

AMENDED IN SENATE MAY 10, 2016

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 1033

Introduced by Senator Hill

February 12, 2016

An act to amend Sections 125.3, 803.1, 2027, 2221, 2221.05, 2228, and 3663 of, and to add Sections 1006 and 4962 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1033, as amended, Hill. Medical Board: disclosure of probationary status; professionals: probation.

~~Existing~~

(1) *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 agencies *entities* to discipline its licensee by placing her or him on probation, as specified.

~~This bill, on and after January 1, 2018, would require these regulatory entities to require a licensee to disclose on a separate document her or his probationary status status, certain information related to his or her probation, the address of his or her BreEze profile Internet Web page or a specified Internet Web site, and the regulatory entity's telephone number to a patient, the patient's guardian, or the health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation under specified circumstances, including an accusation alleging, a statement of issues indicating, or an administrative law judge's legal conclusion finding the licensee committed gross negligence or the licensee having been on probation more than once, among others. The bill would require the licensee to obtain from the patient a signed receipt containing specified information following the disclosure. The bill would exempt a licensee licensee, except for a licensed chiropractor, from disclosing her or his probationary status prior to a visit or treatment that disclosure requirement if the patient is unable to comprehend the disclosure or and sign an acknowledgment and a guardian or health care surrogate is unavailable. The bill would require in that instance that the doctor disclose his or her status as soon as either the patient can comprehend and sign the receipt or a guardian or health care surrogate is available to comprehend the disclosure and sign the receipt. The bill would also exempt a licensee from that disclosure requirement if the visit occurs in an emergency room and the licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.~~

~~Existing~~

(2) 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.

~~The~~

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 ~~July~~ *January* 1, 2018, to develop a standardized format for listing specified information related to the probation and to provide that information to an inquiring member of the public, on any documents informing the public of probation orders, and on a specified profile Internet Web page of each licensee subject to probation, *or an Internet Web site*, as specified.

(3) Existing law, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding unless the entity is the Medical Board of California, authorizes the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, as specified.

This bill would authorize the Medical Board of California to request and obtain from a physician and surgeon the investigation and prosecution costs for a disciplinary proceeding in which the physician and surgeon's license is placed on probation.

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 125.3 of the Business and Professions
2 Code is amended to read:
3 125.3. (a) Except as otherwise provided by law, in any order
4 issued in resolution of a disciplinary proceeding before any board
5 within the department or before the Osteopathic Medical Board,
6 upon request of the entity bringing the proceeding, the
7 administrative law judge may direct a licentiate found to have
8 committed a violation or violations of the licensing act to pay a
9 sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.
11 (b) In the case of a disciplined licentiate that is a corporation or
12 a partnership, the order may be made against the licensed corporate
13 entity or licensed partnership.
14 (c) A certified copy of the actual costs, or a good faith estimate
15 of costs where actual costs are not available, signed by the entity
16 bringing the proceeding or its designated representative shall be

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

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

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

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

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

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

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

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

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

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and ~~surgeon~~, *surgeon* investigation and prosecution costs for a disciplinary proceeding against the ~~licentiate~~. *licentiate, except for a disciplinary proceeding in which the licentiate's license is placed on probation.* The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

SECTION 1.

SEC. 2. Section 803.1 of the Business and Professions Code is amended to read:

803.1. (a) 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 regarding any enforcement actions taken against a licensee, including a former licensee, by the board or by another state or jurisdiction, including all of the following:

- (1) Temporary restraining orders issued.
- (2) Interim suspension orders issued.
- (3) Revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement.
- (4) Public letters of reprimand issued.
- (5) Infractions, citations, or fines imposed.

(b) Notwithstanding any other ~~provision of~~ law, in addition to the information provided in subdivision (a), 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 all of the following:

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

1 (2) (A) All settlements in the possession, custody, or control
2 of the board shall be disclosed for a licensee in the low-risk
3 category if there are three or more settlements for that licensee
4 within the last 10 years, except for settlements by a licensee
5 regardless of the amount paid where (i) the settlement is made as
6 a part of the settlement of a class claim, (ii) the licensee paid in
7 settlement of the class claim the same amount as the other licensees
8 in the same class or similarly situated licensees in the same class,
9 and (iii) the settlement was paid in the context of a case where the
10 complaint that alleged class liability on behalf of the licensee also
11 alleged a products liability class action cause of action. All
12 settlements in the possession, custody, or control of the board shall
13 be disclosed for a licensee in the high-risk category if there are
14 four or more settlements for that licensee within the last 10 years
15 except for settlements by a licensee regardless of the amount paid
16 where (i) the settlement is made as a part of the settlement of a
17 class claim, (ii) the licensee paid in settlement of the class claim
18 the same amount as the other licensees in the same class or
19 similarly situated licensees in the same class, and (iii) the
20 settlement was paid in the context of a case where the complaint
21 that alleged class liability on behalf of the licensee also alleged a
22 products liability class action cause of action. Classification of a
23 licensee in either a “high-risk category” or a “low-risk category”
24 depends upon the specialty or subspecialty practiced by the licensee
25 and the designation assigned to that specialty or subspecialty by
26 the Medical Board of California, as described in subdivision (f).
27 For the purposes of this paragraph, “settlement” means a settlement
28 of an action described in paragraph (1) entered into by the licensee
29 on or after January 1, 2003, in an amount of thirty thousand dollars
30 (\$30,000) or more.

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

34 (i) Comparing the settlement amount to the experience of other
35 licensees within the same specialty or subspecialty, indicating if
36 it is below average, average, or above average for the most recent
37 10-year period.

38 (ii) Reporting the number of years the licensee has been in
39 practice.

1 (iii) Reporting the total number of licensees in that specialty or
2 subspecialty, the number of those who have entered into a
3 settlement agreement, and the percentage that number represents
4 of the total number of licensees in the specialty or subspecialty.

5 (3) Current American Board of Medical Specialties certification
6 or board equivalent as certified by the Medical Board of California,
7 the Osteopathic Medical Board of California, or the California
8 Board of Podiatric Medicine.

9 (4) Approved postgraduate training.

10 (5) Status of the license of a licensee. By January 1, 2004, the
11 Medical Board of California, the Osteopathic Medical Board of
12 California, and the California Board of Podiatric Medicine shall
13 adopt regulations defining the status of a licensee. The board shall
14 employ this definition when disclosing the status of a licensee
15 pursuant to Section 2027. By ~~July~~ January 1, 2018, the Medical
16 Board of California, the Osteopathic Medical Board of California,
17 and the California Board of Podiatric Medicine shall include the
18 information described in subdivision (f) of Section 2228.

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

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

34 (d) The Medical Board of California, the Osteopathic Medical
35 Board of California, the California Board of Podiatric Medicine,
36 and the Physician Assistant Board may formulate appropriate
37 disclaimers or explanatory statements to be included with any
38 information released, and may by regulation establish categories
39 of information that need not be disclosed to an inquiring member
40 of the public because that information is unreliable or not

1 sufficiently related to the licensee's professional practice. The
2 Medical Board of California, the Osteopathic Medical Board of
3 California, the California Board of Podiatric Medicine, and the
4 Physician Assistant Board shall include the following statement
5 when disclosing information concerning a settlement:
6

7 "Some studies have shown that there is no significant correlation
8 between malpractice history and a doctor's competence. At the
9 same time, the State of California believes that consumers should
10 have access to malpractice information. In these profiles, the State
11 of California has given you information about both the malpractice
12 settlement history for the doctor's specialty and the doctor's history
13 of settlement payments only if in the last 10 years, the doctor, if
14 in a low-risk specialty, has three or more settlements or the doctor,
15 if in a high-risk specialty, has four or more settlements. The State
16 of California has excluded some class action lawsuits because
17 those cases are commonly related to systems issues such as product
18 liability, rather than questions of individual professional
19 competence and because they are brought on a class basis where
20 the economic incentive for settlement is great. The State of
21 California has placed payment amounts into three statistical
22 categories: below average, average, and above average compared
23 to others in the doctor's specialty. To make the best health care
24 decisions, you should view this information in perspective. You
25 could miss an opportunity for high-quality care by selecting a
26 doctor based solely on malpractice history.

27 When considering malpractice data, please keep in mind:

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

33 This report reflects data only for settlements made on or after
34 January 1, 2003. Moreover, it includes information concerning
35 those settlements for a 10-year period only. Therefore, you should
36 know that a doctor may have made settlements in the 10 years
37 immediately preceding January 1, 2003, that are not included in
38 this report. After January 1, 2013, for doctors practicing less than
39 10 years, the data covers their total years of practice. You should
40 take into account the effective date of settlement disclosure as well

1 as how long the doctor has been in practice when considering
2 malpractice averages.

