 more meaningful.

16 This report reflects data only for settlements made on or after
17 January 1, 2003. Moreover, it includes information concerning
18 those settlements for a 10-year period only. Therefore, you should
19 know that a doctor may have made settlements in the 10 years
20 immediately preceding January 1, 2003, that are not included in
21 this report. After January 1, 2013, for doctors practicing less than
22 10 years, the data covers their total years of practice. You should
23 take into account the effective date of settlement disclosure as well
24 as how long the doctor has been in practice when considering
25 malpractice averages.

26 The incident causing the malpractice claim may have happened
27 years before a payment is finally made. Sometimes, it takes a long
28 time for a malpractice lawsuit to settle. Some doctors work
29 primarily with high-risk patients. These doctors may have
30 malpractice settlement histories that are higher than average
31 because they specialize in cases or patients who are at very high
32 risk for problems.

33 Settlement of a claim may occur for a variety of reasons that do
34 not necessarily reflect negatively on the professional competence
35 or conduct of the doctor. A payment in settlement of a medical
36 malpractice action or claim should not be construed as creating a
37 presumption that medical malpractice has occurred.

38 You may wish to discuss information in this report and the
39 general issue of malpractice with your doctor.”

40 —

1
2 (e) The Medical Board of California, the Osteopathic Medical
3 Board of California, the California Board of Podiatric Medicine,
4 and the Physician Assistant Board shall, by regulation, develop
5 standard terminology that accurately describes the different types
6 of disciplinary filings and actions to take against a licensee as
7 described in paragraphs (1) to (5), inclusive, of subdivision (a). In
8 providing the public with information about a licensee via the
9 Internet pursuant to Section 2027, the Medical Board of California,
10 the Osteopathic Medical Board of California, the California Board
11 of Podiatric Medicine, and the Physician Assistant Board shall not
12 use the terms “enforcement,” “discipline,” or similar language
13 implying a sanction unless the physician and surgeon has been the
14 subject of one of the actions described in paragraphs (1) to (5),
15 inclusive, of subdivision (a).

16 (f) The Medical Board of California shall adopt regulations no
17 later than July 1, 2003, designating each specialty and subspecialty
18 practice area as either high risk or low risk. In promulgating these
19 regulations, the board shall consult with commercial underwriters
20 of medical malpractice insurance companies, health care systems
21 that self-insure physicians and surgeons, and representatives of
22 the California medical specialty societies. The board shall utilize
23 the carriers’ statewide data to establish the two risk categories and
24 the averages required by subparagraph (B) of paragraph (2) of
25 subdivision (b). Prior to issuing regulations, the board shall
26 convene public meetings with the medical malpractice carriers,
27 self-insurers, and specialty representatives.

28 (g) The Medical Board of California, the Osteopathic Medical
29 Board of California, the California Board of Podiatric Medicine,
30 *and* the Physician Assistant Board shall provide each licensee,
31 including a former licensee under subdivision (a), with a copy of
32 the text of any proposed public disclosure authorized by this section
33 prior to release of the disclosure to the public. The licensee shall
34 have 10 working days from the date the board provides the copy
35 of the proposed public disclosure to propose corrections of factual
36 inaccuracies. Nothing in this section shall prevent the board from
37 disclosing information to the public prior to the expiration of the
38 10-day period.

39 (h) Pursuant to subparagraph (A) of paragraph (2) of subdivision
40 (b), the specialty or subspecialty information required by this

1 section shall group physicians by specialty board recognized
2 pursuant to paragraph (5) of subdivision (h) of Section 651 unless
3 a different grouping would be more valid and the board, in its
4 statement of reasons for its regulations, explains why the validity
5 of the grouping would be more valid.

