

AMENDED IN ASSEMBLY JUNE 13, 2006

SENATE BILL

No. 1438

Introduced by Senator Figueroa

February 22, 2006

An act to amend Sections 801, 801.1, 802, ~~803, 803.1, and 804 802.1, 803, 803.1, 803.5, 804, 805.2, 2027, and 2435~~ of, to add Section 801.01 to, ~~and~~ to repeal Sections 802.3, 803.2, 803.3, and 804.5 of, *and to repeal and add Section 2026 of*, the Business and Professions Code, *and to amend Section 12529.6 of the Government Code*, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1438, as amended, Figueroa. Healing arts: reporting requirements.

Existing law creates the Medical Board of California (Medical Board) and the Osteopathic Medical Board of California that issue a physician and surgeon's certificate to qualified applicants and regulate their practice. Existing law also creates the California Board of Podiatric Medicine (Podiatric Board) within the jurisdiction of the Medical Board, and the Division of Licensing of the Medical Board issues a certificate to practice podiatric medicine to qualified applicants while the Podiatric Board regulates their practice. Existing law requires an insurer providing professional liability insurance to a physician and surgeon and a governmental agency that self-insures a physician and surgeon or, if uninsured, the physician and surgeon himself or herself, to report information concerning settlements, arbitration awards, and judgments in malpractice actions to the practitioner's licensing board. Under existing law, those parties and a podiatrist are also required to report this information to the

practitioner's licensing board if the settlement, arbitration award, or judgment is entered against, or paid by, the practitioner's employer, as defined.

This bill would recast these reporting provisions and would specify their application to actions or claims involving a podiatrist, requiring that they be reported to the Podiatric Board.

Existing law provides for study of the peer review process of healing arts practitioners by an independent entity, to be completed by July 31, 2007.

This bill would classify the case files used in that study as confidential, and would extend the completion date of the study to July 31, 2008.

Existing law requires, to the extent funds are available, the Little Hoover Commission to study the role of public disclosure of physician misconduct.

This bill would instead require the California Research Bureau to conduct the study, and would specify additional requirements for that study.

Existing law requires the Medical Board of California to post certain information on the Internet, including misdemeanors committed by physicians and surgeons that are substantially related to the qualifications, functions, or duties of a physician and surgeon. The posting requirement does not become operative until legislation is enacted that defines or identifies misdemeanors that are substantially related.

This bill would delete that contingency, and would also require the board to consider certain factors when determining whether a conviction is substantially related.

Existing law requires the Joint Legislative Audit Committee to select an independent entity to conduct a review of the Medical Board's financial status by January 1, 2007.

This bill would instead require the Bureau of State Audits to conduct the review by July 1, 2007.

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. It is the intent of the Legislature, through a*
- 2 *request in 2008 to the Joint Legislative Audit Committee, and*

1 *thereafter every two years prior to the inoperative date set forth*
2 *in Section 2020 of the Business and Professions Code, that the*
3 *Bureau of State Audits conduct a thorough performance audit of*
4 *the Medical Board of California to evaluate the effectiveness and*
5 *efficiency of the programs, and make recommendations*
6 *regarding the continuation of its programs and any changes or*
7 *reforms required to assure consumer protection through effective*
8 *licensing and discipline of physicians and surgeons. The audits*
9 *shall be completed in time to allow for the recommendations to*
10 *be addressed in the legislation to extend or delete the repeal date*
11 *of that section, if that legislation is introduced. The board and its*
12 *staff shall cooperate with the audit, and the board shall provide*
13 *data, information, and case files as requested by the auditor to*
14 *perform all of its duties. The provision of confidential data,*
15 *information, and case files by the board to the auditor shall not*
16 *constitute a waiver of any exemption from disclosure or*
17 *discovery or of any confidentiality protection or privilege*
18 *otherwise provided by law that is applicable to the data,*
19 *information, or case files.*

20 **SECTION 1.**

21 *SEC. 2.* Section 801 of the Business and Professions Code is
22 amended to read:

23 801. (a) ~~Every~~ *Except as provided in Section 801.01 and*
24 *subdivisions (b), (c), and (d) of this section, every insurer*
25 *providing professional liability insurance to a person who holds a*
26 *license, certificate, or similar authority from or under any agency*
27 *mentioned in subdivision (a) of Section 800* ~~(except as provided~~
28 ~~in subdivisions (b), (c), and (d))~~ *shall send a complete report to*
29 *that agency as to any settlement or arbitration award over three*
30 *thousand dollars (\$3,000) of a claim or action for damages for*
31 *death or personal injury caused by that person's negligence,*
32 *error, or omission in practice, or by his or her rendering of*
33 *unauthorized professional services. The report shall be sent*
34 *within 30 days after the written settlement agreement has been*
35 *reduced to writing and signed by all parties thereto or within 30*
36 *days after service of the arbitration award on the parties.*

37 (b) Every insurer providing professional liability insurance to
38 a person licensed pursuant to Chapter 13 (commencing with
39 Section 4980) or Chapter 14 (commencing with Section 4990)
40 shall send a complete report to the Board of Behavioral Science

1 Examiners as to any settlement or arbitration award over ten
2 thousand dollars (\$10,000) of a claim or action for damages for
3 death or personal injury caused by that person’s negligence,
4 error, or omission in practice, or by his or her rendering of
5 unauthorized professional services. The report shall be sent
6 within 30 days after the written settlement agreement has been
7 reduced to writing and signed by all parties thereto or within 30
8 days after service of the arbitration award on the parties.

9 (c) Every insurer providing professional liability insurance to
10 a dentist licensed pursuant to Chapter 4 (commencing with
11 Section 1600) shall send a complete report to the Dental Board of
12 California as to any settlement or arbitration award over ten
13 thousand dollars (\$10,000) of a claim or action for damages for
14 death or personal injury caused by that person’s negligence,
15 error, or omission in practice, or rendering of unauthorized
16 professional services. The report shall be sent within 30 days
17 after the written settlement agreement has been reduced to
18 writing and signed by all parties thereto or within 30 days after
19 service of the arbitration award on the parties.

20 (d) Every insurer providing liability insurance to a veterinarian
21 licensed pursuant to Chapter 11 (commencing with Section 4800)
22 shall send a complete report to the Veterinary Medical Board of
23 any settlement or arbitration award over ten thousand dollars
24 (\$10,000) of a claim or action for damages for death or injury
25 caused by that person’s negligence, error, or omission in practice,
26 or rendering of unauthorized professional service. The report
27 shall be sent within 30 days after the written settlement
28 agreement has been reduced to writing and signed by all parties
29 thereto or within 30 days after service of the arbitration award on
30 the parties.