3 The incident causing the malpractice claim may have happened
4 years before a payment is finally made. Sometimes, it takes a long
5 time for a malpractice lawsuit to settle. Some doctors work
6 primarily with high-risk patients. These doctors may have
7 malpractice settlement histories that are higher than average
8 because they specialize in cases or patients who are at very high
9 risk for problems.

10 Settlement of a claim may occur for a variety of reasons that do
11 not necessarily reflect negatively on the professional competence
12 or conduct of the doctor. A payment in settlement of a medical
13 malpractice action or claim should not be construed as creating a
14 presumption that medical malpractice has occurred.

15 You may wish to discuss information in this report and the
16 general issue of malpractice with your ~~doctor.~~"

17 ~~(e)–doctor."~~

18 (e) The Medical Board of California, the Osteopathic Medical
19 Board of California, the California Board of Podiatric Medicine,
20 and the Physician Assistant Board shall, by regulation, develop
21 standard terminology that accurately describes the different types
22 of disciplinary filings and actions to take against a licensee as
23 described in paragraphs (1) to (5), inclusive, of subdivision (a). In
24 providing the public with information about a licensee via the
25 Internet pursuant to Section 2027, the Medical Board of California,
26 the Osteopathic Medical Board of California, the California Board
27 of Podiatric Medicine, and the Physician Assistant Board shall not
28 use the terms "enforcement," "discipline," or similar language
29 implying a sanction unless the physician and surgeon has been the
30 subject of one of the actions described in paragraphs (1) to (5),
31 inclusive, of subdivision (a).

32 (f) The Medical Board of California shall adopt regulations no
33 later than July 1, 2003, designating each specialty and subspecialty
34 practice area as either high risk or low risk. In promulgating these
35 regulations, the board shall consult with commercial underwriters
36 of medical malpractice insurance companies, health care systems
37 that self-insure physicians and surgeons, and representatives of
38 the California medical specialty societies. The board shall utilize
39 the carriers' statewide data to establish the two risk categories and
40 the averages required by subparagraph (B) of paragraph (2) of

subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

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

(h) Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the specialty or subspecialty information required by this section shall group physicians by specialty board recognized pursuant to paragraph (5) of subdivision (h) of Section 651 unless a different grouping would be more valid and the board, in its statement of reasons for its regulations, explains why the validity of the grouping would be more valid.

(i) By ~~July~~ *January* 1, 2018, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall include the information listed in subdivision (f) of Section 2228 on any board documents informing the public of probation orders and probationary licenses, including, but not limited to, newsletters.

~~SEC. 2.~~

SEC. 3. Section 1006 is added to the Business and Professions Code, to read:

1006. (a) ~~Except~~ *On and after January 1, 2018, except as* provided by subdivision (c), the State Board of Chiropractic Examiners shall require a licensee to disclose on a separate document her or his probationary ~~status~~ *status*, ~~all of the information described in subdivision (d), the address of the board's Internet Web site, and the board's telephone number~~ to a patient, the patient's guardian, or health care surrogate prior to the patient's first visit following the probationary order while the licensee is on probation in any of the following circumstances:

(1) The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge find that the licensee is implicated in any of the following:

(A) Gross negligence.

(B) Repeated negligent acts involving a departure from the standard of care with multiple patients.

~~(C) Repeated acts of inappropriate and excessive prescribing of controlled substances, including, but not limited to, prescribing controlled substances without appropriate prior examination or without medical reason documented in medical records.~~

~~(D)~~

(C) Drug or alcohol abuse that threatens to impair a licensee's ability to practice *medicine chiropractic* safely, including practicing under the influence of drugs or alcohol.

~~(E)~~

(D) Felony conviction arising from or occurring during patient care or treatment.

~~(F)~~

(E) Mental illness or other cognitive impairment that impedes a licensee's ability to safely practice *medicine chiropractic*.

(2) The board ordered any of the following in conjunction with placing the licensee on probation:

(A) That a third-party chaperone be present when the licensee examines patients as a result of sexual misconduct.

(B) That the licensee submit to drug testing as a result of drug or alcohol abuse.

(C) That the licensee have a monitor.

~~(D) Restricting the licensee totally or partially from prescribing controlled substances.~~

(3) The licensee has not successfully completed a ~~clinical~~ training program or any associated examinations required by the board as a condition of probation.

