

ASSEMBLY BILL

No. 268

Introduced by Assembly Member Matthews

February 8, 2005

An act to amend Section 810 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as introduced, Matthews. Unprofessional conduct.

Existing law provides that it is cause for automatic suspension or revocation of a license or certificate issued pursuant to specified provisions of law, including the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder.

This bill would delete a reference to the Osteopathic Act in these provisions.

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

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

1 SECTION 1. Section 810 of the Business and Professions
2 Code is amended to read:
3 810. (a) It shall constitute unprofessional conduct and
4 grounds for disciplinary action, including suspension or
5 revocation of a license or certificate, for a health care
6 professional to do any of the following in connection with his or
7 her professional activities:

1 (1) Knowingly present or cause to be presented any false or
2 fraudulent claim for the payment of a loss under a contract of
3 insurance.

4 (2) Knowingly prepare, make, or subscribe any writing, with
5 intent to present or use the same, or to allow it to be presented or
6 used in support of any false or fraudulent claim.

7 (b) It shall constitute cause for revocation or suspension of a
8 license or certificate for a health care professional to engage in
9 any conduct prohibited under Section 1871.4 of the Insurance
10 Code or Section 549 or 550 of the Penal Code.

11 (c) (1) It shall constitute cause for automatic suspension of a
12 license or certificate issued pursuant to Chapter 4 (commencing
13 with Section 1600), Chapter 5 (commencing with Section 2000),
14 Chapter 6.6 (commencing with Section 2900), Chapter 7
15 (commencing with Section 3000), or Chapter 9 (commencing
16 with Section 4000), or pursuant to the Chiropractic Act ~~or the~~
17 ~~Osteopathic Act~~, if a licensee or certificate holder has been
18 convicted of any felony involving fraud committed by the
19 licensee or certificate holder in conjunction with providing
20 benefits covered by worker's compensation insurance, or has
21 been convicted of any felony involving Medi-Cal fraud
22 committed by the licensee or certificate holder in conjunction
23 with the Medi-Cal program, including the Denti-Cal element of
24 the Medi-Cal program, pursuant to Chapter 7 (commencing with
25 Section 14000), or Chapter 8 (commencing with Section 14200),
26 of Part 3 of Division 9 of the Welfare and Institutions Code. The
27 board shall convene a disciplinary hearing to determine whether
28 or not the license or certificate shall be suspended, revoked, or
29 some other disposition shall be considered, including, but not
30 limited to, revocation with the opportunity to petition for
31 reinstatement, suspension, or other limitations on the license or
32 certificate as the board deems appropriate.

33 (2) It shall constitute cause for automatic suspension and for
34 revocation of a license or certificate issued pursuant to Chapter 4
35 (commencing with Section 1600), Chapter 5 (commencing with
36 Section 2000), Chapter 6.6 (commencing with Section 2900),
37 Chapter 7 (commencing with Section 3000), or Chapter 9
38 (commencing with Section 4000), or pursuant to the Chiropractic
39 Act ~~or the Osteopathic Act~~, if a licensee or certificate holder has
40 more than one conviction of any felony arising out of separate

1 prosecutions involving fraud committed by the licensee or
2 certificate holder in conjunction with providing benefits covered
3 by worker’s compensation insurance, or in conjunction with the
4 Medi-Cal program, including the Denti-Cal element of the
5 Medi-Cal program pursuant to Chapter 7 (commencing with
6 Section 14000), or Chapter 8 (commencing with Section 14200),
7 of Part 3 of Division 9 of the Welfare and Institutions Code. The
8 board shall convene a disciplinary hearing to revoke the license
9 or certificate and an order of revocation shall be issued unless the
10 board finds mitigating circumstances to order some other
11 disposition.

12 (3) It is the intent of the Legislature that paragraph (2) apply to
13 a licensee or certificate holder who has one or more convictions
14 prior to January 1, 2004, as provided in this subdivision.

15 (4) Nothing in this subdivision shall preclude a board from
16 suspending or revoking a license or certificate pursuant to any
17 other provision of law.

18 (5) “Board,” as used in this subdivision, means the Dental
19 Board of California, the Medical Board of California, the Board
20 of Psychology, the State Board of Optometry, the California
21 State Board of Pharmacy, the Osteopathic Medical Board of
22 California, and the State Board of Chiropractic Examiners.

23 (6) “More than one conviction,” as used in this subdivision,
24 means that the licensee or certificate holder has one or more
25 convictions prior to January 1, 2004, and at least one conviction
26 on or after that date, or the licensee or certificate holder has two
27 or more convictions on or after January 1, 2004. However, a
28 licensee or certificate holder who has one or more convictions
29 prior to January 1, 2004, but who has no convictions and is
30 currently licensed or holds a certificate after that date, does not
31 have “more than one conviction” for the purposes of this
32 subdivision.

33 (d) As used in this section, health care professional means any
34 person licensed or certified pursuant to this division, or licensed
35 pursuant to the Osteopathic Initiative Act, or the Chiropractic
36 Initiative Act.

O