6 *(i) (1) By January 1, 2018, the Medical Board of California,*
7 *the Osteopathic Medical Board of California, and the California*
8 *Board of Podiatric Medicine shall make the following information,*
9 *with respect to licensees on probation and licensees practicing*
10 *under a probationary license, available to the public as specified*
11 *in this subdivision, paragraph (5) of subdivision (b) of this section,*
12 *and clause (ii) of subparagraph (C) of paragraph (3) of subdivision*
13 *(a) of Section 2027:*

14 *(A) For probation imposed pursuant to a stipulated settlement,*
15 *the causes alleged in the operative accusation along with a*
16 *designation identifying those causes by which the licensee has*
17 *expressly admitted guilt. The information shall include a statement*
18 *that acceptance of the settlement is not an admission of guilt unless*
19 *the licensee has expressly admitted guilt and that all allegations*
20 *not expressly admitted to remain unproven.*

21 *(B) For probation imposed by an adjudicated decision of the*
22 *board, the causes for probation stated in the final probationary*
23 *order.*

24 *(C) For licensees granted a probationary license, the causes*
25 *by which a probationary license was imposed.*

26 *(D) The length of the probation and the end date.*

27 *(E) All practice restrictions placed on the licensee by the board.*

28 *(2) By January 1, 2018, the Medical Board of California, the*
29 *Osteopathic Medical Board of California, and the California Board*
30 *of Podiatric Medicine shall include the information listed in*
31 *paragraph (1) on any board documents informing the public of*
32 *individual probation orders and probationary licenses, including,*
33 *but not limited to, newsletters.*

34 *SEC. 2. Section 1006 is added to the Business and Professions*
35 *Code, to read:*

36 *1006. (a) By January 1, 2018, the board shall make the*
37 *following information, with respect to licensees on probation and*
38 *licensees practicing under a probationary license, available to the*
39 *public as specified in subdivision (b):*

1 (1) *For probation imposed pursuant to a stipulated settlement,*
2 *the causes alleged in the operative accusation along with a*
3 *designation identifying those causes by which the licensee has*
4 *expressly admitted guilt. The information shall include a statement*
5 *that acceptance of the settlement is not an admission of guilt unless*
6 *the licensee has expressly admitted guilt and that all allegations*
7 *not expressly admitted to remain unproven.*

8 (2) *For probation imposed by an adjudicated decision of the*
9 *board, the causes for probation stated in the final probationary*
10 *order.*

11 (3) *For a licensee granted a probationary license, the causes*
12 *by which the probationary license was imposed.*

13 (4) *The length of the probation and the end date.*

14 (5) *All practice restrictions placed on the licensee by the board.*

15 (b) *By January 1, 2018, the board shall provide the information*
16 *listed in subdivision (a) as follows:*

17 (1) *To an inquiring member of the public.*

18 (2) *On any board documents informing the public of individual*
19 *probation orders and probationary licenses, including, but not*
20 *limited to, newsletters.*

21 (3) *In plain view on the licensee's profile page on the board's*
22 *Internet Web site.*

23 SEC. 3. *Section 2027 of the Business and Professions Code is*
24 *amended to read:*

25 2027. (a) The board shall post on its Internet Web site the
26 following information on the current status of the license for all
27 current and former licensees:

28 (1) Whether or not the licensee is presently in good standing.

29 (2) Current American Board of Medical Specialties certification
30 or board equivalent as certified by the board.

31 (3) Any of the following enforcement actions or proceedings
32 to which the licensee is actively subjected:

33 (A) Temporary restraining orders.

34 (B) Interim suspension orders.

35 (C) (i) Revocations, suspensions, probations, or limitations on
36 practice ordered by the board or the board of another state or
37 jurisdiction, including those made part of a probationary order or
38 stipulated agreement.

39 (ii) *By January 1, 2018, the board, the Osteopathic Medical*
40 *Board of California, and the California Board of Podiatric*

1 *Medicine shall include, in plain view on the BreEZe profile Internet*
2 *Web page of each licensee subject to probation or a probationary*
3 *license, the information described in paragraph (1) of subdivision*
4 *(i) of Section 803.1. For purposes of this clause, a BreEZe profile*
5 *Internet Web page is a profile Internet Web page on the BreEZe*
6 *system pursuant to Section 210.*

7 (D) Current accusations filed by the Attorney General, including
8 those accusations that are on appeal. For purposes of this paragraph,
9 “current accusation” means an accusation that has not been
10 dismissed, withdrawn, or settled, and has not been finally decided
11 upon by an administrative law judge and the board unless an appeal
12 of that decision is pending.

13 (E) Citations issued that have not been resolved or appealed
14 within 30 days.

15 (b) The board shall post on its Internet Web site all of the
16 following historical information in its possession, custody, or
17 control regarding all current and former licensees:

18 (1) Approved postgraduate training.

