

SB 294 (Negrete McLeod) – Healing Arts

Introduced February 25, 2009

Status: Amended September 4, 2009; 2-year bill

The Department of Consumer Affairs is looking at proposed amendments related to the Consumer Protection Enforcement Initiative (CPEI) that will be discussed during the Enforcement portion of the agenda.

This bill expands the authorized functions that may be performed by nurse practitioners (NP) practicing under standard procedures, makes significant revisions to the enforcement programs of healing arts boards, appoints an Enforcement Program Monitor (EPM) to the Board of Registered Nursing (BRN), and makes other changes.

This bill would increase the Department of Consumer Affairs (DCA) Director's audit jurisdiction to encompass licensees of all of the healing arts boards, and defines "health care license board" (HCLB) to include the Board of Psychology in addition to other healing arts boards.

This bill will do the following:

- 1) Provide on the BRN's Web site information on the status of the license of health care practitioner.
- 2) Extend authority of the Director to audit enforcement programs of health care boards.
- 3) Require an annual report to Legislature and DCA on enforcement actions of health boards.
- 4) Give authority of BRN to hire peace officer investigators.
- 5) Give authority to BRN to hire non-peace officer investigators and nurse consultants.
- 6) Prohibit regulatory gag clauses
- 7) Give authority to the EO to adopt default decisions and settlement agreements.
- 8) Permit access to documents and medical records for disciplinary action and impose penalties if they are not provided.
- 9) Suspend the license of incarcerated licensees.
- 10) Provide mandatory revocation for sexual misconduct or for the status of being a sex offender.
- 11) Require reporting of convictions and criminal charges.
- 12) Require a license suspended if a licensee fails the diversion program.
- 13) Place a sunset date on diversion programs.

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

AMENDED IN ASSEMBLY JULY 1, 2009

AMENDED IN ASSEMBLY JUNE 8, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 294

Introduced by Senator Negrete McLeod

February 25, 2009

~~An act to add Section 2835.7 to the Business and Professions Code, relating to nurse practitioners.~~ *An act to amend Sections 27, 116, 160, 726, 802.1 803, 803.5, 803.6, 1695.5, 2365, 2663, 2666, 2715, 2770.7, 3534.1, 3534.5, 4365, 4369, and 4870 of, to add Sections 1695.7, 1699.2, 2365.5, 2372, 2669.2, 2770.16, 2770.18, 2835.7, 3534.12, 4375, 4870.5, and 4873.2 to, to add Article 10.1 (commencing with Section 720) to Chapter 1 of Division 2 of, to add and repeal Section 2719 of, and to repeal Article 4.7 (commencing with Section 1695) of Chapter 4 of, Article 15 (commencing with Section 2360) of Chapter 5 of, Article 5.5 (commencing with Section 2662) of Chapter 5.7 of, Article 3.1 (commencing with Section 2770) of Chapter 6 of, Article 6.5 (commencing with Section 3534) of Chapter 7.7 of, Article 21 (commencing with Section 4360) of Chapter 9 of, and Article 3.5 (commencing with Section 4860) of Chapter 11 of, Division 2 of, the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 294, as amended, Negrete McLeod. ~~Nurse practitioners.~~ *Healing arts.*

Existing law provides for the regulation of healing arts licensees by various boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs.

(1) Existing law requires certain boards within the department to disclose on the Internet information on their respective licensees.

This bill would additionally require specified healing arts boards to disclose on the Internet information on their respective licensees.

Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

This bill would additionally authorize the director to audit and review the aforementioned activities by any of the healing arts boards. The bill would also declare the intent of the Legislature that the department establish an information technology system to create and update healing arts license information and track enforcement cases pertaining to these licensees.

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she been convicted of a felony or misdemeanor.

This bill would expand that requirement to any licensee of a healing arts board, as specified, would require these licensees to submit a written report, and would require a report when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state.

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees.

This bill would instead require that notice to be provided to any healing arts board and the court clerk if felony charges are filed against a licensee. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.

Existing law requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licensee has

committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licentiate.

This bill would instead require the clerk of the court to report that information and to transmit those transcripts to any described healing arts board.

(2) Under existing law, healing arts licensees are regulated by various boards and these boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and these boards are also authorized to take disciplinary action against their licensees for the failure to comply with its laws and regulations. Existing law requires or authorizes the board to appoint an executive officer or an executive director to, among other things, perform duties delegated by the board.

This bill would authorize the executive officer or the executive director of specified healing arts licensing boards, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense, appear at the hearing, or has agreed to surrender his or her license, to adopt a proposed default decision or a proposed settlement agreement. The bill would also provide that the license of a licensee shall be suspended if the licensee is incarcerated after the conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would also specify the timeframes for suspending a license under certain circumstances if the conviction was substantially related to the qualifications, functions, or duties of the licensee's respective board.

