

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2745**

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**Introduced by Assembly Member Holden**

February 19, 2016

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An act to amend Sections 2088, 2221, 2225, 2441, 2519, 2520, 2529, 3576, and 3577 of, and to add Sections 2522, 2523, 2529.1, 2529.6, 3576.1, 3576.2, and 3576.3 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2745, as amended, Holden. Healing arts: licensing and certification.

(1) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law authorizes an applicant for a physician's and surgeon's license who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability to receive a limited license if the applicant pays the license ~~renewal~~ fee and signs an agreement agreeing to limit his or her practice in the manner prescribed by the reviewing physician and agreed to by the board. Existing law makes any person who knowingly provides false information in this agreement subject to any sanctions available to the board. Existing law authorizes the board to require the applicant to obtain an independent clinical evaluation of his or her ability to practice medicine safely as a condition of receiving the limited license. Violation

of the act is a crime. Existing law establishes the Contingent Fund of the Medical Board of California, a continuously appropriated fund.

This bill would specify that a licensee who is otherwise eligible for a license but is unable to practice some aspects of medicine safely due to a disability is authorized to receive the limited license if the above-described conditions are ~~met~~ *met, including payment of the appropriate fee*. By adding fees for deposit into the Contingent Fund of the Medical Board of California, this bill would make an appropriation.

This bill would also authorize the board to deny a postgraduate training authorization to an applicant who is guilty of unprofessional conduct or of any cause for revocation or suspension of a license.

(2) Existing law authorizes a licensee who demonstrates that he or she is unable to practice medicine due to a disability to request a waiver of the license renewal fee. Under existing law, a licensee granted that waiver is prohibited from practicing medicine until he or she establishes that the disability no longer exists or signs an agreement, under penalty of perjury, agreeing to limit his or her practice in the manner prescribed by the reviewing physician.

This bill would require the board to agree to this limit, would authorize the board to require an independent clinical evaluation, and would subject a person who knowingly provides false information in the agreement to sanctions. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) Existing law authorizes the board, in any investigation that involves the death of a patient, to inspect and copy the medical records of the deceased patient without the authorization of the beneficiary or personal representative of the deceased patient or a court order solely to determine the extent to which the death was the result of the physician and surgeon's violation of the Medical Practice Act, if the board provides a written request to the physician and surgeon that includes a declaration that the board has been unsuccessful in locating or contacting the deceased patient's beneficiary or personal representative after reasonable efforts.

This bill would authorize the board to provide the written request to the facility where the medical records are located or the care to the deceased patient was provided.

(4) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensing and regulation of midwives by the Board of Licensing of the Medical Board of California. Under the act, the board

is authorized to suspend or revoke the license of a midwife for specified conduct, including unprofessional conduct consisting of, among other things, incompetence or gross negligence in carrying out the usual functions of a licensed midwife. A violation of the act is a crime.

This bill would authorize the board to place a license on probation and establish a fee for monitoring a licensee on probation. The bill would also authorize a person whose license has been voluntarily surrendered while under investigation or while charges are pending or whose license has been suspended, revoked, or placed on probation to petition the board for reinstatement or modification of penalty, as specified. The bill would require the revocation of a license for a person required to register as a sex offender, except as specified.

(5) Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status. Existing law authorizes that board to suspend or revoke the exemption of those persons from licensure for unprofessional conduct, as specified.

The bill would include within the definition of unprofessional conduct, among other things, the use of any controlled substance, or the use of any dangerous drugs, as specified, or of alcoholic beverages, as specified. The bill would also require the revocation of a registration for a person required to register as a sex offender, except as specified.

(6) Existing law prohibits a person from using the title “certified polysomnographic technologist” or engaging in the practice of polysomnography unless he or she is registered as a certified polysomnographic technologist, is supervised and directed by a licensed physician and surgeon, and meets certain other requirements. Existing law requires polysomnographic technologists to apply to and register with the Medical Board of California and to pay specified fees to be fixed by the board at no more than \$100 each, and to renew their registration biennially for a fee of no more than \$150. Existing law requires the deposit of those fees in the Contingent Fund of the Medical Board of California. Existing law authorizes a registration to be suspended, revoked, or otherwise subject to discipline for specified conduct.