19 (2) Any final revocations and suspensions, or other equivalent
20 actions, taken against the licensee by the board or the board of
21 another state or jurisdiction or the surrender of a license by the
22 licensee in relation to a disciplinary action or investigation,
23 including the operative accusation resulting in the license surrender
24 or discipline by the board.

25 (3) Probation or other equivalent action ordered by the board,
26 or the board of another state or jurisdiction, completed or
27 terminated, including the operative accusation resulting in the
28 discipline by the board.

29 (4) Any felony convictions. Upon receipt of a certified copy of
30 an expungement order granted pursuant to Section 1203.4 of the
31 Penal Code from a licensee, the board shall, within six months of
32 receipt of the expungement order, post notification of the
33 expungement order and the date thereof on its Internet Web site.

34 (5) Misdemeanor convictions resulting in a disciplinary action
35 or accusation that is not subsequently withdrawn or dismissed.
36 Upon receipt of a certified copy of an expungement order granted
37 pursuant to Section 1203.4 of the Penal Code from a licensee, the
38 board shall, within six months of receipt of the expungement order,
39 post notification of the expungement order and the date thereof on
40 its Internet Web site.

1 (6) Civil judgments issued in any amount, whether or not
2 vacated by a settlement after entry of the judgment, that were not
3 reversed on appeal, and arbitration awards issued in any amount,
4 for a claim or action for damages for death or personal injury
5 caused by the physician and surgeon's negligence, error, or
6 omission in practice, or by his or her rendering of unauthorized
7 professional services.

8 (7) Except as provided in subparagraphs (A) and (B), a summary
9 of any final hospital disciplinary actions that resulted in the
10 termination or revocation of a ~~licensee's~~ *licensee's* hospital staff
11 privileges for a medical disciplinary cause or reason. The posting
12 shall provide any additional explanatory or exculpatory information
13 submitted by the licensee pursuant to subdivision (f) of Section
14 805. The board shall also post on its Internet Web site a factsheet
15 that explains and provides information on the reporting
16 requirements under Section 805.

17 (A) If a licensee's hospital staff privileges are restored and the
18 licensee notifies the board of the restoration, the information
19 pertaining to the termination or revocation of those privileges shall
20 remain posted on the Internet Web site for a period of 10 years
21 from the restoration date of the privileges, and at the end of that
22 period shall be removed.

23 (B) If a court finds, in a final judgment, that peer review
24 resulting in a hospital disciplinary action was conducted in bad
25 faith and the licensee notifies the board of that finding, the
26 information concerning that hospital disciplinary action posted on
27 the Internet Web site shall be immediately removed. For purposes
28 of this subparagraph, "peer review" has the same meaning as
29 defined in Section 805.

30 (8) Public letters of reprimand issued within the past 10 years
31 by the board or the board of another state or jurisdiction, including
32 the operative accusation, if any, resulting in discipline by the board.

33 (9) Citations issued within the last three years that have been
34 resolved by payment of the administrative fine or compliance with
35 the order of abatement.

36 (10) All settlements within the last five years in the possession,
37 custody, or control of the board shall be disclosed for a licensee
38 in the low-risk category if there are three or more settlements for
39 that licensee within the last five years, and for a licensee in the
40 high-risk category if there are four or more settlements for that

1 licensee within the last five years. Classification of a licensee in
2 either a “high-risk category” or a “low-risk” category depends
3 upon the specialty or subspecialty practiced by the licensee and
4 the designation assigned to that specialty or subspecialty by the
5 board pursuant to subdivision (f) of Section 803.1.

6 (A) For the purposes of this paragraph, “settlement” means a
7 settlement in an amount of thirty thousand dollars (\$30,000) or
8 more of any claim or action for damages for death or personal
9 injury caused by the physician and surgeon’s negligence, error, or
10 omission in practice, or by his or her rendering of unauthorized
11 professional services.

12 (B) For the purposes of this paragraph, “settlement” does not
13 include a settlement by a licensee, regardless of the amount paid,
14 when (i) the settlement is made as a part of the settlement of a
15 class claim, (ii) the amount paid in settlement of the class claim
16 is the same amount paid by the other licensees in the same class
17 or similarly situated licensees in the same class, and (iii) the
18 settlement was paid in the context of a case for which the complaint
19 that alleged class liability on behalf of the licensee also alleged a
20 products liability class action cause of action.