31 (e) The insurer shall notify the claimant, or if the claimant is
32 represented by counsel, the insurer shall notify the claimant’s
33 attorney, that the report required by subdivision (a), (b), or (c)
34 has been sent to the agency. If the attorney has not received this
35 notice within 45 days after the settlement was reduced to writing
36 and signed by all of the parties, the arbitration award was served
37 on the parties, or the date of entry of the civil judgment, the
38 attorney shall make the report to the agency.

39 (f) Notwithstanding any other provision of law, no insurer
40 shall enter into a settlement without the written consent of the

1 insured, except that this prohibition shall not void any settlement
2 entered into without that written consent. The requirement of
3 written consent shall only be waived by both the insured and the
4 insurer. This section shall only apply to a settlement on a policy
5 of insurance executed or renewed on or after January 1, 1971.

6 ~~SEC. 2.~~

7 SEC. 3. Section 801.01 is added to the Business and
8 Professions Code, to read:

9 801.01. (a) ~~A report, as described in subdivision (f),~~
10 *complete report* shall be sent to the Medical Board of California,
11 the Osteopathic Medical Board, or the California Board of
12 Podiatric Medicine, with respect to a licensee of the board as to
13 the following:

14 (1) A settlement over thirty thousand dollars (\$30,000) or
15 arbitration award of any amount or a civil judgment of any
16 amount, whether or not vacated by a settlement after entry of the
17 judgment, that was not reversed on appeal, of a claim or action
18 for damages for death or personal injury caused by the licensee's
19 *alleged* negligence, error, or omission in practice, or by his or her
20 rendering of unauthorized professional services.

21 (2) A settlement over thirty thousand dollars (\$30,000) if it is
22 based on the licensee's *alleged* negligence, error, or omission in
23 practice, or by the licensee's rendering of unauthorized
24 professional services, and a party to the settlement is a
25 corporation, medical group, partnership, or other corporate entity
26 in which the licensee has an ownership interest or that employs
27 or contracts with the licensee.

28 (b) ~~The report described in subdivision (a) shall be sent by one~~
29 ~~of the following parties:~~ *the following:*

30 (1) The insurer providing professional liability insurance to the
31 licensee ~~for the matter described in the report.~~

32 (2) The licensee, or his or her counsel, if the licensee does not
33 possess professional liability insurance ~~for the matter described~~
34 ~~in the report.~~

35 (3) A state or local governmental agency that self-insures the
36 licensee ~~for the matter described in the report.~~

37 ~~(4) The appropriate party described in paragraph (1), (2), or~~
38 ~~(3) shall send the report required by subdivision (a) if the~~

39 (c) *The entity, person, or licensee obligated to report pursuant*
40 *to subdivision (b) shall send the complete report if the judgment,*

1 settlement agreement, or arbitration award is entered against or
2 paid by the employer of the licensee and not entered against or
3 paid by the licensee. “Employer,” as used in this paragraph,
4 means a professional corporation, a group practice, a health care
5 facility or clinic licensed or exempt from licensure under the
6 Health and Safety Code, a licensed health care service plan, a
7 medical care foundation, an educational institution, a
8 professional institution, a professional school or college, a
9 general law corporation, a public entity, or a nonprofit
10 organization that employs, retains, or contracts with a licensee
11 referred to in this section. Nothing in this paragraph shall be
12 construed to authorize the employment of, or contracting with,
13 any licensee in violation of Section 2400.

14 ~~(e) The report described in subdivision (a)~~

15 *(d) The report* shall be sent to the Medical Board of California,
16 the Osteopathic Medical Board of California, or the California
17 Board of Podiatric Medicine, as appropriate, within 30 days after
18 the written settlement agreement has been reduced to writing and
19 signed by all parties thereto, within 30 days after service of the
20 arbitration award on the parties, or within 30 days after the date
21 of entry of the civil judgment.

22 ~~(d)~~

23 *(e)* If an insurer is required under subdivision (b) to send the
24 report, the insurer shall notify the claimant, or if the claimant is
25 represented by counsel, the claimant’s counsel, that the insurer
26 has sent the report to the Medical Board of California, the
27 Osteopathic Medical Board of California, or the California Board
28 of Podiatric Medicine. If the claimant, or his or her counsel, has
29 not received this notice within 45 days after the settlement was
30 reduced to writing and signed by all of the parties or the
31 arbitration award was served on the parties or the date of entry of
32 the civil judgment, the claimant or the claimant’s counsel shall
33 make the report to the appropriate board.

34 ~~(e)~~

35 *(f)* If the licensee or his or her counsel is required under
36 subdivision (b) to send the report, the licensee or his or her
37 counsel shall send a copy of the report to the claimant or to his or
38 her counsel if he or she is represented by counsel. If the claimant
39 or his or her counsel has not received a copy of the report within
40 45 days after the settlement was reduced to writing and signed by

1 all of the parties or the arbitration award was served on the
2 parties or the date of entry of the civil judgment, the claimant or
3 the claimant's counsel shall make the report ~~required by~~
4 ~~subdivision (a)~~ to the appropriate board. ~~Failure~~

5 (g) *Failure* of the licensee or claimant, or counsel representing
6 the licensee or claimant, to comply with ~~this subdivision~~
7 *subdivision (f)* is a public offense punishable by a fine of not less
8 than fifty dollars (\$50) and not more than five hundred dollars
9 (\$500). A knowing and intentional failure to comply with ~~this~~
10 ~~subdivision~~ *subdivision (f)* or a conspiracy or collusion not to
11 comply with ~~this subdivision~~ *subdivision (f)*, or to hinder or
12 impede any other person in the compliance, is a public offense
13 punishable by a fine of not less than five thousand dollars
14 (\$5,000) and not more than fifty thousand dollars (\$50,000).

15 (f)

16 (h) (1) The Medical Board of California, the Osteopathic
17 Medical Board of California, and the California Board of
18 Podiatric Medicine, may develop a prescribed form for the report
19 ~~required by this section.~~

20 (2) The report ~~required by this section~~ shall include *shall be*
21 *deemed complete only if it includes* the following information:

22 (A) The name and last known business and residential
23 addresses of every plaintiff or claimant involved in the matter,
24 whether or not the person received an award under the
25 settlement, arbitration, or judgment.