This bill would also authorize a registration to be placed on probation if a registrant engages in that conduct and would establish a fee for monitoring a registrant on probation. By increasing fees for deposit into the Contingent Fund, this bill would make an appropriation. The bill

would authorize a person whose registration has been voluntarily surrendered while under investigation or while charges are pending or whose registration has been suspended, revoked, or placed on probation to petition the board for reinstatement or modification of penalty, as specified. The bill would require the revocation of a registration for a person required to register as a sex offender, except as specified. The bill would authorize the suspension or revocation of a registration for unprofessional conduct, as defined.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 2088 of the Business and Professions  
2 Code is amended to read:

3 2088. (a) An applicant for a physician’s and surgeon’s license  
4 or a physician’s and surgeon’s licensee who is otherwise eligible  
5 for that license but is unable to practice some aspects of medicine  
6 safely due to a disability may receive a limited license if he or she  
7 does both of the following:

- 8 (1) Pays the appropriate initial or renewal license fee.
- 9 (2) Signs an agreement on a form prescribed by the board in  
10 which the applicant or licensee agrees to limit his or her practice  
11 in the manner prescribed by the reviewing physician and agreed  
12 to by the board.

13 (b) The board may require the applicant or licensee described  
14 in subdivision (a) to obtain an independent clinical evaluation of  
15 his or her ability to practice medicine safely as a condition of  
16 receiving a limited license under this section.

17 (c) Any person who knowingly provides false information in  
18 the agreement submitted pursuant to subdivision (a) shall be subject  
19 to any sanctions available to the board.

20 SEC. 2. Section 2221 of the Business and Professions Code is  
21 amended to read:

1 2221. (a) The board may deny a physician's and surgeon's  
2 certificate or postgraduate training authorization letter to an  
3 applicant guilty of unprofessional conduct or of any cause that  
4 would subject a licensee to revocation or suspension of his or her  
5 license. The board in its sole discretion, may issue a probationary  
6 physician's and surgeon's certificate to an applicant subject to  
7 terms and conditions, including, but not limited to, any of the  
8 following conditions of probation:

9 (1) Practice limited to a supervised, structured environment  
10 where the licensee's activities shall be supervised by another  
11 physician and surgeon.

12 (2) Total or partial restrictions on drug prescribing privileges  
13 for controlled substances.

14 (3) Continuing medical or psychiatric treatment.

15 (4) Ongoing participation in a specified rehabilitation program.

16 (5) Enrollment and successful completion of a clinical training  
17 program.

18 (6) Abstention from the use of alcohol or drugs.

19 (7) Restrictions against engaging in certain types of medical  
20 practice.

21 (8) Compliance with all provisions of this chapter.

22 (9) Payment of the cost of probation monitoring.

23 (b) The board may modify or terminate the terms and conditions  
24 imposed on the probationary certificate upon receipt of a petition  
25 from the licensee. The board may assign the petition to an  
26 administrative law judge designated in Section 11371 of the  
27 Government Code. After a hearing on the petition, the  
28 administrative law judge shall provide a proposed decision to the  
29 board.

30 (c) The board shall deny a physician's and surgeon's certificate  
31 to an applicant who is required to register pursuant to Section 290  
32 of the Penal Code. This subdivision does not apply to an applicant  
33 who is required to register as a sex offender pursuant to Section  
34 290 of the Penal Code solely because of a misdemeanor conviction  
35 under Section 314 of the Penal Code.

36 (d) An applicant shall not be eligible to reapply for a physician's  
37 and surgeon's certificate for a minimum of three years from the  
38 effective date of the denial of his or her application, except that  
39 the board may, in its discretion and for good cause demonstrated,

1 permit reapplication after not less than one year has elapsed from  
2 the effective date of the denial.