The bill would also prohibit a licensee of specified healing arts boards from including certain provisions in an agreement to settle a civil dispute arising from his or her practice, as specified. The bill would make a licensee or a health care facility that fails to comply with a patient's medical record request, as specified, within 15 days, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program.

The bill would authorize the Attorney General and his or her investigative agents, and these healing arts boards to inquire into any alleged violation of the laws under the board's jurisdiction and to inspect documents subject to specified procedures.

The bill would require these healing arts boards to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of consumer calls received by the board, the total number of complaint forms received by the board, the total number of convictions reported to the board, and the total number of licensees in diversion or on probation for alcohol or drug abuse.

(3) Existing law establishes diversion and recovery programs to identify and rehabilitate dentists, osteopathic physicians and surgeons, physical therapists and physical therapy assistants, registered nurses, physician assistants, pharmacists and intern pharmacists, and veterinarians and registered veterinary technicians whose competency may be impaired due to, among other things, alcohol and drug abuse.

The bill would make the provisions establishing these diversion programs inoperative on January 1, 2012.

Existing law makes a licentiate terminated from a diversion program for failing to comply with the program's requirements subject to disciplinary action by his or her respective board.

This bill would instead provide that the participant's license shall be suspended until the participant petitions the board for reinstatement of his or her license, certificate, or board approval and is granted a probationary or unrestricted license, certificate, or board approval. The bill would also require a third party or state agency or private organization administering the diversion program to report, as specified, to the program manager or chairperson any act of substantial noncompliance, as defined, by the participant with the program.

(4) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing. Existing law authorizes the board to employ personnel as it deems necessary to carry out the act's provisions, except that the employment of personnel to provide investigative services shall be in the Division of Investigations within the Department of Consumer Affairs.

This bill would remove that limitation and would authorize the board to employ investigators, nurse consultants, and other personnel as it deems necessary. The bill would also specify that these investigators have the authority of peace officers while carrying out their board duties.

The bill would require the Director of Consumer Affairs, by March 1, 2010, to appoint an enforcement program monitor to serve until October 1, 2011, who would be required to, among other things, monitor

and evaluate the board's disciplinary system and procedures. The bill would prohibit the enforcement program monitor from exercising authority over the board's disciplinary operations or staff. The bill would require the enforcement program monitor, by December 1, 2010, to submit a specified initial written report to the board, the department, and the Legislature and to issue a final written report by October 1, 2011.

Existing law, ~~the Nursing Practice Act~~, provides for the certification and regulation of nurse practitioners and nurse-midwives by the Board of Registered Nursing and specifies requirements for qualification or certification as a nurse practitioner. Under the act, the practice of nursing is defined, in part, as providing direct and indirect patient care services, as specified, including the dispensing of drugs or devices under specified circumstances. The practice of nursing is also described as the implementation, based on observed abnormalities, of standardized procedures, defined as policies and protocols developed by specified facilities in collaboration with administrators and health professionals, including physicians and surgeons and nurses.

This bill would authorize the implementation of standardized procedures that would expand the duties of a nurse practitioner in the scope of his or her practice, as enumerated. The bill would make specified findings and declarations in that regard.

(5) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:

1 27. (a) Every entity specified in subdivision (b), ~~on or after~~
2 ~~July 1, 2001~~, shall provide on the Internet information regarding
3 the status of every license issued by that entity in accordance with
4 the California Public Records Act (Chapter 3.5 (commencing with
5 Section 6250) of Division 7 of Title 1 of the Government Code)
6 and the Information Practices Act of 1977 (Chapter 1 (commencing
7 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
8 Code). The public information to be provided on the Internet shall
9 include information on suspensions and revocations of licenses
10 issued by the entity and other related enforcement action taken by
11 the entity relative to persons, businesses, or facilities subject to
12 licensure or regulation by the entity. In providing information on
13 the Internet, each entity shall comply with the Department of
14 Consumer Affairs Guidelines for Access to Public Records. The
15 information may not include personal information, including home
16 telephone number, date of birth, or social security number. Each
17 entity shall disclose a licensee's address of record. However, each
18 entity shall allow a licensee to provide a post office box number
19 or other alternate address, instead of his or her home address, as
20 the address of record. This section shall not preclude an entity
21 from also requiring a licensee, who has provided a post office box
22 number or other alternative mailing address as his or her address
23 of record, to provide a physical business address or residence
24 address only for the entity's internal administrative use and not
25 for disclosure as the licensee's address of record or disclosure on
26 the Internet.

