

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY JULY 2, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE APRIL 17, 2012

**SENATE BILL**

**No. 1483**

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**Introduced by Senator Steinberg**  
*(Principal coauthor: Assembly Member Allen)*

February 24, 2012

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An act to add Article 12.7 (commencing with Section 830) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1483, as amended, Steinberg. Physicians and surgeons.

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California (board) within the Department of Consumer Affairs (department). Under existing law, the biennial license renewal fee for physicians and surgeons is required to be fixed by the board and may not exceed \$790.

This bill would create the Physician Health Program, administered by the Physician Health, Recovery, and Monitoring Oversight Committee within the department, with 14 members to be appointed as specified. The purpose of the program would be, among other things, to promote awareness and education relative to physician and surgeon health issues, including impairment due to alcohol or substance abuse, mental disorders, or other health conditions that could affect the safe

practice of medicine, and to make treatment available to all physicians and surgeons subject to a written agreement with the program that includes agreement by the physician and surgeon to pay for expenses associated with the treatment. The bill would also provide for referral by the program of physicians and surgeons, as defined, to certified monitoring programs on a voluntary basis, governed by a written agreement between the participant and the program. The bill would require the department to select a contractor to implement the program, with the committee serving as the evaluation body for submitted proposals. The bill would require the program to report the name of a participant to the board and the committee when it learns of the participant's failure to meet the requirements of the program. The bill would require the committee to report to the department certain statistics received from the program, would require the department to report to the Legislature on the outcomes of the program, and would require regular audits of the program.

This bill would, *beginning July 1, 2013*, increase the biennial license renewal fee by \$39.50 for purposes of these provisions, except as specified. The bill would direct the board to transfer this revenue on a monthly basis to the Physician Health, Awareness, and Monitoring Quality Trust Fund, which the bill would create, and would specify that the use of these funds is subject to appropriation by the Legislature. *The bill would provide that the trust fund be the only source of public funding and that the trust fund may receive private donations. The bill would require that the committee manage the program within the amount of resources provided.*

The bill would enact other related provisions and make other conforming changes.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) (1) It is in every patient's interest to have physicians and
- 4 surgeons who are healthy and well.
- 5 (2) Physicians and surgeons may have health conditions that
- 6 interfere with their ability to practice medicine safely.

1 (3) In such cases, the most effective long-term protection for  
2 patients is early intervention to address health issues that have the  
3 potential to interfere with the safe practice of physicians and  
4 surgeons.

5 (b) While the Legislature recognizes that physicians and  
6 surgeons have a number of options for obtaining treatment, it is  
7 the intent of the Legislature in enacting this act to promote  
8 awareness among members of the medical community about health  
9 issues that could interfere with safe practice, to promote awareness  
10 that private early intervention options are available, to provide  
11 resources and referrals to ensure physicians and surgeons are better  
12 able to choose high-quality private interventions that meet their  
13 specific needs, and to provide a separate mechanism for monitoring  
14 treatment.

15 SEC. 2. Article 12.7 (commencing with Section 830) is added  
16 to Chapter 1 of Division 2 of the Business and Professions Code,  
17 to read:

18  
19 Article 12.7. Physician Health, Awareness, and Monitoring  
20 Quality  
21

22 830. This article shall be known and may be cited as the  
23 Physician Health, Awareness, and Monitoring Quality Act of 2012.

24 830.2. For purposes of this article, the following terms shall  
25 have the following meanings:

26 (a) “Board” means the Medical Board of California.

27 (b) “Committee” means the Physician Health, Awareness, and  
28 Monitoring Quality Oversight Committee established pursuant to  
29 Section 830.6.

30 (c) “Department” means the Department of Consumer Affairs.

31 (d) “Impairment” means the inability to practice medicine with  
32 reasonable skill and safety to patients by reason of alcohol or  
33 substance abuse, a mental disorder, or another health condition as  
34 determined by a clinical evaluation in individual circumstances.

35 (e) “Participant” means a physician and surgeon enrolled in the  
36 program pursuant to an agreement entered into as provided in  
37 Section 830.10.