(4) The licensee has been on probation more than once.

(b) The licensee shall obtain from each patient a signed receipt following the disclosure that includes a written explanation of how the patient can find further information on the licensee's probation on the board's Internet Web site.

(c) The licensee shall not be required to provide the disclosure prior to the visit as required by subdivision (a) if the ~~patient is unconscious or otherwise unable to comprehend the disclosure~~

1 and sign the receipt pursuant to subdivision (b) and a guardian or
2 health care surrogate is unavailable to comprehend the disclosure
3 and sign the receipt. In that instance, the licensee shall disclose
4 her or his status as soon as either the patient can comprehend the
5 disclosure and sign the receipt or a guardian or health care surrogate
6 is available to comprehend the disclosure and sign the receipt. *visit*
7 *occurs in an emergency room and the licensee who will be treating*
8 *the patient during the visit is not known to the patient until*
9 *immediately prior to the start of the visit.*

10 (d) By ~~July~~ January 1, 2018, the board shall develop a
11 standardized format for listing the following information pursuant
12 to subdivision (e):

13 (1) The listing of the causes for probation alleged in the
14 accusation, the statement of issues, or the legal conclusions of an
15 administrative law judge.

16 (2) The length of the probation and the end date.

17 (3) All practice restrictions placed on the ~~licensee~~ licensee by
18 the ~~committee~~ board.

19 (e) By ~~July~~ January 1, 2018, the board shall provide the
20 information listed in subdivision (d) as follows:

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

22 (2) On any board documents informing the public of probation
23 orders and probationary licenses, including, but not limited to,
24 newsletters.

25 (3) ~~Upon availability of a licensee's BreEZe profile Internet~~
26 ~~Web page on the BreEZe system pursuant to Section 210, in plain~~
27 ~~view on the BreEZe profile~~ On the board's Internet Web page of
28 a licensee subject to probation or a probationary license. *site.*

29 ~~SEC. 3.~~

30 *SEC. 4.* Section 2027 of the Business and Professions Code is
31 amended to read:

32 2027. (a) The board shall post on its Internet Web site the
33 following information on the current status of the license for all
34 current and former licensees:

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

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

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

40 (A) Temporary restraining orders.

1 (B) Interim suspension orders.

2 (C) (i) Revocations, suspensions, probations, or limitations on
3 practice ordered by the board or the board of another state or
4 jurisdiction, including those made part of a probationary order or
5 stipulated agreement.

6 (ii) By ~~July~~ *January* 1, 2018, the board, the Osteopathic Medical
7 Board of California, and the California Board of Podiatric Medicine
8 shall include, in plain view on the BreEZe profile Internet Web
9 page of each licensee subject to probation or a probationary license,
10 the information described in subdivision (f) of Section 2228. For
11 purposes of this subparagraph, a BreEZe profile Internet Web page
12 is a profile Internet Web page on the BreEZe system pursuant to
13 Section 210.

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

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

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

25 (1) Approved postgraduate training.

26 (2) Any final revocations and suspensions, or other equivalent
27 actions, taken against the licensee by the board or the board of
28 another state or jurisdiction or the surrender of a license by the
29 licensee in relation to a disciplinary action or investigation,
30 including the operative accusation resulting in the license surrender
31 or discipline by the board.

32 (3) Probation or other equivalent action ordered by the board,
33 or the board of another state or jurisdiction, completed or
34 terminated, including the operative accusation resulting in the
35 discipline by the board.

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

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

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

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

24 (A) If a licensee's hospital staff privileges are restored and the
25 licensee notifies the board of the restoration, the information
26 pertaining to the termination or revocation of those privileges shall
27 remain posted on the Internet Web site for a period of 10 years
28 from the restoration date of the privileges, and at the end of that
29 period shall be removed.

30 (B) If a court finds, in a final judgment, that peer review
31 resulting in a hospital disciplinary action was conducted in bad
32 faith and the licensee notifies the board of that finding, the
33 information concerning that hospital disciplinary action posted on
34 the Internet Web site shall be immediately removed. For purposes
35 of this subparagraph, "peer review" has the same meaning as
36 defined in Section 805.