27 (b) Each of the following entities within the Department of
28 Consumer Affairs shall comply with the requirements of this
29 section:

30 (1) The Acupuncture Board shall disclose information on its
31 licensees.

32 (2) The Board of Behavioral Sciences shall disclose information
33 on its licensees, including marriage and family therapists, licensed
34 clinical social workers, and licensed educational psychologists.

35 (3) The Dental Board of California shall disclose information
36 on its licensees.

37 (4) The State Board of Optometry shall disclose information
38 regarding certificates of registration to practice optometry,
39 statements of licensure, optometric corporation registrations, branch
40 office licenses, and fictitious name permits of their licensees.

1 (5) The Board for Professional Engineers and Land Surveyors
2 shall disclose information on its registrants and licensees.

3 (6) The Structural Pest Control Board shall disclose information
4 on its licensees, including applicators, field representatives, and
5 operators in the areas of fumigation, general pest and wood
6 destroying pests and organisms, and wood roof cleaning and
7 treatment.

8 (7) The Bureau of Automotive Repair shall disclose information
9 on its licensees, including auto repair dealers, smog stations, lamp
10 and brake stations, smog check technicians, and smog inspection
11 certification stations.

12 (8) The Bureau of Electronic and Appliance Repair shall disclose
13 information on its licensees, including major appliance repair
14 dealers, combination dealers (electronic and appliance), electronic
15 repair dealers, service contract sellers, and service contract
16 administrators.

17 (9) ~~The Cemetery Program and Funeral Bureau~~ shall disclose
18 information on its licensees, including cemetery brokers, cemetery
19 salespersons, crematories, and cremated remains disposers.

20 (10) ~~The Funeral Directors and Embalmers Program~~ *Cemetery*
21 *and Funeral Bureau* shall disclose information on its licensees,
22 including embalmers, funeral establishments, and funeral directors.

23 (11) The Contractors' State License Board shall disclose
24 information on its licensees in accordance with Chapter 9
25 (commencing with Section 7000) of Division 3. In addition to
26 information related to licenses as specified in subdivision (a), the
27 board shall also disclose information provided to the board by the
28 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

29 (12) The Board of Psychology shall disclose information on its
30 licensees, including psychologists, psychological assistants, and
31 registered psychologists.

32 (13) *The State Board of Chiropractic Examiners shall disclose*
33 *information on its licensees.*

34 (14) *The Board of Registered Nursing shall disclose information*
35 *on its licensees.*

36 (15) *The Board of Vocational Nursing and Psychiatric*
37 *Technicians of the State of California shall disclose information*
38 *on its licensees.*

39 (16) *The Veterinary Medical Board shall disclose information*
40 *on its licensees and registrants.*

1 (17) *The Physical Therapy Board of California shall disclose*
2 *information on its licensees.*

3 (18) *The California State Board of Pharmacy shall disclose*
4 *information on its licensees.*

5 (19) *The Speech-Language Pathology and Audiology Board*
6 *shall disclose information on its licensees.*

7 (20) *The Respiratory Care Board of California shall disclose*
8 *information on its licensees.*

9 (21) *The California Board of Occupational Therapy shall*
10 *disclose information on its licensees.*

11 (22) *The Naturopathic Medicine Committee, the Osteopathic*
12 *Medical Board of California shall disclose information on its*
13 *licensees.*

14 (23) *The Physician Assistant Committee of the Medical Board*
15 *of California shall disclose information on its licensees.*

16 (24) *The Dental Hygiene Committee of California shall disclose*
17 *information on its licensees.*

18 (c) "Internet" for the purposes of this section has the meaning
19 set forth in paragraph (6) of subdivision (e) of Section 17538.

20 SEC. 2. *Section 116 of the Business and Professions Code is*
21 *amended to read:*

22 116. (a) The director may audit and review, upon his or her
23 own initiative, or upon the request of a consumer or licensee,
24 inquiries and complaints regarding licensees, dismissals of
25 disciplinary cases, the opening, conduct, or closure of
26 investigations, informal conferences, and discipline short of formal
27 accusation by ~~the Medical Board of California, the allied health~~
28 ~~professional boards, and the California Board of Podiatric Medicine~~
29 *any of the healing arts boards established under Division 2*
30 *(commencing with Section 500) or under any initiative act referred*
31 *to in that division.* The director may make recommendations for
32 changes to the disciplinary system to the appropriate board, the
33 Legislature, or both.

34 (b) The director shall report to the Chairpersons of the Senate
35 Business and Professions Committee and the Assembly Health
36 Committee annually, ~~commencing March 1, 1995,~~ regarding his
37 or her findings from any audit, review, or monitoring and
38 evaluation conducted pursuant to this section.