3 SEC. 3. Section 2225 of the Business and Professions Code is  
4 amended to read:

5 2225. (a) Notwithstanding Section 2263 and any other law  
6 making a communication between a physician and surgeon or a  
7 doctor of podiatric medicine and his or her patients a privileged  
8 communication, those provisions shall not apply to investigations  
9 or proceedings conducted under this chapter. Members of the  
10 board, the Senior Assistant Attorney General of the Health Quality  
11 Enforcement Section, members of the California Board of Podiatric  
12 Medicine, and deputies, employees, agents, and representatives of  
13 the board or the California Board of Podiatric Medicine and the  
14 Senior Assistant Attorney General of the Health Quality  
15 Enforcement Section shall keep in confidence during the course  
16 of investigations, the names of any patients whose records are  
17 reviewed and shall not disclose or reveal those names, except as  
18 is necessary during the course of an investigation, unless and until  
19 proceedings are instituted. The authority of the board or the  
20 California Board of Podiatric Medicine and the Health Quality  
21 Enforcement Section to examine records of patients in the office  
22 of a physician and surgeon or a doctor of podiatric medicine is  
23 limited to records of patients who have complained to the board  
24 or the California Board of Podiatric Medicine about that licensee.

25 (b) Notwithstanding any other law, the Attorney General and  
26 his or her investigative agents, and investigators and representatives  
27 of the board or the California Board of Podiatric Medicine, may  
28 inquire into any alleged violation of the Medical Practice Act or  
29 any other federal or state law, regulation, or rule relevant to the  
30 practice of medicine or podiatric medicine, whichever is applicable,  
31 and may inspect documents relevant to those investigations in  
32 accordance with the following procedures:

33 (1) Any document relevant to an investigation may be inspected,  
34 and copies may be obtained, where patient consent is given.

35 (2) Any document relevant to the business operations of a  
36 licensee, and not involving medical records attributable to  
37 identifiable patients, may be inspected and copied if relevant to  
38 an investigation of a licensee.

39 (c) (1) Notwithstanding subdivision (b) or any other law, in  
40 any investigation that involves the death of a patient, the board

1 may inspect and copy the medical records of the deceased patient  
2 without the authorization of the beneficiary or personal  
3 representative of the deceased patient or a court order solely for  
4 the purpose of determining the extent to which the death was the  
5 result of the physician and surgeon's conduct in violation of the  
6 Medical Practice Act, if the board provides a written request to  
7 either the physician and surgeon or the facility where the medical  
8 records are located or the care to the deceased patient was provided,  
9 that includes a declaration that the board has been unsuccessful in  
10 locating or contacting the deceased patient's beneficiary or personal  
11 representative after reasonable efforts. Nothing in this subdivision  
12 shall be construed to allow the board to inspect and copy the  
13 medical records of a deceased patient without a court order when  
14 the beneficiary or personal representative of the deceased patient  
15 has been located and contacted but has refused to consent to the  
16 board inspecting and copying the medical records of the deceased  
17 patient.

18 (2) The Legislature finds and declares that the authority created  
19 in the board pursuant to this section, and a physician and surgeon's  
20 compliance with this section, are consistent with the public interest  
21 and benefit activities of the federal Health Insurance Portability  
22 and Accountability Act (HIPAA).

23 (d) In all cases in which documents are inspected or copies of  
24 those documents are received, their acquisition or review shall be  
25 arranged so as not to unnecessarily disrupt the medical and business  
26 operations of the licensee or of the facility where the records are  
27 kept or used.

28 (e) If documents are lawfully requested from licensees in  
29 accordance with this section by the Attorney General or his or her  
30 agents or deputies, or investigators of the board or the California  
31 Board of Podiatric Medicine, the documents shall be provided  
32 within 15 business days of receipt of the request, unless the licensee  
33 is unable to provide the documents within this time period for good  
34 cause, including, but not limited to, physical inability to access  
35 the records in the time allowed due to illness or travel. Failure to  
36 produce requested documents or copies thereof, after being  
37 informed of the required deadline, shall constitute unprofessional  
38 conduct. The board may use its authority to cite and fine a  
39 physician and surgeon for any violation of this section. This remedy

1 is in addition to any other authority of the board to sanction a  
2 licensee for a delay in producing requested records.

3 (f) Searches conducted of the office or medical facility of any  
4 licensee shall not interfere with the recordkeeping format or  
5 preservation needs of any licensee necessary for the lawful care  
6 of patients.