21 (C) The board shall not disclose the actual dollar amount of a
22 settlement, but shall disclose settlement information in the same
23 manner and with the same disclosures required under subparagraph
24 (B) of paragraph (2) of subdivision (b) of Section 803.1.

25 (11) Appropriate disclaimers and explanatory statements to
26 accompany the information described in paragraphs (1) to (10),
27 inclusive, including an explanation of what types of information
28 are not disclosed. These disclaimers and statements shall be
29 developed by the board and shall be adopted by regulation.

30 (c) The board shall provide links to other Internet Web sites
31 that provide information on board certifications that meet the
32 requirements of subdivision (h) of Section 651. The board may
33 also provide links to any other Internet Web sites that provide
34 information on the affiliations of licensed physicians and surgeons.
35 The board may provide links to other Internet Web sites on the
36 Internet that provide information on health care service plans,
37 health insurers, hospitals, or other facilities.

38 *SEC. 4. Section 3663.5 is added to the Business and Professions*
39 *Code, to read:*

1 3663.5. (a) By January 1, 2018, the committee shall make the
2 following information, with respect to naturopathic doctors on
3 probation and naturopathic doctors practicing under a
4 probationary license, available to the public as specified in
5 subdivision (b):

6 (1) For probation imposed pursuant to a stipulated settlement,
7 the causes alleged in the operative accusation along with a
8 designation identifying those causes by which the naturopathic
9 doctor has expressly admitted guilt. The information shall include
10 a statement that acceptance of the settlement is not an admission
11 of guilt unless the naturopathic doctor has expressly admitted guilt
12 and that all allegations not expressly admitted to remain unproven.

13 (2) For probation imposed by an adjudicated decision of the
14 committee, the causes for probation stated in the final probationary
15 order.

16 (3) For a naturopathic doctor granted a probationary license,
17 the causes by which the probationary license was imposed.

18 (4) The length of the probation and the end date.

19 (5) All practice restrictions placed on the naturopathic doctor
20 by the committee.

21 (b) By January 1, 2018, the committee shall provide the
22 information listed in subdivision (a) as follows:

23 (1) To an inquiring member of the public.

24 (2) On any committee documents informing the public of
25 individual probation orders and probationary licenses, including,
26 but not limited to, newsletters.

27 (3) In plain view on the BreEZe profile Internet Web page of a
28 naturopathic doctor subject to probation or a probationary license.

29 SEC. 5. Section 4962 is added to the Business and Professions
30 Code, to read:

31 4962. (a) By January 1, 2018, the board shall make the
32 following information, with respect to licensees on probation and
33 licensees practicing under a probationary license, available to the
34 public as specified in subdivision (b):

35 (1) For probation imposed pursuant to a stipulated settlement,
36 the causes alleged in the operative accusation along with a
37 designation identifying those causes by which the licensee has
38 expressly admitted guilt. The information shall include a statement
39 that acceptance of the settlement is not an admission of guilt unless

1 *the licensee has expressly admitted guilt and that all allegations*
2 *not expressly admitted to remain unproven.*

3 (2) *For probation imposed by an adjudicated decision of the*
4 *board, the causes for probation stated in the final probationary*
5 *order.*

6 (3) *For a licensee granted a probationary license, the causes*
7 *by which the probationary license was imposed.*

8 (4) *The length of the probation and the end date.*

9 (5) *All practice restrictions placed on the licensee by the board.*

10 (b) *By January 1, 2018, the board shall provide the information*
11 *listed in subdivision (a) as follows:*

12 (1) *To an inquiring member of the public.*

13 (2) *On any board documents informing the public of individual*
14 *probation orders and probationary licenses, including, but not*
15 *limited to, newsletters.*

16 (3) *Upon availability of a licensee's BreEZe profile Internet*
17 *Web page on the BreEZe system pursuant to Section 210, in plain*
18 *view on the BreEZe profile Internet Web page of a licensee subject*
19 *to probation or a probationary license.*

20 ~~SECTION 1. Section 19095 is added to the Business and~~
21 ~~Professions Code, to read:~~

22 ~~19095. (a) For the purposes of this section, the following~~
23 ~~definitions shall apply:~~

24 (1) ~~"Component" means the separate constituent parts of juvenile~~
25 ~~products sold in California, specifically cover fabrics, barrier~~
26 ~~materials, resilient filling materials, and plastic parts.~~