39 SEC. 3. *Section 160 of the Business and Professions Code is*
40 *amended to read:*

160. The Chief and all investigators of the Division of Investigation of the department and, all investigators of the Medical Board of California and the ~~Board of Dental Examiners~~ *Dental Board of California*, and the designated investigators of the Board of Registered Nursing have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters in this section set forth.

SEC. 4. Article 10.1 (commencing with Section 720) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 10.1. Healing Arts Licensing Enforcement

720. (a) Unless otherwise provided, as used in this article, the term "board" shall include all of the following:

- (1) The Dental Board of California.
- (2) The Medical Board of California.
- (3) The State Board of Optometry.
- (4) The California State Board of Pharmacy.
- (5) The Board of Registered Nursing.
- (6) The Board of Behavioral Sciences.
- (7) The Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (8) The Respiratory Care Board of California.
- (9) The Acupuncture Board.
- (10) The Board of Psychology.
- (11) The California Board of Podiatric Medicine.
- (12) The Physical Therapy Board of California.
- (13) The Hearing Aid Dispensers Bureau.
- (14) The Physician Assistant Committee of the Medical Board of California.
- (15) The Speech-Language Pathology and Audiology Board.
- (16) The California Board of Occupational Therapy.
- (17) The Osteopathic Medical Board of California.

1 (18) *The Naturopathic Medicine Committee, the Osteopathic*
2 *Medical Board of California.*

3 (19) *The Dental Hygiene Committee of California.*

4 (20) *The State Board of Chiropractic Examiners.*

5 (21) *The Veterinary Medical Board.*

6 (b) *Unless otherwise provided, as used in this article, "licensee"*
7 *means a licensee of a board described in subdivision (a).*

8 720.2. (a) *The executive officer or executive director of a*
9 *board may adopt a proposed default decision where an*
10 *administrative action to revoke a license has been filed by the*
11 *board and the licensee has failed to file a notice of defense or to*
12 *appear at the hearing and a proposed default decision revoking*
13 *the license has been issued.*

14 (b) *The executive officer or executive director of a board may*
15 *adopt a proposed settlement agreement where an administrative*
16 *action to revoke a license has been filed by the board and the*
17 *licensee has agreed to surrender his or her license.*

18 720.4. (a) *The license of a licensee of a board shall be*
19 *suspended automatically during any time that the licensee is*
20 *incarcerated after conviction of a felony, regardless of whether*
21 *the conviction has been appealed. The board shall, immediately*
22 *upon receipt of the certified copy of the record of conviction from*
23 *the court clerk, determine whether the license of the licensee has*
24 *been automatically suspended by virtue of his or her incarceration,*
25 *and if so, the duration of that suspension. The board shall notify*
26 *the licensee of the license suspension and of his or her right to*
27 *elect to have the issue of penalty heard as provided in subdivision*
28 *(d).*

29 (b) *Upon receipt of the certified copy of the record of conviction,*
30 *if after a hearing before an administrative law judge from the*
31 *Office of Administrative Law it is determined that the felony for*
32 *which the licensee was convicted was substantially related to the*
33 *qualifications, functions, or duties of the licensee, the board shall*
34 *suspend the license until the time for appeal has elapsed, if no*
35 *appeal has been taken, or until the judgment of conviction has*
36 *been affirmed on appeal or has otherwise become final, and until*
37 *further order of the board.*

38 (c) *Notwithstanding subdivision (b), conviction of a charge of*
39 *violating any federal statutes or regulations or any statute or*
40 *regulation of this state regulating dangerous drugs or controlled*

1 substances, or a conviction pursuant to Section 187, 261, 262, or
2 288 of the Penal Code, shall be conclusively presumed to be
3 substantially related to the qualifications, functions, or duties of
4 a licensee and no hearing shall be held on this issue. However,
5 upon its own motion or for good cause shown, the board may
6 decline to impose or may set aside the suspension when it appears
7 to be in the interest of justice to do so, with due regard to
8 maintaining the integrity of and confidence in the practice
9 regulated by the board.

10 (d) (1) Discipline may be ordered against a license in
11 accordance with the laws and regulations of the board when the
12 time for appeal has elapsed, the judgment of conviction has been
13 affirmed on appeal, or an order granting probation is made
14 suspending the imposition of the sentence, irrespective of a
15 subsequent order under Section 1203.4 of the Penal Code allowing
16 the person to withdraw his or her plea of guilty and to enter a plea
17 of not guilty, setting aside the verdict of guilty, or dismissing the
18 accusation, complaint, information, or indictment.