7 SEC. 4. Section 2441 of the Business and Professions Code is  
8 amended to read:

9 2441. (a) Any licensee who demonstrates to the satisfaction  
10 of the board that he or she is unable to practice medicine due to a  
11 disability may request a waiver of the license renewal fee. The  
12 granting of a waiver shall be at the discretion of the board and may  
13 be terminated at any time. Waivers shall be based on the inability  
14 of a licensee to practice medicine. A licensee whose renewal fee  
15 has been waived pursuant to this section shall not engage in the  
16 practice of medicine unless and until the licensee pays the current  
17 renewal fee and does either of the following:

18 (1) Establishes to the satisfaction of the board, on a form  
19 prescribed by the board and signed under penalty of perjury, that  
20 the licensee’s disability either no longer exists or does not affect  
21 his or her ability to practice medicine safely.

22 (2) Signs an agreement on a form prescribed by the board, signed  
23 under penalty of perjury, in which the licensee agrees to limit his  
24 or her practice in the manner prescribed by the reviewing physician  
25 and agreed to by the board.

26 (b) The board may require the licensee described in paragraph  
27 (2) of subdivision (a) to obtain an independent clinical evaluation  
28 of his or her ability to practice medicine safely as a condition of  
29 receiving a ~~disability~~ *disabled status* license under this section.

30 (c) Any person who knowingly provides false information in  
31 the agreement submitted pursuant to paragraph (2) of subdivision  
32 (a) shall be subject to any sanctions available to the board.

33 SEC. 5. Section 2519 of the Business and Professions Code is  
34 amended to read:

35 2519. The board may suspend, revoke, or place on probation  
36 the license of a midwife for any of the following:

37 (a) Unprofessional conduct, which includes, but is not limited  
38 to, all of the following:

39 (1) Incompetence or gross negligence in carrying out the usual  
40 functions of a licensed midwife.

- 1 (2) Conviction of a violation of Section 2052, in which event,  
2 the record of the conviction shall be conclusive evidence thereof.
- 3 (3) The use of advertising that is fraudulent or misleading.
- 4 (4) Obtaining or possessing in violation of law, or prescribing,  
5 or except as directed by a licensed physician and surgeon, dentist,  
6 or podiatrist administering to himself or herself, or furnishing or  
7 administering to another, any controlled substance as defined in  
8 Division 10 (commencing with Section 11000) of the Health and  
9 Safety Code or any dangerous drug as defined in Article 8  
10 (commencing with Section 4210) of Chapter 9 of Division 2 of  
11 the Business and Professions Code.
- 12 (5) The use of any controlled substance as defined in Division  
13 10 (commencing with Section 11000) of the Health and Safety  
14 Code, or any dangerous drug as defined in Article 8 (commencing  
15 with Section 4210) of Chapter 9 of Division 2 of the Business and  
16 Professions Code, or alcoholic beverages, to an extent or in a  
17 manner dangerous or injurious to himself or herself, any other  
18 person, or the public or to the extent that this use impairs his or  
19 her ability to conduct with safety to the public the practice  
20 authorized by his or her license.
- 21 (6) Conviction of a criminal offense involving the prescription,  
22 consumption, or self-administration of any of the substances  
23 described in paragraphs (4) and (5), or the possession of, or  
24 falsification of, a record pertaining to, the substances described in  
25 paragraph (4), in which event the record of the conviction is  
26 conclusive evidence thereof.
- 27 (7) Commitment or confinement by a court of competent  
28 jurisdiction for intemperate use of or addiction to the use of any  
29 of the substances described in paragraphs (4) and (5), in which  
30 event the court order of commitment or confinement is prima facie  
31 evidence of such commitment or confinement.
- 32 (8) Falsifying, or making grossly incorrect, grossly inconsistent,  
33 or unintelligible entries in any hospital, patient, or other record  
34 pertaining to the substances described in subdivision (a).
- 35 (b) Procuring a license by fraud or misrepresentation.
- 36 (c) Conviction of a crime substantially related to the  
37 qualifications, functions, and duties of a midwife, as determined  
38 by the board.
- 39 (d) Procuring, aiding, abetting, attempting, agreeing to procure,  
40 offering to procure, or assisting at, a criminal abortion.

1 (e) Violating or attempting to violate, directly or indirectly, or  
2 assisting in or abetting the violation of, or conspiring to violate  
3 any provision or term of this chapter.