26 (B) The name and last known business and residential address
27 of every physician and surgeon or doctor of podiatric medicine
28 who was alleged to have acted improperly, whether or not that
29 person was a named defendant in the action and whether or not
30 that person was required to pay any damages pursuant to the
31 settlement, arbitration award, or judgment.

32 (C) The name, address, and principal place of business of
33 every insurer providing professional liability insurance to any
34 person described in subparagraph (B), and the insured's policy
35 number.

36 (D) The name of the court in which the action or any part of
37 the action was filed, and the date of filing and case number of
38 each action.

39 (E) A brief description or summary of the facts of each claim,
40 charge, or allegation, including the date of occurrence.

1 (F) The name and last known business address of each
2 attorney who represented a party in the settlement, arbitration, or
3 civil action, including the name of the client he or she
4 represented.

5 (G) The amount of the judgment and the date of its entry; the
6 amount of the arbitration award, the date of its service on the
7 parties, and a copy of the award document; or the amount of the
8 settlement and the date it was reduced to writing and signed by
9 all parties. *If an otherwise reportable settlement is entered into*
10 *after a reportable judgment or arbitration award is issued, the*
11 *report shall include both the settlement and the judgment or*
12 *award.*

13 (H) The specialty or subspecialty of the physician and surgeon
14 or the doctor of podiatric medicine who was the subject of the
15 claim or action.

16 (I) Any other information the Medical Board of California, the
17 Osteopathic Medical Board of California, or the California Board
18 of Podiatric Medicine may, by regulation, require.

19 (3) Every professional liability insurer, self-insured
20 governmental agency, or licensee or his or her counsel that
21 makes a report under this section and has received a copy of any
22 written *or electronic* patient medical or hospital records prepared
23 by the treating physician and surgeon or podiatrist, or the staff of
24 the treating physician and surgeon, podiatrist, or hospital,
25 describing the medical condition, history, care, or treatment of
26 the person whose death or injury is the subject of the report, or a
27 copy of any deposition in the matter that discusses the care,
28 treatment, or medical condition of the person, shall include with
29 the report, copies of the records and depositions, subject to
30 reasonable costs to be paid by the Medical Board of California,
31 the Osteopathic Medical Board of California, or the California
32 Board of Podiatric Medicine. If confidentiality is required by
33 court order and, as a result, the reporter is unable to provide the
34 records and depositions, documentation to that effect shall
35 accompany the original report. The applicable board may, upon
36 prior notification of the parties to the action, petition the
37 appropriate court for modification of any protective order to
38 permit disclosure to the board. A professional liability insurer,
39 self-insured governmental agency, or licensee or his or her
40 counsel shall maintain the records and depositions referred to in

1 this paragraph for at least one year from the date of filing of the
2 report required by this section.

3 ~~(g)~~

4 (i) If the board, within 60 days of its receipt of a report filed
5 under this section, notifies a person named in the report, that
6 person shall maintain for the period of three years from the date
7 of filing of the report any records he or she has as to the matter in
8 question and shall make those records available upon request to
9 the board to which the report was sent.

10 ~~(h)~~

11 (j) Notwithstanding any other provision of law, no insurer
12 shall enter into a settlement without the written consent of the
13 insured, except that this prohibition shall not void any settlement
14 entered into without that written consent. The requirement of
15 written consent shall only be waived by both the insured and the
16 insurer.

17 ~~SEC. 3.~~

18 SEC. 4. Section 801.1 of the Business and Professions Code
19 is amended to read:

20 801.1. (a) Every state or local governmental agency that self
21 insures a person who holds a license, certificate or similar
22 authority from or under any agency mentioned in subdivision (a)
23 of Section 800 (except a person licensed pursuant to Chapter 3
24 (commencing with Section 1200) or Chapter 5 (commencing
25 with Section 2000) or the Osteopathic Initiative Act) shall send a
26 complete report to that agency as to any settlement or arbitration
27 award over three thousand dollars (\$3,000) of a claim or action
28 for damages for death or personal injury caused by that person's
29 negligence, error or omission in practice, or rendering of
30 unauthorized professional services. The report shall be sent
31 within 30 days after the written settlement agreement has been
32 reduced to writing and signed by all parties thereto or within 30
33 days after service of the arbitration award on the parties.

34 (b) Every state or local governmental agency that self-insures
35 a person licensed pursuant to Chapter 13 (commencing with
36 Section 4980) or Chapter 14 (commencing with Section 4990)
37 shall send a complete report to the Board of Behavioral Science
38 Examiners as to any settlement or arbitration award over ten
39 thousand dollars (\$10,000) of a claim or action for damages for
40 death or personal injury caused by that person's negligence,

1 error, or omission in practice, or rendering of unauthorized
2 professional services. The report shall be sent within 30 days
3 after the written settlement agreement has been reduced to
4 writing and signed by all parties thereto or within 30 days after
5 service of the arbitration award on the parties.

6 ~~SEC. 4.~~

7 *SEC. 5.* Section 802 of the Business and Professions Code is
8 amended to read:

9 802. (a) Every settlement, judgment, or arbitration award
10 over three thousand dollars (\$3,000) of a claim or action for
11 damages for death or personal injury caused by negligence, error
12 or omission in practice, or by the unauthorized rendering of
13 professional services, by a person who holds a license,
14 certificate, or other similar authority from an agency mentioned
15 in subdivision (a) of Section 800 (except a person licensed
16 pursuant to Chapter 3 (commencing with Section 1200) or
17 Chapter 5 (commencing with Section 2000) of Division 2) or the
18 Osteopathic Initiative Act) who does not possess professional
19 liability insurance as to that claim shall, within 30 days after the
20 written settlement agreement has been reduced to writing and
21 signed by all the parties thereto or 30 days after service of the
22 judgment or arbitration award on the parties, be reported to the
23 agency that issued the license, certificate, or similar authority. A
24 complete report shall be made by appropriate means by the
25 person or his or her counsel, with a copy of the communication to
26 be sent to the claimant through his or her counsel if the person is
27 so represented, or directly if he or she is not. If, within 45 days of
28 the conclusion of the written settlement agreement or service of
29 the judgment or arbitration award on the parties, counsel for the
30 claimant (or if the claimant is not represented by counsel, the
31 claimant himself or herself) has not received a copy of the report,
32 he or she shall himself or herself make the complete report.
33 Failure of the licensee or claimant (or, if represented by counsel,
34 their counsel) to comply with this section is a public offense
35 punishable by a fine of not less than fifty dollars (\$50) or more
36 than five hundred dollars (\$500). Knowing and intentional failure
37 to comply with this section or conspiracy or collusion not to
38 comply with this section, or to hinder or impede any other person
39 in the compliance, is a public offense punishable by a fine of not

1 less than five thousand dollars (\$5,000) nor more than fifty
2 thousand dollars (\$50,000).