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

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

4 (10) All settlements within the last five years in the possession,
5 custody, or control of the board shall be disclosed for a licensee
6 in the low-risk category if there are three or more settlements for
7 that licensee within the last five years, and for a licensee in the
8 high-risk category if there are four or more settlements for that
9 licensee within the last five years. Classification of a licensee in
10 either a “high-risk category” or a “low-risk” category depends
11 upon the specialty or subspecialty practiced by the licensee and
12 the designation assigned to that specialty or subspecialty by the
13 board pursuant to subdivision (f) of Section 803.1.

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

20 (B) For the purposes of this paragraph, “settlement” does not
21 include a settlement by a licensee, regardless of the amount paid,
22 when (i) the settlement is made as a part of the settlement of a
23 class claim, (ii) the amount paid in settlement of the class claim
24 is the same amount paid by the other licensees in the same class
25 or similarly situated licensees in the same class, and (iii) the
26 settlement was paid in the context of a case for which the complaint
27 that alleged class liability on behalf of the licensee also alleged a
28 products liability class action cause of action.

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

33 (11) Appropriate disclaimers and explanatory statements to
34 accompany the information described in paragraphs (1) to (10),
35 inclusive, including an explanation of what types of information
36 are not disclosed. These disclaimers and statements shall be
37 developed by the board and shall be adopted by regulation.

38 (c) The board shall provide links to other Internet Web sites
39 that provide information on board certifications that meet the
40 requirements of subdivision (h) of Section 651. The board may

1 also provide links to any other Internet Web sites that provide
2 information on the affiliations of licensed physicians and surgeons.
3 The board may provide links to other Internet Web sites on the
4 Internet that provide information on health care service plans,
5 health insurers, hospitals, or other facilities.

6 ~~SEC. 4.~~

7 *SEC. 5.* Section 2221 of the Business and Professions Code is
8 amended to read:

9 2221. (a) The board may deny a physician's and surgeon's
10 certificate to an applicant guilty of unprofessional conduct or of
11 any cause that would subject a licensee to revocation or suspension
12 of his or her license.

13 (b) The board in its sole discretion, may issue a probationary
14 physician's and surgeon's certificate to an applicant subject to
15 terms and conditions, including, but not limited to, any of the
16 following conditions of probation:

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

20 (2) Total or partial restrictions on drug prescribing privileges
21 for controlled substances.

22 (3) Continuing medical or psychiatric treatment.

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

24 (5) Enrollment and successful completion of a clinical training
25 program.

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

27 (7) Restrictions against engaging in certain types of medical
28 practice.

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

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

31 (10) Disclosing probationary license status to patients, pursuant
32 to subdivision (b) of Section 2228.

33 (c) The board may modify or terminate the terms and conditions
34 imposed on the probationary certificate upon receipt of a petition
35 from the licensee; however, the provisions of subdivision (b) of
36 Section 2228 are mandatory with any probationary licensee. The
37 board may assign the petition to an administrative law judge
38 designated in Section 11371 of the Government Code. After a
39 hearing on the petition, the administrative law judge shall provide
40 a proposed decision to the board.

1 (d) The board shall deny a physician's and surgeon's certificate
2 to an applicant who is required to register pursuant to Section 290
3 of the Penal Code. This subdivision does not apply to an applicant
4 who is required to register as a sex offender pursuant to Section
5 290 of the Penal Code solely because of a misdemeanor conviction
6 under Section 314 of the Penal Code.

7 (e) An applicant shall not be eligible to reapply for a physician's
8 and surgeon's certificate for a minimum of three years from the
9 effective date of the denial of his or her application, except that
10 the board may, in its discretion and for good cause demonstrated,
11 permit reapplication after not less than one year has elapsed from
12 the effective date of the denial.

13 ~~SEC. 5.~~

14 *SEC. 6.* Section 2221.05 of the Business and Professions Code
15 is amended to read:

16 2221.05. (a) Notwithstanding subdivisions (a) and (b) of
17 Section 2221, the board may issue a physician's and surgeon's
18 certificate to an applicant who has committed minor violations
19 that the board deems, in its discretion, do not merit the denial of
20 a certificate or require probationary status under Section 2221, and
21 may concurrently issue a public letter of reprimand.

22 (b) A public letter of reprimand issued concurrently with a
23 physician's and surgeon's certificate shall be purged three years
24 from the date of issuance.

25 (c) A public letter of reprimand issued pursuant to this section
26 shall be disclosed to an inquiring member of the public and shall
27 be posted on the board's Internet Web site.

28 (d) Nothing in this section shall be construed to affect the
29 board's authority to issue an unrestricted license.