4 (f) Making or giving any false statement or information in  
5 connection with the application for issuance of a license.

6 (g) Impersonating any applicant or acting as proxy for an  
7 applicant in any examination required under this chapter for the  
8 issuance of a license or a certificate.

9 (h) Impersonating another licensed practitioner, or permitting  
10 or allowing another person to use his or her license or certificate  
11 for the purpose of providing midwifery services.

12 (i) Aiding or assisting, or agreeing to aid or assist any person  
13 or persons, whether a licensed physician or not, in the performance  
14 of or arranging for a violation of any of the provisions of Article  
15 12 (commencing with Section 2221) of Chapter 5.

16 (j) Failing to do any of the following when required pursuant  
17 to Section 2507:

18 (1) Consult with a physician and surgeon.

19 (2) Refer a client to a physician and surgeon.

20 (3) Transfer a client to a hospital.

21 SEC. 6. Section 2520 of the Business and Professions Code is  
22 amended to read:

23 2520. (a) (1) The fee to be paid upon the filing of a license  
24 application shall be fixed by the board at not less than seventy-five  
25 dollars (\$75) nor more than three hundred dollars (\$300).

26 (2) The fee for renewal of the midwife license shall be fixed by  
27 the board at not less than fifty dollars (\$50) nor more than two  
28 hundred dollars (\$200).

29 (3) The delinquency fee for renewal of the midwife license shall  
30 be 50 percent of the renewal fee in effect on the date of the renewal  
31 of the license, but not less than twenty-five dollars (\$25) nor more  
32 than fifty dollars (\$50).

33 (4) The fee for the examination shall be the cost of administering  
34 the examination to the applicant, as determined by the organization  
35 that has entered into a contract with the board for the purposes set  
36 forth in subdivision (a) of Section 2512.5. Notwithstanding  
37 subdivision (c), that fee may be collected and retained by that  
38 organization.

39 (b) The fee for monitoring a licensee on probation shall be the  
40 cost of monitoring, as fixed by the board.

1 (c) The fees prescribed by this article shall be deposited in the  
2 Licensed Midwifery Fund, which is hereby established, and shall  
3 be available, upon appropriation, to the board for the purposes of  
4 this article.

5 SEC. 7. Section 2522 is added to the Business and Professions  
6 Code, to read:

7 2522. (a) A person whose license has been voluntarily  
8 surrendered while under investigation or while charges are pending  
9 or whose license has been revoked or suspended or placed on  
10 probation, may petition the board for reinstatement or modification  
11 of penalty, including modification or termination of probation.

12 (b) The person may file the petition after a period of not less  
13 than the following minimum periods have elapsed from the  
14 effective date of the surrender of the license or the decision  
15 ordering that disciplinary action:

16 (1) At least three years for reinstatement of a license surrendered  
17 or revoked for unprofessional conduct, except that the board may,  
18 for good cause shown, specify in a revocation order that a petition  
19 for reinstatement may be filed after two years.

20 (2) At least two years for early termination of probation of three  
21 years or more.

22 (3) At least one year for modification of a condition, or  
23 reinstatement of a license surrendered or revoked for mental or  
24 physical illness, or termination of probation of less than three years.

25 (c) The petition shall state any facts as may be required by the  
26 board. The petition shall be accompanied by at least two verified  
27 recommendations from midwives licensed in any state who have  
28 personal knowledge of the activities of the petitioner since the  
29 disciplinary penalty was imposed.

30 (d) The petition may be heard by a panel of the board. The board  
31 may assign the petition to an administrative law judge designated  
32 in Section 11371 of the Government Code. After a hearing on the  
33 petition, the administrative law judge shall provide a proposed  
34 decision to the board, which shall be acted upon in accordance  
35 with Section 2335.

36 (e) The panel of the board or the administrative law judge  
37 hearing the petition may consider all activities of the petitioner  
38 since the disciplinary action was taken, the offense for which the  
39 petitioner was disciplined, the petitioner's activities during the  
40 time the license was in good standing, and the petitioner's

1 rehabilitative efforts, general reputation for truth, and professional  
2 ability. The hearing may be continued from time to time as the  
3 administrative law judge designated in Section 11371 of the  
4 Government Code finds necessary.