3 (b) Every settlement, judgment, or arbitration award over ten
4 thousand dollars (\$10,000) of a claim or action for damages for
5 death or personal injury caused by negligence, error, or omission
6 in practice, or by the unauthorized rendering of professional
7 services, by a marriage and family therapist or clinical social
8 worker licensed pursuant to Chapter 13 (commencing with
9 Section 4980) or Chapter 14 (commencing with Section 4990)
10 who does not possess professional liability insurance as to that
11 claim shall within 30 days after the written settlement agreement
12 has been reduced to writing and signed by all the parties thereto
13 or 30 days after service of the judgment or arbitration award on
14 the parties be reported to the agency that issued the license,
15 certificate, or similar authority. A complete report shall be made
16 by appropriate means by the person or his or her counsel, with a
17 copy of the communication to be sent to the claimant through his
18 or her counsel if he or she is so represented, or directly if he or
19 she is not. If, within 45 days of the conclusion of the written
20 settlement agreement or service of the judgment or arbitration
21 award on the parties, counsel for the claimant (or if he or she is
22 not represented by counsel, the claimant himself or herself) has
23 not received a copy of the report, he or she shall himself or
24 herself make a complete report. Failure of the marriage and
25 family therapist or clinical social worker or claimant (or, if
26 represented by counsel, their counsel) to comply with this section
27 is a public offense punishable by a fine of not less than fifty
28 dollars (\$50) nor more than five hundred dollars (\$500).
29 Knowing and intentional failure to comply with this section, or
30 conspiracy or collusion not to comply with this section or to
31 hinder or impede any other person in that compliance, is a public
32 offense punishable by a fine of not less than five thousand dollars
33 (\$5,000) nor more than fifty thousand dollars (\$50,000).

34 *SEC. 6. Section 802.1 of the Business and Professions Code*
35 *is amended to read:*

36 802.1. (a) A physician and surgeon, *osteopathic physician*
37 *and surgeon, and a doctor of podiatric medicine* shall report
38 either of the following to the ~~Medical Board of California~~ *entity*
39 *that issued his or her license* in writing within 30 days:

1 (1) The bringing of an indictment or information charging a
2 felony against the ~~physician and surgeon licensee~~.

3 (2) The conviction of the ~~physician and surgeon licensee~~,
4 including any verdict of guilty, or plea of guilty or no contest, of
5 any felony or misdemeanor. ~~A physician and surgeon shall report~~
6 ~~only those misdemeanors that are substantially related to the~~
7 ~~qualifications, functions, or duties of a physician and surgeon~~
8 ~~defined or identified by the Legislature pursuant to subdivision~~
9 ~~(d) of Section 2027.~~

10 (b) Failure to make a report required by this section shall be a
11 public offense punishable by a fine not to exceed five thousand
12 dollars (\$5,000).

13 ~~SEC. 5.~~

14 ~~SEC. 7.~~ Section 802.3 of the Business and Professions Code
15 is repealed.

16 ~~SEC. 6.~~

17 ~~SEC. 8.~~ Section 803 of the Business and Professions Code is
18 amended to read:

19 803. (a) Except as provided in subdivision (b), within 10
20 days after a judgment by a court of this state that a person who
21 holds a license, certificate, or other similar authority from the
22 Board of Behavioral Science Examiners or from an agency
23 mentioned in subdivision (a) of Section 800 (except a person
24 licensed pursuant to Chapter 3 (commencing with Section 1200))
25 has committed a crime, or is liable for any death or personal
26 injury resulting in a judgment for an amount in excess of thirty
27 thousand dollars (\$30,000) caused by his or her negligence, error
28 or omission in practice, or his or her rendering unauthorized
29 professional services, the clerk of the court that rendered the
30 judgment shall report that fact to the agency that issued the
31 license, certificate, or other similar authority.

32 (b) For purposes of a physician and surgeon, *osteopathic*
33 *physician and surgeon, or doctor of podiatric medicine*, who ~~has~~
34 ~~committed a crime, or~~ is liable for any death or personal injury
35 resulting in a judgment of any amount caused by his or her
36 negligence, error or omission in practice, or his or her rendering
37 unauthorized professional services, the clerk of the court that
38 rendered the judgment shall report that fact to the agency that
39 issued the license.

1 ~~SEC. 7.~~

2 *SEC. 9.* Section 803.1 of the Business and Professions Code
3 is amended to read:

4 803.1. (a) Notwithstanding any other provision of law, the
5 Medical Board of California, the Osteopathic Medical Board of
6 California, and the California Board of Podiatric Medicine shall
7 disclose to an inquiring member of the public information
8 regarding any enforcement actions taken against a licensee by
9 either board or by another state or jurisdiction, including all of
10 the following:

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

18 (b) Notwithstanding any other provision of law, in addition to
19 the information provided in subdivision (a), the Medical Board of
20 California, the Osteopathic Medical Board of California, and the
21 California Board of Podiatric Medicine shall disclose to an
22 inquiring member of the public all of the following:

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

30 (2) (A) All settlements in the possession, custody, or control
31 of the board shall be disclosed for a licensee in the low-risk
32 category if there are three or more settlements for that licensee
33 within the last 10 years, except for settlements by a licensee
34 regardless of the amount paid where (i) the settlement is made as
35 a part of the settlement of a class claim, (ii) the licensee paid in
36 settlement of the class claim the same amount as the other
37 licensees in the same class or similarly situated licensees in the
38 same class, and (iii) the settlement was paid in the context of a
39 case where the complaint that alleged class liability on behalf of
40 the licensee also alleged a products liability class action cause of

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

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

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

28 (ii) Reporting the number of years the licensee has been in
29 practice.

30 (iii) Reporting the total number of licensees in that specialty or
31 subspecialty, the number of those who have entered into a
32 settlement agreement, and the percentage that number represents
33 of the total number of licensees in the specialty or subspecialty.

34 (3) Current American Board of Medical Specialty certification
35 or board equivalent as certified by the Medical Board of
36 California, the Osteopathic Medical Board of California, or the
37 California Board of Podiatric Medicine.

38 (4) Approved postgraduate training.