19 (2) The issue of penalty shall be heard by an administrative law
20 judge from the Office of Administrative Law. The hearing shall
21 not be held until the judgment of conviction has become final or,
22 irrespective of a subsequent order under Section 1203.4 of the
23 Penal Code, an order granting probation has been made
24 suspending the imposition of sentence, except that a licensee may,
25 at his or her option, elect to have the issue of penalty decided
26 before those time periods have elapsed. Where the licensee so
27 elects, the issue of penalty shall be heard in the manner described
28 in subdivision (b) at the hearing to determine whether the
29 conviction was substantially related to the qualifications, functions,
30 or duties of a licensee. If the conviction of a licensee who has made
31 this election is overturned on appeal, any discipline ordered
32 pursuant to this section shall automatically cease. Nothing in this
33 subdivision shall prohibit the board from pursuing disciplinary
34 action based on any cause other than the overturned conviction.

35 (e) The record of the proceedings resulting in the conviction,
36 including a transcript of the testimony therein, may be received
37 in evidence.

38 (f) Any other provision of law setting forth a procedure for the
39 suspension or revocation of a license issued by a board shall not
40 apply to proceedings conducted pursuant to this section.

1 (g) This section shall not apply to a physician and surgeon's
2 certificate subject to Section 2236.1.

3 720.6. Except as otherwise provided, any proposed decision
4 or decision issued under this article in accordance with the
5 procedures set forth in Chapter 5 (commencing with Section 11500)
6 of Part 1 of Division 3 of Title 2 of the Government Code, that
7 contains any finding of fact that the licensee or registrant engaged
8 in any act of sexual contact, as defined in Section 729, with a
9 patient, or has committed an act or has been convicted of a sex
10 offense as defined in Section 44010 of the Education Code, shall
11 contain an order of revocation. The revocation shall not be stayed
12 by the administrative law judge. Unless otherwise provided in the
13 laws and regulations of the board, the patient shall no longer be
14 considered a patient of the licensee when the order for services
15 and procedures provided by the licensee is terminated,
16 discontinued, or not renewed by the licensee.

17 720.8. (a) A licensee of a board shall not include or permit to
18 be included any of the following provisions in an agreement to
19 settle a civil dispute arising from his or her practice, whether the
20 agreement is made before or after the filing of an action:

21 (1) A provision that prohibits another party to the dispute from
22 contacting or cooperating with the board.

23 (2) A provision that prohibits another party to the dispute from
24 filing a complaint with the board.

25 (3) A provision that requires another party to the dispute to
26 withdraw a complaint he or she has filed with the board.

27 (b) A provision described in subdivision (a) is void as against
28 public policy.

29 (c) A violation of this section constitutes unprofessional conduct
30 and may subject the licensee to disciplinary action.

31 (d) If a board complies with Section 2220.7, that board shall
32 not be subject to the requirements of this section.

33 720.10. (a) Notwithstanding any other provision of law making
34 a communication between a licensee of a board and his or her
35 patients a privileged communication, those provisions shall not
36 apply to investigations or proceedings conducted by a board.
37 Members of a board, deputies, employees, agents, the Attorney
38 General's Office, and representatives of the board shall keep in
39 confidence during the course of investigations the names of any
40 patients whose records are reviewed and may not disclose or reveal

1 *those names, except as is necessary during the course of an*
2 *investigation, unless and until proceedings are instituted. The*
3 *authority under this subdivision to examine records of patients in*
4 *the office of a licensee is limited to records of patients who have*
5 *complained to the board about that licensee.*

6 *(b) Notwithstanding any other provision of law, the Attorney*
7 *General and his or her investigative agents, and a board and its*
8 *investigators and representatives may inquire into any alleged*
9 *violation of the laws under the jurisdiction of the board or any*
10 *other federal or state law, regulation, or rule relevant to the*
11 *practice regulated by the board, whichever is applicable, and may*
12 *inspect documents relevant to those investigations in accordance*
13 *with the following procedures:*

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

16 *(2) Any document relevant to the business operations of a*
17 *licensee, and not involving medical records attributable to*
18 *identifiable patients, may be inspected and copied where relevant*
19 *to an investigation of a licensee.*

20 *(c) In all cases where documents are inspected or copies of*
21 *those documents are received, their acquisition or review shall be*
22 *arranged so as not to unnecessarily disrupt the medical and*
23 *business operations of the licensee or of the facility where the*
24 *records are kept or used.*