5 (f) The administrative law judge designated in Section 11371  
6 of the Government Code reinstating a license or modifying a  
7 penalty may recommend the imposition of any terms and conditions  
8 deemed necessary.

9 (g) No petition shall be considered while the petitioner is under  
10 sentence for any criminal offense, including any period during  
11 which the petitioner is on court-imposed probation or parole. No  
12 petition shall be considered while there is an accusation or petition  
13 to revoke probation pending against the person. The board may  
14 deny without a hearing or argument any petition filed pursuant to  
15 this section within a period of two years from the effective date  
16 of the prior decision following a hearing under this section.

17 SEC. 8. Section 2523 is added to the Business and Professions  
18 Code, to read:

19 2523. (a) Except as provided in subdivisions (b) and (c), the  
20 board shall revoke the license of any person who has been required  
21 to register as a sex offender pursuant to Section 290 of the Penal  
22 Code for conduct that occurred on or after January 1, 2017.

23 (b) This section shall not apply to a person who is required to  
24 register as a sex offender pursuant to Section 290 of the Penal  
25 Code solely because of a misdemeanor conviction under Section  
26 314 of the Penal Code.

27 (c) This section shall not apply to a person who has been relieved  
28 under Section 290.5 of the Penal Code of his or her duty to register  
29 as a sex offender, or whose duty to register has otherwise been  
30 formally terminated under California law.

31 (d) A proceeding to revoke a license pursuant to this section  
32 shall be conducted in accordance with chapter 5 (commencing  
33 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
34 Government Code.

35 SEC. 9. Section 2529 of the Business and Professions Code is  
36 amended to read:

37 2529. (a) Graduates of the Southern California Psychoanalytic  
38 Institute, the Los Angeles Psychoanalytic Society and Institute,  
39 the San Francisco Psychoanalytic Institute, the San Diego  
40 Psychoanalytic Center, or institutes deemed equivalent by the

1 Medical Board of California who have completed clinical training  
2 in psychoanalysis may engage in psychoanalysis as an adjunct to  
3 teaching, training, or research and hold themselves out to the public  
4 as psychoanalysts, and students in those institutes may engage in  
5 psychoanalysis under supervision, if the students and graduates  
6 do not hold themselves out to the public by any title or description  
7 of services incorporating the words “psychological,”  
8 “psychologist,” “psychology,” “psychometrists,” “psychometrics,”  
9 or “psychometry,” or that they do not state or imply that they are  
10 licensed to practice psychology.

11 (b) Those students and graduates seeking to engage in  
12 psychoanalysis under this chapter shall register with the Medical  
13 Board of California, presenting evidence of their student or  
14 graduate status. The board may suspend or revoke the exemption  
15 of those persons for unprofessional conduct as defined in Sections  
16 726, 2234, 2235, and 2529.1

17 SEC. 10. Section 2529.1 is added to the Business and  
18 Professions Code, to read:

19 2529.1. (a) The use of any controlled substance or the use of  
20 any of the dangerous drugs specified in Section 4022, or of  
21 alcoholic beverages, to the extent, or in such a manner as to be  
22 dangerous or injurious to the registrant, or to any other person or  
23 to the public, or to the extent that this use impairs the ability of  
24 the registrant to practice safely or more than one misdemeanor or  
25 any felony conviction involving the use, consumption, or  
26 self-administration of any of the substances referred to in this  
27 section, or any combination thereof, constitutes unprofessional  
28 conduct. The record of the conviction is conclusive evidence of  
29 this unprofessional conduct.

30 (b) A plea or verdict of guilty or a conviction following a plea  
31 of nolo contendere is deemed to be a conviction within the meaning  
32 of this section. The board may order discipline of the registrant in  
33 accordance with Section 2227 or may order the denial of the  
34 registration when the time for appeal has elapsed or the judgment  
35 of conviction has been affirmed on appeal or when an order  
36 granting probation is made suspending imposition of sentence,  
37 irrespective of a subsequent order under the provisions of Section  
38 1203.4 of the Penal Code allowing this person to withdraw his or  
39 her plea of guilty and to enter a plea of not guilty, or setting aside

1 the verdict of guilty, or dismissing the accusation, complaint,  
2 information, or indictment.