27 (2) ~~"Juvenile product" means a product subject to the Home~~
28 ~~Furnishings and Thermal Insulation Act and intended for use by~~
29 ~~infants and children under 12 years of age, such as a bassinet,~~
30 ~~booster seat, infant car seat, changing pad, floor play mat,~~
31 ~~highchair, highchair pad, infant bouncer, infant carrier, infant seat,~~
32 ~~infant swing, infant walker, nursing pad, nursing pillow, playpen~~
33 ~~side pad, playard, portable hook-on chair, stroller, children's nap~~
34 ~~mat, and infant foam crib mattress. Products subject to the~~
35 ~~requirements of Section 19094 are not subject to the requirements~~
36 ~~of this section. "Juvenile product" does not include products~~
37 ~~required to meet federal flammability standards contained in Part~~
38 ~~1632 or 1633 of Title 16 of the Code of Federal Regulations.~~

1 (3) ~~“Added flame retardant chemicals” means flame retardant~~
2 ~~chemicals that are present in any juvenile product or component~~
3 ~~thereof at levels above 1,000 parts per million.~~

4 (4) ~~“Flame retardant chemical” means any chemical or chemical~~
5 ~~compound for which a functional use is to resist or inhibit the~~
6 ~~spread of fire. Flame retardant chemicals include, but are not~~
7 ~~limited to, halogenated, phosphorous-based, nitrogen-based, and~~
8 ~~nanoscale flame retardants, flame retardant chemicals listed as~~
9 ~~“designated chemicals” pursuant to Section 105440 of the Health~~
10 ~~and Safety Code, and any chemical or chemical compound for~~
11 ~~which “flame retardant” appears on the substance Safety Data~~
12 ~~Sheet (SDS) pursuant to Section 1910.1200(g) of Title 29 of the~~
13 ~~Code of Federal Regulations.~~

14 (5) ~~“Chemical” means either of the following:~~

15 (A) ~~An organic or inorganic substance of a particular molecular~~
16 ~~identity, including any combination of those substances occurring,~~
17 ~~in whole or in part, as a result of a chemical reaction or occurring~~
18 ~~in nature, and any element, ion, or uncombined radical, and any~~
19 ~~degradate, metabolite, or reaction product of a substance with a~~
20 ~~particular molecular identity.~~

21 (B) ~~A chemical ingredient, which means a substance comprising~~
22 ~~one or more substances described in subparagraph (A).~~

23 (6) ~~“Molecular identity” means the substance’s properties listed~~
24 ~~below:~~

25 (A) ~~Agglomeration state.~~

26 (B) ~~Bulk density.~~

27 (C) ~~Chemical composition, including surface coating.~~

28 (D) ~~Crystal structure.~~

29 (E) ~~Dispersibility.~~

30 (F) ~~Molecular structure.~~

31 (G) ~~Particle density.~~

32 (H) ~~Particle size, size distribution, and surface area.~~

33 (I) ~~Physical form and shape, at room temperature and pressure.~~

34 (J) ~~Physicochemical properties.~~

35 (K) ~~Porosity.~~

36 (L) ~~Solubility in water and biologically relevant fluids.~~

37 (M) ~~Surface charge.~~

38 (N) ~~Surface reactivity.~~

39 (7) ~~“Department” means the Department of Toxic Substances~~
40 ~~Control.~~

1 ~~(8) “Consumer Price Index” means the Consumer Price Index~~
2 ~~for All Urban Consumers published by the Bureau of Labor~~
3 ~~Statistics.~~

4 ~~(b) (1) A manufacturer of juvenile products sold in California~~
5 ~~shall include, for juvenile products containing added flame~~
6 ~~retardant chemicals, a label in plain view, stating the following:~~

7
8 ~~“The State of California has determined that this product does~~
9 ~~not pose a serious fire hazard. The state has identified many flame~~
10 ~~retardant chemicals as being known to, or strongly suspected of,~~
11 ~~adversely impacting human health or development.~~

12 ~~The fabric, filling, and plastic parts of this product contain added~~
13 ~~flame retardant chemicals.”~~

14
15 ~~(2) The label for juvenile products shall comply with the labeling~~
16 ~~requirements of subdivisions (a), (b), and (c) of Section 1126 of~~
17 ~~Title 4 of the California Code of Regulations. The type on the label~~
18 ~~need not be in all capital letters.~~