30 ~~SEC. 6.~~

31 *SEC. 7.* Section 2228 of the Business and Professions Code is
32 amended to read:

33 2228. (a) The authority of the board or the California Board
34 of Podiatric Medicine to discipline a licensee by placing him or
35 her on probation includes, but is not limited to, the following:

36 (1) Requiring the licensee to obtain additional professional
37 training and to pass an examination upon the completion of the
38 training. The examination may be written or oral, or both, and may
39 be a practical or clinical examination, or both, at the option of the
40 board or the administrative law judge.

1 (2) Requiring the licensee to submit to a complete diagnostic
2 examination by one or more physicians and surgeons appointed
3 by the board. If an examination is ordered, the board shall receive
4 and consider any other report of a complete diagnostic examination
5 given by one or more physicians and surgeons of the licensee's
6 choice.

7 (3) Restricting or limiting the extent, scope, or type of practice
8 of the licensee, including requiring notice to applicable patients
9 that the licensee is unable to perform the indicated treatment, where
10 appropriate.

11 (4) Providing the option of alternative community service in
12 cases other than violations relating to quality of care.

13 (b) ~~The~~ *On and after January 1, 2018, except as provided by*
14 *subdivision (d), the board or the California Board of Podiatric*
15 *Medicine shall require a licensee to disclose on a separate*
16 *document her or his probationary—status status, all of the*
17 *information described in subdivision (f), the address of his or her*
18 *BreEZe profile Internet Web page, and the telephone number of*
19 *the board, if the probation was imposed by the board, or the*
20 *California Board of Podiatric Medicine, if the probation was*
21 *imposed by the California Board of Podiatric Medicine, to a*
22 *patient, the patient's guardian, or health care surrogate prior to the*
23 *patient's first visit following the probationary order while the*
24 *licensee is on probation in any of the following circumstances:*

25 (1) The accusation alleges, the statement of issues indicates, or
26 the legal conclusions of an administrative law judge ~~finds~~ *find* that
27 the licensee is implicated in any of the following:

28 (A) Gross negligence.

29 (B) Repeated negligent acts involving a departure from the
30 standard of care with multiple patients.

31 (C) Repeated acts of inappropriate and excessive prescribing
32 of controlled substances, including, but not limited to, prescribing
33 controlled substances without appropriate prior examination or
34 without medical reason documented in medical records.

35 (D) Drug or alcohol abuse that threatens to impair a licensee's
36 ability to practice medicine safely, including practicing under the
37 influence of drugs or alcohol.

38 (E) Felony conviction arising from or occurring during patient
39 care or treatment.

1 (F) Mental illness or other cognitive impairment that impedes
2 a licensee's ability to safely practice medicine.

3 (2) The board ordered any of the following in conjunction with
4 placing the licensee on probation:

5 (A) That a third-party chaperone be present when the licensee
6 examines patients as a result of sexual misconduct.

7 (B) That the licensee submit to drug testing as a result of drug
8 or alcohol abuse.

9 (C) That the licensee have a monitor.

10 (D) Restricting *the licensee* totally or partially ~~the licensee~~ from
11 prescribing controlled substances.

12 (3) The licensee has not successfully completed a ~~clinical~~
13 training program or any associated examinations required by the
14 board as a condition of probation.

15 (4) The licensee has been on probation more than once.

16 (c) The licensee shall obtain from each patient a signed receipt
17 following the disclosure that includes a written explanation of how
18 the patient can find further information on the licensee's probation
19 on the board's Internet Web site.

20 (d) ~~A~~ The licensee shall not be required to provide the disclosure
21 prior to ~~a~~ *the* visit as required by subdivision (b) if ~~the~~ *either of*
22 *the following applies:*

23 (1) *The* patient is unconscious or otherwise unable to
24 comprehend the disclosure and sign the receipt pursuant to
25 subdivision (c) and a guardian or health care surrogate is
26 unavailable to comprehend the disclosure and sign the receipt. In
27 that instance, the licensee shall disclose her or his status as soon
28 as either the patient can comprehend the disclosure and sign the
29 receipt or a guardian or health care surrogate is available to
30 comprehend the disclosure and sign the receipt.

31 (2) *The visit occurs in an emergency room and the licensee who*
32 *will be treating the patient during the visit is not known to the*
33 *patient until immediately prior to the start of the visit.*

34 (e) Section 2314 shall not apply to subdivision (b), (c), or (d).