38 (f) “Physician Health Program” or “program” means the program  
39 defined in Section 830.4 and includes vendors, providers, or entities  
40 that contract with the committee pursuant to this article. The

1 program itself shall not offer or provide treatment services to  
2 physicians and surgeons.

3 (g) “Physician and surgeon” means a holder of a valid physician  
4 and surgeon’s certificate. For the purposes of participating in the  
5 program under this article, “physician and surgeon” shall also  
6 mean a student enrolled in a medical school approved or recognized  
7 by the board, a graduate of a medical school enrolled in a medical  
8 specialty residency training program approved or recognized by  
9 the board, or a physician and surgeon seeking reinstatement of a  
10 license from the board.

11 (h) “Qualifying illness” means alcohol or substance abuse, a  
12 mental disorder, or another health condition that a clinical  
13 evaluation determines can be monitored and treated with private  
14 clinical and monitoring programs.

15 830.4. The Physician Health Program shall do all of the  
16 following:

17 (a) Subject to the requirements of Section 830.10, be available  
18 to all physicians and surgeons, as defined in subdivision (g) of  
19 Section 830.2.

20 (b) Promote awareness among members of the medical  
21 community on the recognition of health issues that could interfere  
22 with safe practice.

23 (c) Educate the medical community on the benefits of and  
24 options available for early intervention to address those health  
25 issues.

26 (d) Refer physicians and surgeons to monitoring programs  
27 certified by the program by executing a written agreement with  
28 the participant and monitoring the compliance of the participant  
29 with that agreement.

30 (e) Provide for the confidential participation by physicians and  
31 surgeons who have a qualifying illness and who are not on  
32 probation with the board.

33 830.6. (a) (1) There is hereby established within the  
34 Department of Consumer Affairs the Physician Health, Awareness,  
35 and Monitoring Quality Oversight Committee that shall have the  
36 duties and responsibilities set forth in this article. The committee  
37 may take any reasonable administrative actions to carry out the  
38 responsibilities and duties set forth in this article, including, but  
39 not limited to, hiring staff and entering into contracts.

40 (2) The committee shall be formed no later than April 1, 2013.

1 (3) The committee composition shall be as follows:

2 (A) All of the members under this subparagraph shall be  
3 appointed by the Governor and licensed in this state as physicians  
4 and surgeons with education, training, and experience in the  
5 identification and treatment of substance use or mental disorders,  
6 or both.

7 (i) Two members recommended by a statewide association  
8 representing psychiatrists with at least 3,000 members.

9 (ii) Two members recommended by a statewide association  
10 representing addiction medicine specialists with at least 300  
11 members.

12 (iii) Three members recommended by a statewide association  
13 representing physicians and surgeons from all specialties, modes  
14 of practice, and practice settings with at least 25,000 members.

15 (iv) One member recommended by a statewide hospital  
16 association representing at least 400 hospitals.

17 (v) For the purpose of the initial composition of the committee,  
18 one member appointed under clause (i) shall be appointed for a  
19 two-year term and the other member for a three-year term; one  
20 member appointed under clause (ii) shall be appointed for a  
21 two-year term and the other member for a three-year term; one  
22 member appointed under clause (iii) shall be appointed for a  
23 two-year term, one member shall be appointed for a three-year  
24 term, and one member shall be appointed for a four-year term; and  
25 the member appointed under clause (iv) shall be appointed for a  
26 four-year term.

27 (B) All members appointed under this subparagraph shall have  
28 experience in a field related to mental illness, or alcohol or  
29 substance abuse, or both.

30 (i) Four members of the public appointed by the Governor. For  
31 the initial appointment to the committee, two members shall be  
32 appointed to serve for two-year terms and two members shall be  
33 appointed to serve for four-year terms.

34 (ii) One member of the public appointed by the Speaker of the  
35 Assembly. The initial appointment shall be for a three-year term.

36 (iii) One member of the public appointed by the Senate  
37 Committee on Rules. The initial appointment shall be for a  
38 three-year term.