19 ~~(c) (1) The manufacturer of the juvenile product sold in~~
20 ~~California shall retain documentation to show whether flame~~
21 ~~retardant chemicals were added. A written statement by the supplier~~
22 ~~of each component of a juvenile product attesting either that flame~~
23 ~~retardant chemicals were added or not added shall be sufficient~~
24 ~~documentation.~~

25 ~~(2) The bureau shall ensure compliance with the labeling and~~
26 ~~documentation requirements in this section.~~

27 ~~(3) (A) Upon request, a manufacturer of a juvenile product sold~~
28 ~~in California shall provide to the bureau, within 30 days of the~~
29 ~~request, documentation establishing the accuracy of the flame~~
30 ~~retardant chemical statement on the label required by subdivision~~
31 ~~(b) or documentation that the juvenile product does not contain an~~
32 ~~added flame retardant.~~

33 ~~(B) The bureau shall assess fines of not less than two thousand~~
34 ~~five hundred dollars (\$2,500) but not more than fifteen thousand~~
35 ~~dollars (\$15,000) in accordance with the factors described in~~
36 ~~subdivision (d) for the failure of the manufacturer of the juvenile~~
37 ~~product to maintain the documentation required by this section,~~
38 ~~or for the failure of the manufacturer of the juvenile product to~~
39 ~~provide, upon request, the documentation required by this section~~
40 ~~to the bureau. These fines shall replace any other fines in this article~~

1 for a violation of the documentation requirements of this section.
2 This subparagraph does not alter or amend any other penalty
3 otherwise imposed by this article.

4 (C) A manufacturer of juvenile products sold in California and
5 component suppliers shall be jointly and severally liable for
6 violations of the documentation required in this section.

7 (D) (i) The bureau shall provide the Department of Toxic
8 Substances Control with a selection of samples from juvenile
9 products that are not labeled as containing added flame retardant
10 chemicals for testing for the presence of added flame retardant
11 chemicals. The samples shall be from the components identified
12 in paragraph (1) of subdivision (a). The bureau shall select samples
13 based on consultation with the department, taking into account a
14 range of manufacturers and types of juvenile products. The bureau
15 and the department shall consult on the tests to be conducted by
16 the department. The department shall provide the results of any
17 completed test to the bureau. The bureau shall reimburse the
18 department for the cost of testing for the presence of added flame
19 retardant chemicals in juvenile products that are not labeled as
20 containing added flame retardant chemicals.

21 (ii) No later than August 1 of each fiscal year, the bureau shall
22 assess available resources and determine the number of tests to be
23 conducted in the corresponding fiscal year, pursuant to this
24 subparagraph.

25 (E) (i) If the department's testing shows that a juvenile product
26 not labeled as containing added flame retardant chemicals is
27 mislabeled because it contains added flame retardant chemicals,
28 the bureau may assess fines for violations against manufacturers
29 of the juvenile product and component manufacturers to be held
30 jointly and severally liable for the violation.

31 (ii) A fine for a violation of this subparagraph relating to
32 mislabeling shall be assessed in accordance with the factors
33 described in subdivision (d) and the following schedule:

34 (I) The fine for the first violation shall be not less than one
35 thousand dollars (\$1,000) but not more than two thousand five
36 hundred dollars (\$2,500).

37 (II) The fine for the second violation shall be not less than two
38 thousand five hundred dollars (\$2,500) but not more than five
39 thousand dollars (\$5,000).

1 ~~(III) The fine for the third violation shall be not less than five~~
2 ~~thousand dollars (\$5,000) but not more than seven thousand five~~
3 ~~hundred dollars (\$7,500).~~

4 ~~(IV) The fine for any subsequent violation shall be not less than~~
5 ~~seven thousand five hundred dollars (\$7,500) but not more than~~
6 ~~ten thousand dollars (\$10,000).~~

7 ~~(iii) The fines in clause (ii) shall replace any other fines in this~~
8 ~~article for a violation of the testing requirements of this section.~~
9 ~~This clause does not alter or amend any other penalty otherwise~~
10 ~~imposed by this article.~~

