

Senate Bill No. 1636

CHAPTER 197

An act to amend Sections 125.9 and 2099.5 of, and to repeal Section 2454 of, the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to osteopathic physicians and surgeons.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1636, Poochigian. Osteopathic physicians and surgeons: licensing: regulation.

(1) Existing law provides for the licensing and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California. Existing law, except as specified, permits a board, bureau, or commission within the Department of Consumer Affairs to issue to a licensee a citation, as specified, for violating the applicable licensing act or any regulation adopted pursuant thereto.

This bill would permit the Osteopathic Medical Board of California to issue those citations.

(2) Existing law requires the Osteopathic Medical Board of California to require a person applying for an osteopathic physician's and surgeon's certificate to take a written examination, as specified, that is either prepared by the National Board of Osteopathic Examiners or by the Osteopathic Medical Board of California.

This bill would instead require the Osteopathic Medical Board of California to either prepare or select the written examination to be given.

(3) Existing law, the Moscone-Knox Professional Corporation Act, requires osteopathic physicians and surgeons that form a medical corporation to obtain a certificate of registration from the Osteopathic Medical Board of California in order for the medical corporation to render professional services.

This bill would repeal the requirement to obtain a certificate of registration from the Osteopathic Medical Board of California.

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

SECTION 1. Section 125.9 of the Business and Professions Code is amended to read:

125.9. (a) Except with respect to persons regulated under Chapter 8 (commencing with Section 6850), Chapter 11 (commencing with Section 7500), Chapter 11.5 (commencing with



Section 7512), and Chapter 11.6 (commencing with Section 7590) of Division 3, or a person holding a license specified in paragraph (1), (6), or (7) of subdivision (b) of Section 9941, any board, bureau, or commission within the department, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to the violation, or two thousand five hundred dollars (\$2,500) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.



(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

SEC. 2. Section 2099.5 of the Business and Professions Code is amended to read:

2099.5. Notwithstanding any other provision of law, an originating license for an osteopathic physician's and surgeon's certificate issued by the Osteopathic Medical Board of California shall require the following:

(a) A written examination, that is either prepared or selected by the Osteopathic Medical Board of California. The written examination shall include osteopathic principles and practices and all applicable provisions of Article 4 (commencing with Section 2080). An applicant shall successfully complete the written examination, as determined by the board.

(b) An oral, clinical, and practical examination administered by the board which the applicant shall successfully complete, as determined by the board.

SEC. 3. Section 2454 of the Business and Professions Code is repealed.

SEC. 4. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Osteopathic Medical Board of California, the Board of Dental Examiners of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Board of Architectural Examiners, the Court Reporters Board of California, the Board of Behavioral Sciences, or the Board of Registered Nursing



shall not be required to obtain a certificate of registration in order to render those professional services.

(c) “Foreign professional corporation” means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) “Licensed person” means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(e) “Disqualified person” means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