39 (4) For the purposes of this section, a public member may not  
40 be any of the following:

- 1 (A) A current or former physician and surgeon or an immediate  
2 family member of a physician and surgeon.
- 3 (B) A current or former employee of a physician and surgeon,  
4 or a business providing or arranging for physician and surgeon  
5 services, or having any financial interest in the business of a  
6 physician and surgeon.
- 7 (C) An employee or agent or representative of any organization  
8 representing physicians and surgeons.
- 9 (D) An individual or an affiliate of an organization who has  
10 conducted business with or regularly appeared before the board.
- 11 (5) A public member shall meet all of the requirements for  
12 public members on a board as set forth in Chapter 6 (commencing  
13 with Section 450) of Division 1.
- 14 (b) Members of the committee shall serve without compensation.
- 15 (c) Except as provided for in subdivision (a), committee  
16 members shall serve terms of four years and may be reappointed.
- 17 (d) The committee shall be subject to the Bagley-Keene Open  
18 Meeting Act (Article 9 (commencing with Section 11120) of  
19 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
20 Code), the Administrative Procedure Act (Chapter 3.5  
21 (commencing with Section 11340) of Part 1 of Division 3 of Title  
22 2 of the Government Code), and the California Public Records  
23 Act (Chapter 3.5 (commencing with Section 6250) of Division 7  
24 of Title 1 of the Government Code).
- 25 (e) The rules adopted by the committee shall be consistent with  
26 the Uniform Standards Regarding Substance-Abusing Healing  
27 Arts Licensees as adopted by the Substance Abuse Coordination  
28 Committee of the Department of Consumer Affairs pursuant to  
29 Section 315, the guidelines of the Federation of State Physician  
30 Health Programs, Inc., as well as community standards of practice,  
31 including, but not limited to, criteria for acceptance of participants  
32 into the program and the refusal to accept a person as a participant  
33 into the program and the assigning of costs of participation and  
34 associated financial responsibilities of participants. In the event  
35 of any conflicts between the Uniform Standards Regarding  
36 Substance-Abusing Healing Arts Licensees as adopted by the  
37 Substance Abuse Coordination Committee of the Department of  
38 Consumer Affairs pursuant to Section 315 and the guidelines of  
39 the Federation of State Physician Health Programs, Inc., and  
40 community standards of practice, the Uniform Standards Regarding

1 Substance-Abusing Healing Arts Licensees as adopted by the  
2 Substance Abuse Coordination Committee of the Department of  
3 Consumer Affairs pursuant to Section 315 shall prevail.

4 830.8. (a) The department shall select a contractor for the  
5 Physician Health Program pursuant to a request for proposals, and  
6 the committee shall contract for a five-year term with that entity.  
7 The process for procuring the services for the program shall be  
8 administered by the department pursuant to Article 4 (commencing  
9 with Section 10335) of Chapter 2 of Part 2 of Division 2 of the  
10 Public Contract Code. However, the committee shall serve as the  
11 evaluation body for the procurement.

12 (b) The program vendor shall have expertise in the areas of  
13 substance or alcohol abuse, and mental disorders in health care  
14 professionals.

15 (c) The program vendor shall oversee clinical aspects of the  
16 program's operations. The program vendor shall have expertise  
17 in the diagnosis and treatment of alcohol and substance abuse and  
18 mental disorders in health care professionals.

19 (d) The program vendor shall monitor the monitoring entities  
20 that participating physicians and surgeons have retained for  
21 monitoring a participant's treatment and shall provide ongoing  
22 services to physicians and surgeons that resume practice.

23 (e) The program vendor shall have a system for immediately  
24 reporting physicians and surgeons who fail to meet the  
25 requirements of the program as provided in subdivision (e) of  
26 Section 830.10. This system shall ensure absolute confidentiality  
27 in the communication to the enforcement division of the board,  
28 and shall not provide this information to any other individual or  
29 entity unless authorized by the enrolled physician and surgeon.