11 ~~(iv) If the department's testing shows that a juvenile product~~
12 ~~that is not labeled as containing added flame retardant chemicals~~
13 ~~is mislabeled because it contains added flame retardant chemicals,~~
14 ~~in addition to a fine or any other request, the bureau may request~~
15 ~~that the label required by subdivision (b) for juvenile products that~~
16 ~~belong to the same stock keeping unit (SKU) currently produced~~
17 ~~by the manufacturer be corrected to reflect that flame retardant~~
18 ~~chemicals are added to the juvenile product.~~

19 ~~(v) If the department's testing shows that a juvenile product that~~
20 ~~is not labeled as containing added flame retardant chemicals is~~
21 ~~mislabeled because it contains added flame retardant chemicals,~~
22 ~~in addition to a fine or any other request, the bureau may request~~
23 ~~additional testing of more products belonging to the same stock~~
24 ~~keeping unit (SKU) at the manufacturer's expense to verify the~~
25 ~~accuracy of the label required by subdivision (b) for juvenile~~
26 ~~products if the manufacturer wishes to retain the "contains NO~~
27 ~~added flame retardant chemicals" designation on the label required~~
28 ~~by subdivision (b).~~

29 ~~(d) (1) The bureau shall make information about any~~
30 ~~determination issued pursuant to this section available to the public~~
31 ~~on its Internet Web site.~~

32 ~~(2) In determining the amount of the fine for violations of this~~
33 ~~section, the bureau shall consider the following factors:~~

34 ~~(A) The nature and severity of the violation.~~

35 ~~(B) The good or bad faith of the cited person.~~

36 ~~(C) The history of previous violations.~~

37 ~~(D) Evidence that the violation was willful.~~

38 ~~(E) The extent to which the cited person or entity has cooperated~~
39 ~~with the bureau.~~

1 ~~(3) (A) The bureau shall adjust all minimum and maximum~~
2 ~~finest imposed by this section for inflation every five years.~~

3 ~~(B) The adjustment shall be equivalent to the percentage, if any,~~
4 ~~that the Consumer Price Index at the time of adjustment exceeds~~
5 ~~the Consumer Price Index at the time this section goes into effect.~~
6 ~~Any increase determined under this paragraph shall be rounded as~~
7 ~~follows:~~

8 ~~(i) In multiples of ten dollars (\$10) in the case of penalties less~~
9 ~~than or equal to one hundred dollars (\$100).~~

10 ~~(ii) In multiples of one hundred dollars (\$100) in the case of~~
11 ~~penalties greater than one hundred dollars (\$100) but less than or~~
12 ~~equal to one thousand dollars (\$1,000).~~

13 ~~(iii) In multiples of one thousand dollars (\$1,000) in the case~~
14 ~~of penalties greater than one thousand dollars (\$1,000).~~

15 ~~(4) It shall be the duty of the bureau to receive complaints from~~
16 ~~consumers concerning juvenile products sold in California.~~

17 ~~(e) The bureau may adopt regulations pursuant to the~~
18 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
19 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
20 ~~Code) to carry out this section.~~

21 ~~(f) Electric and electronic units or components, including, but~~
22 ~~not limited to, power cords or power supply units, motor~~
23 ~~assemblies, Bluetooth modules, vibration units, light and sound~~
24 ~~units, circuit boards and wiring, are excluded when determining~~
25 ~~whether a product contains added flame retardants for purposes~~
26 ~~of the labeling requirements of this section. The chief may, at his~~
27 ~~or her discretion, subject to the approval of the director, clarify~~
28 ~~this list in regulation.~~

29 ~~(g) This section shall apply to juvenile products manufactured~~
30 ~~on and after July 1, 2016, for retail sale in the state.~~

31 ~~SEC. 2. Section 19161.4 is added to the Business and~~
32 ~~Professions Code, to read:~~

33 ~~19161.4. The requirements of Section 19161 shall not apply~~
34 ~~to juvenile products, as defined in Section 19095.~~

35 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
36 ~~Section 6 of Article XIII B of the California Constitution because~~
37 ~~the only costs that may be incurred by a local agency or school~~
38 ~~district will be incurred because this act creates a new crime or~~
39 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
40 ~~for a crime or infraction, within the meaning of Section 17556 of~~

- 1 ~~the Government Code, or changes the definition of a crime within~~
- 2 ~~the meaning of Section 6 of Article XIII B of the California~~
- 3 ~~Constitution.~~

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