39 (5) Status of the license of a licensee. By January 1, 2004, the
40 Medical Board of California, the Osteopathic Medical Board of

1 California, and the California Board of Podiatric Medicine shall
2 adopt regulations defining the status of a licensee. The board
3 shall employ this definition when disclosing the status of a
4 licensee pursuant to Section 2027.

5 (6) Any summaries of hospital disciplinary actions that result
6 in the termination or revocation of a licensee’s staff privileges for
7 medical disciplinary cause or reason.

8 (c) Notwithstanding any other provision of law, the Medical
9 Board of California, the Osteopathic Medical Board of
10 California, and the California Board of Podiatric Medicine shall
11 disclose to an inquiring member of the public information
12 received ~~pursuant to subdivision (b) of Section 803~~ regarding
13 felony convictions of a physician and surgeon or doctor of
14 podiatric medicine.

15 (d) The Medical Board of California, the Osteopathic Medical
16 Board of California, and the California Board of Podiatric
17 Medicine may formulate appropriate disclaimers or explanatory
18 statements to be included with any information released, and may
19 by regulation establish categories of information that need not be
20 disclosed to an inquiring member of the public because that
21 information is unreliable or not sufficiently related to the
22 licensee’s professional practice. The Medical Board of
23 California, the Osteopathic Medical Board of California, and the
24 California Board of Podiatric Medicine shall include the
25 following statement when disclosing information concerning a
26 settlement:

27 “Some studies have shown that there is no significant
28 correlation between malpractice history and a doctor’s
29 competence. At the same time, the State of California believes
30 that consumers should have access to malpractice information. In
31 these profiles, the State of California has given you information
32 about both the malpractice settlement history for the doctor’s
33 specialty and the doctor’s history of settlement payments only if
34 in the last 10 years, the doctor, if in a low-risk specialty, has
35 three or more settlements or the doctor, if in a high-risk specialty,
36 has four or more settlements. The State of California has
37 excluded some class action lawsuits because those cases are
38 commonly related to systems issues such as product liability,
39 rather than questions of individual professional competence and
40 because they are brought on a class basis where the economic

1 incentive for settlement is great. The State of California has
2 placed payment amounts into three statistical categories: below
3 average, average, and above average compared to others in the
4 doctor's specialty. To make the best health care decisions, you
5 should view this information in perspective. You could miss an
6 opportunity for high-quality care by selecting a doctor based
7 solely on malpractice history.

8 When considering malpractice data, please keep in mind:

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

14 This report reflects data only for settlements made on or after
15 January 1, 2003. Moreover, it includes information concerning
16 those settlements for a 10-year period only. Therefore, you
17 should know that a doctor may have made settlements in the 10
18 years immediately preceding January 1, 2003, that are not
19 included in this report. After January 1, 2013, for doctors
20 practicing less than 10 years, the data covers their total years of
21 practice. You should take into account the effective date of
22 settlement disclosure as well as how long the doctor has been in
23 practice when considering malpractice averages.

24 The incident causing the malpractice claim may have happened
25 years before a payment is finally made. Sometimes, it takes a
26 long time for a malpractice lawsuit to settle. Some doctors work
27 primarily with high-risk patients. These doctors may have
28 malpractice settlement histories that are higher than average
29 because they specialize in cases or patients who are at very high
30 risk for problems.

31 Settlement of a claim may occur for a variety of reasons that do
32 not necessarily reflect negatively on the professional competence
33 or conduct of the doctor. A payment in settlement of a medical
34 malpractice action or claim should not be construed as creating a
35 presumption that medical malpractice has occurred.

36 You may wish to discuss information in this report and the
37 general issue of malpractice with your doctor.”

38 (e) The Medical Board of California, the Osteopathic Medical
39 Board of California, and the California Board of Podiatric
40 Medicine shall, by regulation, develop standard terminology that

1 accurately describes the different types of disciplinary filings and
2 actions to take against a licensee as described in paragraphs (1) to
3 (5), inclusive, of subdivision (a). In providing the public with
4 information about a licensee via the Internet pursuant to Section
5 2027, the Medical Board of California, the Osteopathic Medical
6 Board of California, and the California Board of Podiatric
7 Medicine shall not use the terms “enforcement,” “discipline,” or
8 similar language implying a sanction unless the physician and
9 surgeon has been the subject of one of the actions described in
10 paragraphs (1) to (5), inclusive, of subdivision (a).

11 (f) The Medical Board of California shall adopt regulations no
12 later than July 1, 2003, designating each specialty and
13 subspecialty practice area as either high risk or low risk. In
14 promulgating these regulations, the board shall consult with
15 commercial underwriters of medical malpractice insurance
16 companies, health care systems that self-insure physicians and
17 surgeons, and representatives of the California medical specialty
18 societies. The board shall utilize the carriers’ statewide data to
19 establish the two risk categories and the averages required by
20 subparagraph (B) of paragraph (2) of subdivision (b). Prior to
21 issuing regulations, the board shall convene public meetings with
22 the medical malpractice carriers, self-insurers, and specialty
23 representatives.

24 (g) The Medical Board of California, the Osteopathic Medical
25 Board of California, and the California Board of Podiatric
26 Medicine shall provide each licensee with a copy of the text of
27 any proposed public disclosure authorized by this section prior to
28 release of the disclosure to the public. The licensee shall have 10
29 working days from the date the board provides the copy of the
30 proposed public disclosure to propose corrections of factual
31 inaccuracies. Nothing in this section shall prevent the board from
32 disclosing information to the public prior to the expiration of the
33 10-day period.

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

1 ~~SEC. 8.~~

2 *SEC. 10.* Section 803.2 of the Business and Professions Code
3 is repealed.

4 ~~SEC. 9.~~

5 *SEC. 11.* Section 803.3 of the Business and Professions Code
6 is repealed.

7 *SEC. 12. Section 803.5 of the Business and Professions Code*
8 *is amended to read:*

9 803.5. (a) The district attorney, city attorney, or other
10 prosecuting agency shall notify the Medical Board of California,
11 the Osteopathic Medical Board of California, the California
12 Board of Podiatric Medicine, the State Board of Chiropractic
13 Examiners, or other appropriate allied health board, and the clerk
14 of the court in which the charges have been filed, of any filings
15 against a licensee of that board charging a felony immediately
16 upon obtaining information that the defendant is a licensee of the
17 board. The notice shall identify the licensee and describe the
18 crimes charged and the facts alleged. The prosecuting agency
19 shall also notify the clerk of the court in which the action is
20 pending that the defendant is a licensee, and the clerk shall
21 record prominently in the file that the defendant holds a license
22 from one of the boards described above.