35 (f) By ~~July~~ January 1, 2018, the board shall develop a
36 standardized format for listing the following information pursuant
37 to paragraph (5) of subdivision (b) of Section 803.1, subdivision
38 (i) of Section 803.1, and clause (ii) of subparagraph (C) of
39 paragraph (1) of subdivision (a) of Section 2027:

1 (1) The listing of the causes for probation alleged in the
2 accusation, the statement of issues, or the legal conclusions of an
3 administrative law judge.

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

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

6 ~~SEC. 7.~~

7 *SEC. 8.* Section 3663 of the Business and Professions Code is
8 amended to read:

9 3663. (a) The committee shall have the responsibility for
10 reviewing the quality of the practice of naturopathic medicine
11 carried out by persons licensed as naturopathic doctors pursuant
12 to this chapter.

13 (b) The committee may discipline a naturopathic doctor for
14 unprofessional conduct. After a hearing conducted in accordance
15 with the Administrative Procedure Act (Chapter 5 (commencing
16 with Section 11500) of Part 1 of Division 3 of Title 2 of the
17 Government Code), the committee may deny, suspend, revoke, or
18 place on probation the license of, or reprimand, censure, or
19 otherwise discipline a naturopathic doctor in accordance with
20 Division 1.5 (commencing with Section 475).

21 (c) ~~Except~~ *On and after January 1, 2018, except* as provided
22 by subdivision (e), the committee shall require a naturopathic
23 doctor to disclose on a separate document her or his probationary
24 ~~status~~ *status, all of the information described in subdivision (f),*
25 *the address of his or her BreZE profile Internet Web page, and*
26 *the committee's telephone number* to a patient, the patient's
27 guardian, or health care surrogate prior to the patient's first visit
28 following the probationary order while the naturopathic doctor is
29 on probation in any of the following circumstances:

30 (1) The accusation alleges, the statement of issues indicates, or
31 the legal conclusions of an administrative law judge find that the
32 naturopathic doctor is implicated in any of the following:

33 (A) Gross negligence.

34 (B) Repeated negligent acts involving a departure from the
35 standard of care with multiple patients.

36 (C) Repeated acts of inappropriate and excessive prescribing
37 of controlled substances, including, but not limited to, prescribing
38 controlled substances without appropriate prior examination or
39 without medical reason documented in medical records.

1 (D) Drug or alcohol abuse that threatens to impair a naturopathic
2 doctor's ability to practice medicine safely, including practicing
3 under the influence of drugs or alcohol.

4 (E) Felony conviction arising from or occurring during patient
5 care or treatment.

6 (F) Mental illness or other cognitive impairment that impedes
7 a naturopathic doctor's ability to safely practice medicine.

8 (2) The committee ordered any of the following in conjunction
9 with placing the naturopathic doctor on probation:

10 (A) That a third-party chaperone be present when the
11 naturopathic doctor examines patients as a result of sexual
12 misconduct.

13 (B) That the naturopathic doctor submit to drug testing as a
14 result of drug or alcohol abuse.

15 (C) That the naturopathic doctor have a monitor.

16 (D) Restricting the naturopathic doctor totally or partially from
17 prescribing controlled substances.

18 (3) The naturopathic doctor has not successfully completed a
19 clinical training program or any associated examinations required
20 by the committee as a condition of probation.

21 (4) The naturopathic doctor has been on probation more than
22 once.

23 (d) The naturopathic doctor shall obtain from each patient a
24 signed receipt following the disclosure that includes a written
25 explanation of how the patient can find further information on the
26 naturopathic doctor's probation on the committee's Internet Web
27 site.

28 (e) The naturopathic doctor shall not be required to provide the
29 disclosure prior to the visit as required by subdivision (c) if ~~the~~
30 *either of the following applies:*

31 (1) *The* patient is unconscious or otherwise unable to
32 comprehend the disclosure ~~or~~ *and* sign the receipt pursuant to
33 subdivision (d) and a guardian or health care surrogate is
34 unavailable to comprehend the disclosure ~~or~~ *and* sign the receipt.
35 ~~In such an~~ *that* instance, the naturopathic doctor shall disclose her
36 or his status as soon as either the patient can comprehend the
37 disclosure and sign the receipt or a guardian or health care surrogate
38 is available to comprehend the disclosure and sign the receipt.