25 *(d) Where documents are lawfully requested from licensees in*
26 *accordance with this section by the Attorney General or his or her*
27 *agents or deputies, or investigators of any board, they shall be*
28 *provided within 15 business days of receipt of the request, unless*
29 *the licensee is unable to provide the documents within this time*
30 *period for good cause, including, but not limited to, physical*
31 *inability to access the records in the time allowed due to illness*
32 *or travel. Failure to produce requested documents or copies*
33 *thereof, after being informed of the required deadline, shall*
34 *constitute unprofessional conduct. A board may use its authority*
35 *to cite and fine a licensee for any violation of this section. This*
36 *remedy is in addition to any other authority of the board to sanction*
37 *a licensee for a delay in producing requested records.*

38 *(e) Searches conducted of the office or medical facility of any*
39 *licensee shall not interfere with the recordkeeping format or*

1 *preservation needs of any licensee necessary for the lawful care*
2 *of patients.*

3 *(f) If a board complies with Section 2225, that board shall not*
4 *be subject to the requirements of this section.*

5 *720.12. (a) A board, and the Attorney General, shall return*
6 *any original documents received pursuant to Section 720.12 to the*
7 *licensee from whom they were obtained within seven calendar*
8 *days.*

9 *(b) If a board complies with Section 2225.3, that board shall*
10 *not be subject to the requirements of this section.*

11 *720.14. (a) (1) A licensee who fails or refuses to comply with*
12 *a request for the certified medical records of a patient, that is*
13 *accompanied by that patient's written authorization for release*
14 *of records to a board, within 15 days of receiving the request and*
15 *authorization, shall pay to the board a civil penalty of one thousand*
16 *dollars (\$1,000) per day for each day that the documents have not*
17 *been produced after the 15th day, up to ten thousand dollars*
18 *(\$10,000), unless the licensee is unable to provide the documents*
19 *within this time period for good cause.*

20 *(2) A health care facility shall comply with a request for the*
21 *certified medical records of a patient that is accompanied by that*
22 *patient's written authorization for release of records to a board*
23 *together with a notice citing this section and describing the*
24 *penalties for failure to comply with this section. Failure to provide*
25 *the authorizing patient's certified medical records to the board*
26 *within 30 days of receiving the request, authorization, and notice*
27 *shall subject the health care facility to a civil penalty, payable to*
28 *the board, of up to one thousand dollars (\$1,000) per day for each*
29 *day that the documents have not been produced after the 20th day,*
30 *up to ten thousand dollars (\$10,000), unless the health care facility*
31 *is unable to provide the documents within this time period for good*
32 *cause. This paragraph shall not require health care facilities to*
33 *assist the boards in obtaining the patient's authorization. A board*
34 *shall pay the reasonable costs of copying the certified medical*
35 *records, but shall not be required to pay such cost prior to the*
36 *production of the medical records.*

37 *(b) (1) A licensee who fails or refuses to comply with a court*
38 *order, issued in the enforcement of a subpoena, mandating the*
39 *release of records to a board, shall pay to the board a civil penalty*
40 *of one thousand dollars (\$1,000) per day for each day that the*

1 documents have not been produced after the date by which the
2 court order requires the documents to be produced, unless it is
3 determined that the order is unlawful or invalid. Any statute of
4 limitations applicable to the filing of an accusation by the board
5 shall be tolled during the period the licensee is out of compliance
6 with the court order and during any related appeals.

7 (2) Any licensee who fails or refuses to comply with a court
8 order, issued in the enforcement of a subpoena, mandating the
9 release of records to a board is guilty of a misdemeanor punishable
10 by a fine payable to the board not to exceed five thousand dollars
11 (\$5,000). The fine shall be added to the licensee's renewal fee if
12 it is not paid by the next succeeding renewal date. Any statute of
13 limitations applicable to the filing of an accusation by a board
14 shall be tolled during the period the licensee is out of compliance
15 with the court order and during any related appeals.

16 (3) A health care facility that fails or refuses to comply with a
17 court order, issued in the enforcement of a subpoena, mandating
18 the release of patient records to a board, that is accompanied by
19 a notice citing this section and describing the penalties for failure
20 to comply with this section, shall pay to the board a civil penalty
21 of up to one thousand dollars (\$1,000) per day for each day that
22 the documents have not been produced, up to ten thousand dollars
23 (\$10,000), after the date by which the court order requires the
24 documents to be produced, unless it is determined that the order
25 is unlawful or invalid. Any statute of limitations applicable to the
26 filing of an accusation by the board against a licensee shall be
27 tolled during the period the health care facility is out of compliance
28 with the court order and during any related appeals.