23 (b) The clerk of the court in which a licensee of one of the
24 boards is convicted of a crime shall, within 48 hours after the
25 conviction, transmit a certified copy of the record of conviction
26 to the applicable board. ~~Where the licensee is regulated by an~~
27 ~~allied health board, the record of conviction shall be transmitted~~
28 ~~to that allied health board and the Medical Board of California.~~

29 ~~SEC. 10.~~

30 *SEC. 13.* Section 804 of the Business and Professions Code is
31 amended to read:

32 804. (a) Any agency to whom reports are to be sent under
33 Section 801, 801.1, 802, or 803, may develop a prescribed form
34 for the making of the reports, usage of which it may, but need
35 not, by regulation, require in all cases.

36 (b) A report required to be made by Sections 801, 801.1, or
37 802 shall be deemed complete only if it includes the following
38 information: (1) the name and last known business and
39 residential addresses of every plaintiff or claimant involved in the
40 matter, whether or not each plaintiff or claimant recovered

1 anything; (2) the name and last known business and residential
2 addresses of every physician or provider of health care services
3 who was claimed or alleged to have acted improperly, whether or
4 not that person was a named defendant and whether or not any
5 recovery or judgment was had against that person; (3) the name,
6 address, and principal place of business of every insurer
7 providing professional liability insurance as to any person named
8 in (2), and the insured's policy number; (4) the name of the court
9 in which the action or any part of the action was filed along with
10 the date of filing and docket number of each action; (5) a brief
11 description or summary of the facts upon which each claim,
12 charge or judgment rested including the date of occurrence; (6)
13 the names and last known business and residential addresses of
14 every person who acted as counsel for any party in the litigation
15 or negotiations, along with an identification of the party whom
16 said person represented; (7) the date and amount of final
17 judgment or settlement; and (8) any other information the agency
18 to whom the reports are to be sent may, by regulation, require.

19 (c) Every person named in the report, who is notified by the
20 board within 60 days of the filing of the report, shall maintain for
21 the period of three years from the filing of the report any records
22 he or she has as to the matter in question and shall make those
23 available upon request to the agency with which the report was
24 filed.

25 ~~SEC. 11.~~

26 *SEC. 14.* Section 804.5 of the Business and Professions Code
27 is repealed.

28 *SEC. 15.* *Section 805.2 of the Business and Professions Code*
29 *is amended to read:*

30 805.2. (a) It is the intent of the Legislature to provide for a
31 comprehensive study of the peer review process as it is
32 conducted by peer review bodies defined in paragraph (1) of
33 subdivision (a) of Section 805, in order to evaluate the continuing
34 validity of Section 805 and Sections 809 to 809.8, inclusive, and
35 their relevance to the conduct of peer review in California.

36 (b) The Medical Board of California shall contract with an
37 independent entity to conduct this study that is fair, objective,
38 and free from bias that is directly familiar with the peer review
39 process and does not advocate regularly before the board on peer
40 review matters or on physician and surgeon disciplinary matters.

1 (c) The study by the independent entity shall include, but not
2 be limited to, the following components:

3 (1) A comprehensive description of the various steps of and
4 decisionmakers in the peer review process as it is conducted by
5 peer review bodies throughout the state, including the role of
6 other related committees of acute care health facilities and clinics
7 involved in the peer review process.

8 (2) A survey of peer review cases to determine the incidence
9 of peer review by peer review bodies, and whether they are
10 complying with the reporting requirement in Section 805.

11 (3) A description and evaluation of the roles and performance
12 of various state agencies, including the State Department of
13 Health Services and occupational licensing agencies that regulate
14 healing arts professionals, in receiving, reviewing, investigating,
15 and disclosing peer review actions, and in sanctioning peer
16 review bodies for failure to comply with Section 805.

17 (4) An assessment of the cost of peer review to licentiates and
18 the facilities which employ them.

19 (5) An assessment of the time consumed by the average peer
20 review proceeding, including the hearing provided pursuant to
21 Section 809.2, and a description of any difficulties encountered
22 by either licentiates or facilities in assembling peer review bodies
23 or panels to participate in peer review decisionmaking.

24 (6) An assessment of the need to amend Section 805 and
25 Sections 809 to 809.8, inclusive, to ensure that they continue to
26 be relevant to the actual conduct of peer review as described in
27 paragraph (1), and to evaluate whether the current reporting
28 requirement is yielding timely and accurate information to aid
29 licensing boards in their responsibility to regulate and discipline
30 healing arts practitioners when necessary, and to assure that peer
31 review bodies function in the best interest of patient care.

32 (7) Recommendations of additional mechanisms to stimulate
33 the appropriate reporting of peer review actions under Section
34 805.

35 (8) Recommendations regarding the Section 809 hearing
36 process to improve its overall effectiveness and efficiency.

37 (9) An assessment of the role of medical professionals, using
38 professionals who are experts and are actively practicing
39 medicine in this state, to review and investigate for the protection

1 of consumers, allegations of substandard practice or professional
2 misconduct.

3 (10) An assessment of the process to identify and retain a
4 medical professional with sufficient expertise to review
5 allegations of substandard practice or professional misconduct by
6 a physician and surgeon, if the peer review process is
7 discontinued.

8 (d) The independent entity shall exercise no authority over the
9 peer review processes of peer review bodies. However, peer
10 review bodies, health care facilities, health care clinics, and
11 health care service plans shall cooperate with the independent
12 entity and provide *raw* data, information, and case files as
13 requested in the timeframes specified by the independent entity *a*
14 *mutually agreeable timeframe*.

15 (e) *The case files shall be confidential and shall not be*
16 *released by the independent entity except as aggregate data,*
17 *examples, or in the report, but shall not be associated with or*
18 *identifiable as related to a specific facility or peer review body.*

19 (f) *Providing confidential data, information, case files or*
20 *records, and hearing documents by the peer review body, facility,*
21 *hospital, clinic, or plan to the independent entity at any time after*
22 *the independent entity is hired by the board to perform the peer*
23 *review study shall not constitute a waiver of any exemption from*
24 *disclosure or discovery or of any confidentiality protection or*
25 *privilege otherwise provided by law that is applicable to the*
26 *data, information, case files or records, and hearing documents.*

27 (g) *Any discovery of information by the independent entity that*
28 *should have been reported pursuant to Section 805, shall be*
29 *reported immediately by the appropriate reporter, as defined in*
30 *subdivision (b) of Section 805, upon discovery, but the reporter*
31 *shall not be subject to penalties under subdivisions (k) or (l) of*
32 *Section 805, if that report is made to the board within fifteen (15)*
33 *days of discovery by the independent entity.*

34 (h) The independent entity shall work in cooperation with and
35 under the general oversight of the Executive Director of the
36 Medical Board of California and shall submit a written report
37 with its findings and recommendations to the board and the
38 Legislature no later than July 31, ~~2007~~ 2008.