1 (2) *The visit occurs in an emergency room and the naturopathic*
2 *doctor who will be treating the patient during the visit is not known*
3 *to the patient until immediately prior to the start of the visit.*

4 (f) By ~~July~~ January 1, 2018, the committee shall develop a
5 standardized format for listing the following information pursuant
6 ~~to~~ to subdivision (g):

7 (1) The listing of the causes for probation alleged in the
8 accusation, the statement of issues, or the legal conclusions of an
9 administrative law judge.

10 (2) The length of the probation and the end date.

11 (3) All practice restrictions placed on the naturopathic doctor
12 by the committee.

13 (g) By ~~July~~ January 1, 2018, the committee shall provide the
14 information listed in subdivision (f) as follows:

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

16 (2) On any committee documents informing the public of
17 probation orders and probationary licenses, including, but not
18 limited to, newsletters.

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

21 ~~SEC. 8.~~

22 *SEC. 9.* Section 4962 is added to the Business and Professions
23 Code, to read:

24 4962. (a) ~~Except~~ *On and after January 1, 2018, except as*
25 *provided by subdivision (c), the board shall require a licensee to*
26 *disclose on a separate document her or his probationary-status*
27 *status, all of the information described in subdivision (e), the*
28 *address of his or her BreEZe profile Internet Web page, and the*
29 *board's telephone number to a patient, the patient's guardian, or*
30 *health care surrogate prior to the patient's first visit following the*
31 *probationary order while the licensee is on probation in any of the*
32 *following circumstances:*

33 (1) The accusation alleges, the statement of issues indicates, or
34 the legal conclusions of an administrative law judge find that the
35 licensee is implicated in any of the following:

36 (A) Gross negligence.

37 (B) Repeated negligent acts involving a departure from the
38 standard of care with multiple patients.

1 (C) Drug or alcohol abuse that threatens to impair a licensee's
2 ability to practice acupuncture safely, including practicing under
3 the influence of drugs or alcohol.

4 (D) Felony conviction arising from or occurring during patient
5 care or treatment.

6 (E) Mental illness or other cognitive impairment that impedes
7 a licensee's ability to safely practice acupuncture.

8 (2) The board ordered any of the following in conjunction with
9 placing the licensee on probation:

10 (A) That a third-party chaperone be present when the licensee
11 examines patients as a result of sexual misconduct.

12 (B) That the licensee submit to drug testing as a result of drug
13 or alcohol abuse.

14 (C) That the licensee have a monitor.

15 (3) The licensee has not successfully completed a training
16 program or any associated examinations required by the board as
17 a condition of probation.

18 (4) The licensee has been on probation more than once.

19 (b) The licensee shall obtain from each patient a signed receipt
20 following the disclosure that includes a written explanation of how
21 the patient can find further information on the licensee's probation
22 on the board's Internet Web site.

23 (c) The licensee shall not be required to provide the disclosure
24 prior to the visit as required by subdivision (a) if ~~the~~ *either of the*
25 *following applies:*

26 (1) *The patient is unconscious or otherwise unable to*
27 *comprehend the disclosure*~~or~~ *and sign the receipt pursuant to*
28 *subdivision (b) and a guardian or health care surrogate is*
29 *unavailable to comprehend the disclosure*~~or~~ *and sign the receipt.*
30 ~~In such an~~ *that instance, the licensee shall disclose her or his status*
31 *as soon as either the patient can comprehend the disclosure and*
32 *sign the receipt or a guardian or health care surrogate is available*
33 *to comprehend the disclosure and sign the receipt.*

34 (2) *The visit occurs in an emergency room and the licensee who*
35 *will be treating the patient during the visit is not known to the*
36 *patient until immediately prior to the start of the visit.*

37 (d) Section 4935 shall not apply to subdivision ~~(a) or (b).~~ (a),
38 (b), or (c).

1 (e) By ~~July~~ *January* 1, 2018, the ~~committee~~ *board* shall develop
2 a standardized format for listing the following information pursuant
3 to subdivision (f):

4 (1) The listing of the causes for probation alleged in the
5 accusation, the statement of issues, or the legal conclusions of an
6 administrative law judge.

7 (2) The length of the probation and the end date.

8 (3) All practice restrictions placed on the ~~licensee~~ *licensee* by
9 the ~~committee~~ *board*.

10 (f) By ~~July~~ *January* 1, 2018, the board shall provide the
11 information listed in subdivision (e) as follows:

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

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