29 (4) Any health care facility that fails or refuses to comply with
30 a court order, issued in the enforcement of a subpoena, mandating
31 the release of records to a health care license board is guilty of a
32 misdemeanor punishable by a fine payable to the board not to
33 exceed five thousand dollars (\$5,000). Any statute of limitations
34 applicable to the filing of an accusation by the board against a
35 licensee shall be tolled during the period the health care facility
36 is out of compliance with the court order and during any related
37 appeals.

38 (c) Multiple acts by a licensee in violation of subdivision (b)
39 shall be punishable by a fine not to exceed five thousand dollars
40 (\$5,000) or by imprisonment in a county jail not exceeding six

1 months, or by both that fine and imprisonment. Multiple acts by
2 a health care facility in violation of subdivision (b) shall be
3 punishable by a fine not to exceed five thousand dollars (\$5,000)
4 and shall be reported to the State Department of Public Health
5 and shall be considered as grounds for disciplinary action with
6 respect to licensure, including suspension or revocation of the
7 license or certificate.

8 (d) A failure or refusal of a licensee to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to the board constitutes unprofessional conduct
11 and is grounds for suspension or revocation of his or her license.

12 (e) Imposition of the civil penalties authorized by this section
13 shall be in accordance with the Administrative Procedure Act
14 (Chapter 5 (commencing with Section 11500) of Division 3 of Title
15 2 of the Government Code). Any civil penalties paid to or received
16 by a board pursuant to this section shall be deposited into the fund
17 administered by the board.

18 (f) For purposes of this section, "certified medical records"
19 means a copy of the patient's medical records authenticated by
20 the licensee or health care facility, as appropriate, on a form
21 prescribed by the licensee's board.

22 (g) For purposes of this section, a "health care facility" means
23 a clinic or health facility licensed or exempt from licensure
24 pursuant to Division 2 (commencing with Section 1200) of the
25 Health and Safety Code.

26 (h) If a board complies with Section 2225.5, that board shall
27 not be subject to the requirements of this section.

28 (i) This section shall not apply to a licensee who does not have
29 access to, or control over, certified medical records.

30 720.16. (a) Each board shall report annually to the department
31 and the Legislature, not later than October 1 of each year, the
32 following information:

33 (1) The total number of consumer calls received by the board
34 and the number of consumer calls or letters designated as
35 discipline-related complaints.

36 (2) The total number of complaint forms received by the board.

37 (3) The total number of reports received by the board pursuant
38 to Section 801, 801.01, and 803, as applicable.

39 (4) The total number of coroner reports received by the board.

40 (5) The total number of convictions reported to the board.

1 (6) *The total number of criminal filings reported to the board.*

2 (7) *If the board is authorized to receive reports pursuant to*
3 *Section 805, the total number of Section 805 reports received by*
4 *the board, by the type of peer review body reporting and, where*
5 *applicable, the type of health care facility involved, and the total*
6 *number and type of administrative or disciplinary actions taken*
7 *by the board with respect to the reports, and their disposition.*

8 (8) *The total number of complaints closed or resolved without*
9 *discipline, prior to accusation.*

10 (9) *The total number of complaints and reports referred for*
11 *formal investigation.*

12 (10) *The total number of accusations filed and the final*
13 *disposition of accusations through the board and court review,*
14 *respectively.*

15 (11) *The total number of citations issued, with fines and without*
16 *fines, and the number of public letters of reprimand, letters of*
17 *admonishment, or other similar action issued, if applicable.*

18 (12) *The total number of final licensee disciplinary actions*
19 *taken, by category.*

20 (13) *The total number of cases in process for more than six*
21 *months, more than 12 months, more than 18 months, and more*
22 *than 24 months, from receipt of a complaint by the board.*

23 (14) *The average and median time in processing complaints,*
24 *from original receipt of the complaint by the board, for all cases,*
25 *at each stage of the disciplinary process and court review,*
26 *respectively.*

27 (15) *The total number of licensees in diversion or on probation*
28 *for alcohol or drug abuse or mental disorder, and the number of*
29 *licensees successfully completing diversion programs or probation,*
30 *and failing to do so, respectively.*

31 (16) *The total number of probation violation reports and*
32 *probation revocation filings, and their dispositions.*

33 (17) *The total number of petitions for reinstatement, and their*
34 *dispositions.*

35 (18) *The total number of caseloads of investigators for original*
36 *cases and for probation cases, respectively.*

37 (b) *"Action," for purposes of this section, includes proceedings*
38 *brought by, or on behalf of, the board against licensees for*
39 *unprofessional conduct that have not been finally adjudicated, as*
40 *well as disciplinary actions taken against licensees.*

1 (c) If a board complies with Section 2313, that board shall not
2 be subject to the requirements of this section.