39 (f)

1 (i) Completion of the peer review study pursuant to this
2 section shall be among the highest priorities of the Medical
3 Board of California, and the board shall ensure that it is
4 completed no later than July 31, ~~2007~~ 2008.

5 *SEC. 16. Section 2026 of the Business and Professions Code*
6 *is repealed.*

7 ~~2026. To the extent funds are available to reimburse the Little~~
8 ~~Hoover Commission, that commission shall study and make~~
9 ~~recommendations on the role of public disclosure in the public~~
10 ~~protection mandate of the board. This study shall include, but not~~
11 ~~be limited to, whether the public is adequately informed about~~
12 ~~physician misconduct by the current laws and regulations~~
13 ~~providing for disclosure. This study shall be commenced as soon~~
14 ~~as possible and completed no later than July 1, 2008.~~

15 *SEC. 17. Section 2026 is added to the Business and*
16 *Professions Code, to read:*

17 *2026. The California Research Bureau (CRB) of the*
18 *California State Library shall study the role of public disclosure*
19 *in the public protection mandate of the board. The ensuing CRB*
20 *report shall include, but not be limited to, considering whether*
21 *the public is adequately informed about physician misconduct by*
22 *the current laws and regulations providing for disclosure. The*
23 *study shall present policy options for improving public access.*
24 *The Medical Board shall work cooperatively with the Bureau,*
25 *providing cost-free access and reproduction assistance to*
26 *Medical Board records while protecting the identity and privacy*
27 *of all persons involved in any complaint. The provision of*
28 *confidential data, information, and case files by the board to the*
29 *CRB shall not constitute a waiver of any exemption from*
30 *disclosure or discovery or of any confidentiality protection or*
31 *privilege otherwise provided by law that is applicable to the*
32 *data, information, or case files. Data will be presented in*
33 *aggregate categories. This study shall be commenced as soon as*
34 *possible and a report to the Legislature completed no later than*
35 *July 1, 2008.*

36 *SEC. 18. Section 2027 of the Business and Professions Code*
37 *is amended to read:*

38 2027. (a) On or after July 1, 2001, the board shall post on the
39 Internet the following information in its possession, custody, or
40 control regarding licensed physicians and surgeons:

1 (1) With regard to the status of the license, whether or not the
2 licensee is in good standing, subject to a temporary restraining
3 order (TRO), subject to an interim suspension order (ISO), or
4 subject to any of the enforcement actions set forth in Section
5 803.1.

6 (2) With regard to prior discipline, whether or not the licensee
7 has been subject to discipline by the board or by the board of
8 another state or jurisdiction, as described in Section 803.1.

9 (3) Any felony convictions reported to the board after January
10 3, 1991.

11 (4) All current accusations filed by the Attorney General,
12 including those accusations that are on appeal. For purposes of
13 this paragraph, “current accusation” shall mean an accusation
14 that has not been dismissed, withdrawn, or settled, and has not
15 been finally decided upon by an administrative law judge and the
16 Medical Board of California unless an appeal of that decision is
17 pending.

18 (5) Any malpractice judgment or arbitration award reported to
19 the board after January 1, 1993.

20 (6) Any hospital disciplinary actions that resulted in the
21 termination or revocation of a licensee’s hospital staff privileges
22 for a medical disciplinary cause or reason.

23 (7) Any misdemeanor conviction that is substantially related to
24 the qualifications, functions, or duties of a physician and
25 surgeon. *For purposes of this paragraph, when determining*
26 *whether a conviction is substantially related to the qualifications,*
27 *functions, or duties of a physician and surgeon, the board shall*
28 *consider whether the underlying facts and circumstances involve*
29 *an offense against the person, an offense of moral turpitude, an*
30 *offense involving the use of drugs or alcohol, a violation of this*
31 *chapter, or a violation of relevant provisions of the Health and*
32 *Safety Code.*

33 (8) Appropriate disclaimers and explanatory statements to
34 accompany the above information, including an explanation of
35 what types of information are not disclosed. These disclaimers
36 and statements shall be developed by the board and shall be
37 adopted by regulation.

38 (9) Any information required to be disclosed pursuant to
39 Section 803.1.

1 (b) (1) From January 1, 2003, the information described in
2 paragraphs (1) (other than whether or not the licensee is in good
3 standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain
4 posted for a period of 10 years from the date the board obtains
5 possession, custody, or control of the information, and after the
6 end of that period shall be removed from being posted on the
7 board's Internet Web site. Information in the possession, custody,
8 or control of the board prior to January 1, 2003, shall be posted
9 for a period of 10 years from January 1, 2003. Settlement
10 information shall be posted as described in paragraph (2) of
11 subdivision (b) of Section 803.1.

12 (2) The information described in paragraphs (3) and (6) of
13 subdivision (a) shall not be removed from being posted on the
14 board's Internet Web site. Notwithstanding the provisions of this
15 paragraph, if a licensee's hospital staff privileges are restored and
16 the licensee notifies the board of the restoration, the information
17 pertaining to the termination or revocation of those privileges, as
18 described in paragraph (6) of subdivision (a), shall remain posted
19 for a period of 10 years from the restoration date of the
20 privileges, and at the end of that period shall be removed from
21 being posted on the board's Internet Web site.

22 (c) The board shall provide links to other Web sites on the
23 Internet that provide information on board certifications that
24 meet the requirements of subdivision (b) of Section 651. The
25 board may provide links to other Web sites on the Internet that
26 provide information on health care service plans, health insurers,
27 hospitals, or other facilities. The board may also provide links to
28 any other sites that would provide information on the affiliations
29 of licensed physicians and surgeons.