30 (f) The contract entered into pursuant to this article shall also  
31 require the program vendor to do both of the following:

32 (1) Report annually to the committee statistics related to the  
33 program, including, but not limited to, the number of participants  
34 currently in the program, the number of participants referred by  
35 the board as a condition of probation, the number of participants  
36 who have successfully completed their agreement period, the  
37 number of participants terminated from the program, and the  
38 number of participants reported by the program pursuant to  
39 subdivision (e) of Section 830.10. However, in making that report,

1 the program shall not disclose any personally identifiable  
2 information relating to any participant.

3 (2) Submit to periodic audits and inspections of all operations,  
4 records, and management related to the program to ensure  
5 compliance with the requirements of this article and its  
6 implementing rules and regulations.

7 (g) In addition to the requirements of Section 830.16, the  
8 committee shall monitor compliance of the program with the  
9 requirements of this article. The committee or its designee may  
10 make periodic inspections and onsite visits with the vendor  
11 contracted to provide Physician Health Program services.

12 (h) Copies of the audits referenced in paragraph (2) of  
13 subdivision (f) shall be published and provided to the appropriate  
14 policy committees of the Legislature within 10 business days of  
15 publication. A copy shall also be made available to the public by  
16 posting a link on the committee's Internet Web site homepage no  
17 more than 10 business days after publication.

18 830.10. (a) A physician and surgeon shall, as a condition of  
19 participation in the Physician Health Program, enter into an  
20 individual agreement with the program and agree to pay expenses  
21 related to treatment, monitoring, laboratory tests, and other  
22 activities specified in the participant's written agreement with the  
23 program.

24 (b) The written agreement between the physician and surgeon  
25 and the program shall be consistent with the standards adopted by  
26 the committee pursuant to subdivision (e) of Section 830.6, and  
27 shall include all of the following:

28 (1) A jointly agreed-upon plan and mandatory conditions and  
29 procedures to monitor compliance with the program, including,  
30 but not limited to, an agreement to cease practice.

31 (2) Compliance with terms and conditions of treatment and  
32 monitoring.

33 (3) Limitations on practice.

34 (4) Conditions and terms for return to practice.

35 (5) Criteria for program completion.

36 (6) Criteria for termination of the participant from the program.

37 (7) A stipulation that expenses related to treatment, monitoring,  
38 laboratory tests, and other activities specified in the participant's  
39 written agreement with the program will be paid by the participant.

1 (c) In addition, if the physician and surgeon retains the services  
2 of a private monitoring entity, he or she shall agree to authorize  
3 the program vendor to receive reports from the private monitoring  
4 entity and to request information from the private monitoring entity  
5 regarding his or her treatment status. Except as provided in  
6 subdivisions (b), (d), and (e), and subdivision (e) of Section 830.8,  
7 a physician and surgeon's participation in the program pursuant  
8 to an agreement shall be confidential unless waived by the  
9 physician and surgeon.

10 (d) Any agreement entered into pursuant to this section shall  
11 not be considered a disciplinary action or order by the board, and  
12 shall not be disclosed to the committee or the board if both of the  
13 following apply:

14 (1) The physician and surgeon did not enroll in the program as  
15 a condition of probation or as a result of an action of the board.

16 (2) The physician and surgeon is in compliance with the  
17 conditions and procedures in the agreement.

18 (e) (1) The program shall immediately report the name of a  
19 participant to the board and the committee when it learns of the  
20 participant's failure to meet the requirements of the program,  
21 including failure to cease practice when required, failure to submit  
22 to evaluation, treatment, or biological testing when required, or a  
23 violation of the rules adopted by the committee pursuant to  
24 subdivision (e) of Section 830.6. The program shall also  
25 immediately report the name of a participant to the committee  
26 when it learns that the participant's impairment is not substantially  
27 alleviated through treatment, or if the participant withdraws or is  
28 terminated from the program prior to completion, or if, in the  
29 opinion of the program after a risk assessment is conducted, the  
30 participant is unable to practice medicine with reasonable skill and  
31 safety.

32 (2) Notwithstanding subdivision (e) of Section 830.8, the report  
33 shall provide sufficient information to permit the board to assess  
34 whether discipline or other action is required to protect the public.

