

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 446

Introduced by Assembly Member Negrete McLeod
(Principal coauthor: Senator Figueroa)

February 15, 2005

~~An act to amend Section 922 of the Business and Professions Code, relating to medicine.~~ *An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 446, as amended, Negrete McLeod. ~~Physicians and surgeons~~ *Licenses: settlement agreements.*

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct is not to be reported to the disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency.

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs, or an entity acting on behalf of a licensee, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program. A licensee in violation of these provisions would be subject to disciplinary action by the board, bureau, or program.

~~Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons. Under existing law, a physician and surgeon whose license has been expired for less than 5 years may be licensed under the Health Care Professional Disaster Response Act if he or she meets specified requirements.~~

~~This bill would also require that the licensee practiced medicine or podiatry for 20 or more years in this state, has reached retirement age under the Social Security Act, and customarily provides free services.~~

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 922 of the Business and Professions~~
 2 ~~Code is amended to read:~~
 3 ~~SECTION 1. Section 143.5 is added to the Business and~~
 4 ~~Professions Code, to read:~~
 5 ~~143.5. (a) No licensee who is regulated by a board, bureau,~~
 6 ~~or program within the Department of Consumer Affairs, nor an~~
 7 ~~entity acting on behalf of a licensee, shall include or permit to be~~
 8 ~~included a provision in an agreement to settle a civil dispute,~~
 9 ~~whether the agreement is made before or after the~~
 10 ~~commencement of a civil action, that prohibits the other party in~~
 11 ~~that dispute from contacting, filing a complaint with, or~~
 12 ~~cooperating with the department, board, bureau, or program or~~
 13 ~~that requires the other party to withdraw a complaint from the~~
 14 ~~department, board, bureau, or program. A provision of that~~
 15 ~~nature is void as against public policy, and any licensee who~~
 16 ~~includes or permits to be included a provision of that nature in a~~
 17 ~~settlement agreement is subject to disciplinary action by the~~
 18 ~~board, bureau, or program.~~
 19 ~~(b) As used in this section, “board” shall have the same~~
 20 ~~meaning as defined in Section 22, and “licensee” means a~~
 21 ~~person that has been granted a license, as that term is defined in~~
 22 ~~Section 23.7.~~
 23 ~~922. (a) A physician and surgeon who satisfies the~~
 24 ~~requirements of subdivision (d) but whose license has been~~
 25 ~~expired for less than five years may be licensed under this~~
 26 ~~chapter.~~

- 1 ~~(b) To be licensed under this chapter, a physician and surgeon~~
2 ~~shall complete an application, on a form prescribed by the~~
3 ~~Medical Board of California, and submit it to the board, along~~
4 ~~with the following:~~
- 5 ~~(1) Documentation that the applicant has completed the~~
6 ~~continuing education requirements described in Article 10~~
7 ~~(commencing with Section 2190) of Chapter 5 for each renewal~~
8 ~~period during which the applicant was not licensed.~~
- 9 ~~(2) A complete set of fingerprints as required by Sections 144~~
10 ~~and 2082, together with the fee required for processing those~~
11 ~~fingerprints.~~
- 12 ~~(c) An applicant shall not be required to pay any licensing,~~
13 ~~delinquency, or penalty fees for the issuance of a license under~~
14 ~~this chapter.~~
- 15 ~~(d) A licensee who has practiced medicine or podiatry for 20~~
16 ~~years or more in this state, has reached the age of retirement~~
17 ~~under the Social Security Act, and customarily provides his or~~
18 ~~her services free of charge to any person, organization, or agency~~
19 ~~may be licensed under subdivision (a). If charges are made, the~~
20 ~~charges shall be nominal, and the aggregate of the charges in any~~
21 ~~single calendar year shall not be in an amount that would make~~
22 ~~the licensee ineligible for full social security benefits.~~