30 ~~(d) The disclosure requirement imposed by paragraph (7) of~~
31 ~~subdivision (a) shall not become operative unless and until the~~
32 ~~Legislature enacts legislation that defines or identifies those~~
33 ~~misdemeanor convictions that are substantially related to the~~
34 ~~qualifications, functions, or duties of a physician and surgeon.~~
35 ~~The board shall develop a proposal, in consultation with~~
36 ~~consumer groups, patient advocacy groups, the Attorney General,~~
37 ~~and the medical profession, for that legislation and submit it to~~
38 ~~the Legislature.~~

39 *SEC. 19. Section 2435 of the Business and Professions Code*
40 *is amended to read:*

1 2435. The following fees apply to the licensure of physicians
2 and surgeons:

3 (a) Each applicant for a certificate based upon a national board
4 diplomate certificate, each applicant for a certificate based on
5 reciprocity, and each applicant for a certificate based upon
6 written examination, shall pay a nonrefundable application and
7 processing fee, as set forth in subdivision (b), at the time the
8 application is filed.

9 (b) The application and processing fee shall be fixed by the
10 Division of Licensing by May 1 of each year, to become
11 effective on July 1 of that year. The fee shall be fixed at an
12 amount necessary to recover the actual costs of the licensing
13 program as projected for the fiscal year commencing on the date
14 the fees become effective.

15 (c) Each applicant who qualifies for a certificate, as a
16 condition precedent to its issuance, in addition to other fees
17 required herein, shall pay an initial license fee, if any. The initial
18 license fee shall be seven hundred ninety dollars (\$790). An
19 applicant enrolled in an approved postgraduate training program
20 shall be required to pay only 50 percent of the initial license fee.

21 (d) The biennial renewal fee shall be seven hundred ninety
22 dollars (\$790).

23 (e) Notwithstanding subdivisions (c) and (d) and to ensure that
24 subdivision (k) of Section 125.3 is revenue neutral with regard to
25 the board, the board may, by regulation, increase the amount of
26 the initial license fee and the biennial renewal fee by an amount
27 required to recover both of the following:

28 (1) The average amount received by the board during the three
29 fiscal years immediately preceding July 1, 2006, as
30 reimbursement for the reasonable costs of investigation and
31 enforcement proceedings pursuant to Section 125.3.

32 (2) Any increase in the amount of investigation and
33 enforcement costs incurred by the board after January 1, 2006,
34 that exceeds the average costs expended for investigation and
35 enforcement costs during the three fiscal years immediately
36 preceding July 1, 2006. When calculating the amount of costs for
37 services for which the board paid an hourly rate, the board shall
38 use the average number of hours for which the board paid for
39 those costs over these prior three fiscal years, multiplied by the
40 hourly rate paid by the board for those costs as of July 1, 2005.

1 Beginning January 1, 2009, the board shall instead use the
2 average number of hours for which it paid for those costs over
3 the three year period of fiscal years 2005–06, 2006–07, and
4 2007–08, multiplied by the hourly rate paid by the board for
5 those costs as of July 1, 2005. In calculating the increase in the
6 amount of investigation and enforcement costs, the board shall
7 include only those costs for which it was eligible to obtain
8 reimbursement under Section 125.3 and shall not include
9 probation monitoring costs and disciplinary costs, including
10 those associated with the citation and fine process and those
11 required to implement subdivision (b) of Section 12529 of the
12 Government Code.

13 (f) Notwithstanding Section 163.5, the delinquency fee shall
14 be 10 percent of the biennial renewal fee.

15 (g) The duplicate certificate and endorsement fees shall each
16 be fifty dollars (\$50), and the certification and letter of good
17 standing fees shall each be ten dollars (\$10).

18 (h) It is the intent of the Legislature that, in setting fees
19 pursuant to this section, the board shall *seek to* maintain a reserve
20 in the Contingent Fund of the Medical Board of California equal
21 to approximately two months' operating expenditures.

22 (i) ~~Not later than January 1 July 1, 2007, the Joint Legislative~~
23 ~~Audit Committee shall select an independent entity that is fair,~~
24 ~~objective, and free from bias and that does not regularly advocate~~
25 ~~before the board on licensure fee or on physician and surgeon~~
26 ~~disciplinary matters, to Bureau of State Audits (BSA) shall~~
27 conduct a review of the board's financial status, its financial
28 projections and historical projections, including, but not limited
29 to, its projections related to expenses, revenues, and reserves.
30 ~~The independent entity BSA shall, on the basis of the review,~~
31 report to the Joint Legislative Audit Committee before January 1,
32 2008, on any adjustment to the amount of the licensure fee that is
33 required to maintain the reserve amount in the Contingent Fund
34 of the Medical Board of California pursuant to subdivision (h) of
35 Section 2435, and whether a refund of any excess revenue should
36 be made to licentiates.

37 *SEC. 20. Section 12529.6 of the Government Code is*
38 *amended to read:*

39 12529.6. (a) The Legislature finds and declares that the
40 Medical Board of California, by ensuring the quality and safety

1 of medical care, performs one of the most critical functions of
2 state government. Because of the critical importance of the
3 board's public health and safety function, the complexity of cases
4 involving alleged misconduct by physicians and surgeons, and
5 the evidentiary burden in the board's disciplinary cases, the
6 Legislature finds and declares that using a vertical prosecution
7 model for those investigations is in the best interests of the
8 people of California.

9 (b) Notwithstanding any other provision of law, as of January
10 1, 2006, each complaint that is referred to a district office of the
11 board for investigation, shall be simultaneously and jointly
12 assigned to an investigator and to the deputy attorney general in
13 the Health Quality Enforcement Section responsible for
14 prosecuting the case if the investigation results in the filing of an
15 accusation. The joint assignment of the investigator and the
16 deputy attorney general shall exist for the duration of the
17 disciplinary matter. During the assignment, the investigator so
18 assigned shall, under the direction of the deputy attorney general,
19 be responsible for obtaining the evidence required to permit the
20 Attorney General to advise the board on legal matters such as
21 whether the board should file a formal accusation, dismiss the
22 complaint for a lack of evidence required to meet the applicable
23 burden of proof, or take other appropriate legal action.

24 (c) The Medical Board of California, the Department of
25 Consumer Affairs, and the Office of the Attorney General shall,
26 if necessary, enter into an interagency agreement to implement
27 this section.

28 (d) This section does not ~~effect~~ *affect* the requirements of
29 ~~section~~ *Section* 12529.5 as applied to the Medical Board of
30 California where complaints that have not been assigned to a
31 field office for investigation are concerned.

32 (e) This section shall become inoperative on July 1, 2008, and,
33 as of January 1, 2009, is repealed, unless a later enacted statute,
34 that is enacted before January 1, 2009, deletes or extends the
35 dates on which it becomes inoperative and is repealed.