35 (f) Except as otherwise provided in subdivisions (b), (c), (d),  
36 and (e) of Section 830.8, subdivision (e) of this section, and this  
37 subdivision, any oral or written information reported to the board  
38 pursuant to this section, including, but not limited to, any physician  
39 and surgeon's participation in the program and any agreement  
40 entered into pursuant to this article, shall remain confidential as

1 provided in subdivision (c) of Section 800, and shall not constitute  
2 a waiver of any existing evidentiary privileges under any other  
3 provision or rule of law. However, confidentiality regarding the  
4 physician and surgeon's participation in the program and of all  
5 information and records created by the program related to that  
6 participation shall not apply if the board has referred a participant  
7 as a condition of probation.

8 (g) Nothing in this section prohibits, requires, or otherwise  
9 affects the discovery or admissibility of evidence in an action by  
10 the board against a physician and surgeon based on acts or  
11 omissions within the course and scope of his or her practice.

12 (h) Any information received, developed, or maintained by the  
13 committee regarding a physician and surgeon in the program shall  
14 not be used for any other purposes.

15 830.12. (a) ~~The~~ *Beginning July 1, 2013, the* biennial license  
16 renewal fee established in subdivision (d) of Section 2435 shall  
17 increase by thirty-nine dollars and fifty cents (\$39.50) for purposes  
18 of this article, except those purposes specified in Section 830.10.  
19 The board shall, on a monthly basis, transfer the revenue generated  
20 from this increase to the trust fund described in subdivision (b).

21 (b) There is hereby established in the State Treasury the  
22 Physician Health, Awareness, and Monitoring Quality Trust Fund  
23 into which all revenue generated pursuant to subdivision (a) shall  
24 be deposited *and which shall be the sole source of funding for the*  
25 *program*. These funds shall be used, upon appropriation by the  
26 Legislature, exclusively for the purposes of this article, except  
27 those purposes specified in Section 830.10.

28 (c) Nothing in this section shall be construed to prohibit  
29 additional funding from private ~~sources~~ *contributions to the trust*  
30 *fund* from being used to support operations of the program or to  
31 support the establishment of the committee and the program.

32 (d) *The committee shall manage the program so as not to exceed*  
33 *the amount of funding and resources provided.*

34 830.13. *An applicant for a physician's and surgeon's certificate*  
35 *pursuant to Section 2080 shall be required to list on the application*  
36 *form whether he or she has participated or is participating in the*  
37 *program or in a program for alcohol or substance abuse in another*  
38 *state or jurisdiction.*

39 830.14. (a) The committee shall report to the department  
40 statistics received from the program pursuant to Section 830.8,

1 and the department shall, thereafter, report to the appropriate policy  
2 committees of the Legislature on or before October 1, 2014, and  
3 annually thereafter, the outcomes of the program, including, but  
4 not limited to, the number of individuals served, the number of  
5 participants currently in the program, the number of participants  
6 referred by the board as a condition of probation, the number of  
7 individuals who have successfully completed their agreement  
8 period, the number of participants terminated from the program,  
9 and the number of individuals reported to the board for  
10 noncompliance pursuant to subdivision (e) of Section 830.10.  
11 However, in making those reports, the committee and the  
12 department shall not disclose any personally identifiable  
13 information relating to any physician and surgeon participating in  
14 the program pursuant to an agreement entered into pursuant to  
15 Section 830.10.

16 (b) This section shall become inoperative on October 1, 2018,  
17 pursuant to Section 10231.5 of the Government Code.

18 830.16. (a) The committee shall biennially contract to perform  
19 an audit of the Physician Health Program and its vendors. This  
20 section is not intended to reduce the number of audits the  
21 committee may otherwise conduct. The initial audit shall  
22 commence two years after the award of an initial five-year contract.  
23 Under no circumstances shall General Fund revenue be used for  
24 this purpose.

25 (b) Any person or entity conducting the audit required by this  
26 section shall maintain the confidentiality of all records reviewed  
27 and information obtained in the course of conducting the audit and  
28 shall not disclose any information identifying any program  
29 participant.

30 (c) The biennial audit shall be completed by \_\_\_\_ and shall  
31 ascertain if the program is operating in conformance with the rules  
32 and regulations established by the committee.