3 SEC. 11. Section 2529.6 is added to the Business and  
4 Professions Code, to read:

5 2529.6. (a) Except as provided in subdivisions (b) and (c), the  
6 board shall revoke the registration of any person who has been  
7 required to register as a sex offender pursuant to Section 290 of  
8 the Penal Code for conduct that occurred on or after January 1,  
9 2017.

10 (b) This section shall not apply to a person who is required to  
11 register as a sex offender pursuant to Section 290 of the Penal  
12 Code solely because of a misdemeanor conviction under Section  
13 314 of the Penal Code.

14 (c) This section shall not apply to a person who has been relieved  
15 under Section 290.5 of the Penal Code of his or her duty to register  
16 as a sex offender, or whose duty to register has otherwise been  
17 formally terminated under California law.

18 (d) A proceeding to revoke a registration pursuant to this section  
19 shall be conducted in accordance with ~~chapter~~ *Chapter 5*  
20 (commencing with Section 11500) of Part 1 of Division 3 of Title  
21 2 of the Government Code.

22 SEC. 12. Section 3576 of the Business and Professions Code  
23 is amended to read:

24 3576. (a) A registration under this chapter may be denied,  
25 suspended, revoked, placed on probation, or otherwise subjected  
26 to discipline for any of the following by the holder:

27 (1) Incompetence, gross negligence, or repeated similar  
28 negligent acts performed by the registrant.

29 (2) An act of dishonesty or fraud.

30 (3) Committing any act or being convicted of a crime  
31 constituting grounds for denial of licensure or registration under  
32 Section 480.

33 (4) Violating or attempting to violate this chapter or any  
34 regulation adopted under this chapter.

35 (b) Proceedings under this section shall be conducted in  
36 accordance with Chapter 5 (commencing with Section 11500) of  
37 Part 1 of Division 3 of Title 2 of the Government Code, and the  
38 board shall have all powers granted therein.

39 SEC. 13. Section 3576.1 is added to the Business and  
40 Professions Code, to read:

1 3576.1. (a) A person whose registration has been voluntarily  
2 surrendered while under investigation or while charges are pending  
3 or whose registration has been revoked or suspended or placed on  
4 probation, may petition the board for reinstatement or modification  
5 of penalty, including modification or termination of probation.

6 (b) The person may file the petition after a period of not less  
7 than the following minimum periods have elapsed from the  
8 effective date of the surrender of the registration or the decision  
9 ordering that disciplinary action:

10 (1) At least three years for reinstatement of a registration  
11 surrendered or revoked for unprofessional conduct, except that the  
12 board may, for good cause shown, specify in a revocation order  
13 that a petition for reinstatement may be filed after two years.

14 (2) At least two years for early termination of probation of three  
15 years or more.

16 (3) At least one year for modification of a condition, or  
17 reinstatement of a registration surrendered or revoked for mental  
18 or physical illness, or termination of probation of less than three  
19 years.

20 (c) The petition shall state any facts as may be required by the  
21 board. The petition shall be accompanied by at least two verified  
22 recommendations from polysomnographic technologists registered  
23 in any state who have personal knowledge of the activities of the  
24 petitioner since the disciplinary penalty was imposed.

25 (d) The petition may be heard by a panel of the board. The board  
26 may assign the petition to an administrative law judge designated  
27 in Section 11371 of the Government Code. After a hearing on the  
28 petition, the administrative law judge shall provide a proposed  
29 decision to the board, which shall be acted upon in accordance  
30 with Section 2335.

31 (e) The panel of the board or the administrative law judge  
32 hearing the petition may consider all activities of the petitioner  
33 since the disciplinary action was taken, the offense for which the  
34 petitioner was disciplined, the petitioner's activities during the  
35 time the registration was in good standing, and the petitioner's  
36 rehabilitative efforts, general reputation for truth, and professional  
37 ability. The hearing may be continued from time to time as the  
38 administrative law judge designated in Section 11371 of the  
39 Government Code finds necessary.

1 (f) The administrative law judge designated in Section 11371  
2 of the Government Code reinstating a registration or modifying a  
3 penalty may recommend the imposition of any terms and conditions  
4 deemed necessary.

5 (g) No petition shall be considered while the petitioner is under  
6 sentence for any criminal offense, including any period during  
7 which the petitioner is on court-imposed probation or parole. No  
8 petition shall be considered while there is an accusation or petition  
9 to revoke probation pending against the person. The board may  
10 deny without a hearing or argument any petition filed pursuant to  
11 this section within a period of two years from the effective date  
12 of the prior decision following a hearing under this section.

13 SEC. 14. Section 3576.2 is added to the Business and  
14 Professions Code, to read:

15 3576.2. (a) Except as provided in subdivisions (b) and (c), the  
16 board shall revoke the registration of any person who has been  
17 required to register as a sex offender pursuant to Section 290 of  
18 the Penal for conduct that occurred on or after January 1, 2017.

19 (b) This section shall not apply to a person who is required to  
20 register as a sex offender pursuant to Section 290 of the Penal  
21 Code solely because of a misdemeanor conviction under Section  
22 314 of the Penal Code.

23 (c) This section shall not apply to a person who has been relieved  
24 under Section 290.5 of the Penal Code of his or her duty to register  
25 as a sex offender, or whose duty to register has otherwise been  
26 formally terminated under California law.

27 (d) A proceeding to revoke a registration pursuant to this section  
28 shall be conducted in accordance with ~~chapter~~ *Chapter 5*  
29 (commencing with Section 11500) of Part 1 of Division 3 of Title  
30 2 of the Government Code.

31 SEC. 15. Section 3576.3 is added to the Business and  
32 Professions Code, to read:

33 3576.3. (a) The board may suspend or revoke the registration  
34 of a polysomnographic technologist, polysomnographic technician,  
35 or polysomnographic trainee for unprofessional conduct as  
36 described in this section.

37 (b) The use of any controlled substance or the use of any of the  
38 dangerous drugs specified in Section 4022, or of alcoholic  
39 beverages, to the extent, or in such a manner as to be dangerous  
40 or injurious to the registrant, or to any other person or to the public,

1 or to the extent that this use impairs the ability of the registrant to  
2 practice safely or more than one misdemeanor or any felony  
3 conviction involving the use, consumption, or self-administration  
4 of any of the substances referred to in this section, or any  
5 combination thereof, constitutes unprofessional conduct. The record  
6 of the conviction is conclusive evidence of this unprofessional  
7 conduct.

8 (c) A plea or verdict of guilty or a conviction following a plea  
9 of nolo contendere is deemed to be a conviction within the meaning  
10 of this section. The board may order discipline of the registrant in  
11 accordance with Section 2227 or may order the denial of the  
12 registration when the time for appeal has elapsed or the judgment  
13 of conviction has been affirmed on appeal or when an order  
14 granting probation is made suspending imposition of sentence,  
15 irrespective of a subsequent order under the provisions of Section  
16 1203.4 of the Penal Code allowing this person to withdraw his or  
17 her plea of guilty and to enter a plea of not guilty, or setting aside  
18 the verdict of guilty, or dismissing the accusation, complaint,  
19 information, or indictment.

20 SEC. 16. Section 3577 of the Business and Professions Code  
21 is amended to read:

22 3577. (a) Each person who applies for registration under this  
23 chapter shall pay into the Contingent Fund of the Medical Board  
24 of California a fee to be fixed by the board at a sum not in excess  
25 of one hundred dollars (\$100).

26 (b) Each person to whom registration is granted under this  
27 chapter shall pay into the Contingent Fund of the Medical Board  
28 of California a fee to be fixed by the board at a sum not in excess  
29 of one hundred dollars (\$100).

30 (c) The registration shall expire after two years. The registration  
31 may be renewed biennially at a fee which shall be paid into the  
32 Contingent Fund of the Medical Board of California to be fixed  
33 by the board at a sum not in excess of one hundred fifty dollars  
34 (\$150).

35 (d) The fee for monitoring a licensee *registrant* on probation  
36 shall be the cost of monitoring, as fixed by the board.

37 (e) The money in the Contingent Fund of the Medical Board of  
38 California that is collected pursuant to this section shall be used  
39 for the administration of this chapter.

1     SEC. 17. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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