3 SEC. 5. Section 726 of the Business and Professions Code is
4 amended to read:

5 726. (a) The commission of any act of sexual abuse,
6 misconduct, or relations with a patient, client, or customer
7 constitutes unprofessional conduct and grounds for disciplinary
8 action for any person licensed under this division; and under any
9 initiative act referred to in this division ~~and under Chapter 17~~
10 ~~(commencing with Section 9000) of Division 3.~~

11 (b) The commission of, and conviction for, any act of sexual
12 abuse, misconduct or attempted sexual misconduct, whether or
13 not with a patient, or conviction of a felony requiring registration
14 pursuant to Section 290 of the Penal Code shall be considered a
15 crime substantially related to the qualifications, functions, or duties
16 of a healing arts board licensee.

17 This

18 (c) This section shall not apply to sexual contact between a
19 physician and surgeon and his or her spouse or person in an
20 equivalent domestic relationship when that physician and surgeon
21 provides medical treatment, other than psychotherapeutic treatment,
22 to his or her spouse or person in an equivalent domestic
23 relationship.

24 SEC. 6. Section 802.1 of the Business and Professions Code
25 is amended to read:

26 802.1. (a) (1) ~~A physician and surgeon, osteopathic physician~~
27 ~~and surgeon, and a doctor of podiatric medicine~~ Any licensee of a
28 healing arts board established under this division or under any
29 initiative act referred to in this division shall submit a written
30 report ~~either~~ of any of the following to the entity that issued his or
31 her license:

32 (A) The bringing of an indictment or information charging a
33 felony against the licensee.

34 (B) The conviction of the licensee, including any verdict of
35 guilty, or plea of guilty or no contest, of any felony or
36 misdemeanor.

37 (C) Any disciplinary action ever taken by another healing arts
38 board of this state or a healing arts board of another state.

1 (2) The report required by this subdivision shall be made in
2 writing within 30 days of the date of the bringing of the indictment
3 or information or of the conviction *or disciplinary action*.

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

7 *SEC. 7. Section 803 of the Business and Professions Code is*
8 *amended to read:*

9 803. (a) Except as provided in subdivision (b), within 10 days
10 after a judgment by a court of this state that a person who holds a
11 license, certificate, or other similar authority from the Board of
12 Behavioral Science Examiners or from an agency mentioned in
13 subdivision (a) of Section 800 (except a person licensed pursuant
14 to Chapter 3 (commencing with Section 1200)) *any of the healing*
15 *arts boards established under this division or under any initiative*
16 *act referred to in this division* has committed a crime, or is liable
17 for any death or personal injury resulting in a judgment for an
18 amount in excess of thirty thousand dollars (\$30,000) caused by
19 his or her negligence, error or omission in practice, or his or her
20 rendering unauthorized professional services, the clerk of the court
21 that rendered the judgment shall report that fact to the agency that
22 issued the license, certificate, or other similar authority.

23 (b) For purposes of a physician and surgeon, osteopathic
24 physician and surgeon, or doctor of podiatric medicine, who is
25 liable for any death or personal injury resulting in a judgment of
26 any amount caused by his or her negligence, error or omission in
27 practice, or his or her rendering unauthorized professional services,
28 the clerk of the court that rendered the judgment shall report that
29 fact to the agency that issued the license.

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

32 803.5. (a) The district attorney, city attorney, or other
33 prosecuting agency shall notify ~~the Medical Board of California,~~
34 ~~the Osteopathic Medical Board of California, the California Board~~
35 ~~of Podiatric Medicine, the State Board of Chiropractic Examiners,~~
36 ~~or other appropriate allied health board, the appropriate healing~~
37 *arts board established under this division or under any initiative*
38 *act referred to in this division* and the clerk of the court in which
39 the charges have been filed, of any filings against a licensee of
40 that board charging a felony immediately upon obtaining

1 information that the defendant is a licensee of the board. The notice
2 shall identify the licensee and describe the crimes charged and the
3 facts alleged. The prosecuting agency shall also notify the clerk
4 of the court in which the action is pending that the defendant is a
5 licensee, and the clerk shall record prominently in the file that the
6 defendant holds a license from one of the boards described above.

7 (b) The clerk of the court in which a licensee of one of the
8 boards is convicted of a crime shall, within 48 hours after the
9 conviction, transmit a certified copy of the record of conviction
10 to the applicable board.

11 *SEC. 9. Section 803.6 of the Business and Professions Code*
12 *is amended to read:*

13 803.6. (a) The clerk of the court shall transmit any felony
14 preliminary hearing transcript concerning a defendant licensee to
15 ~~the Medical Board of California, the Osteopathic Medical Board~~
16 ~~of California, the California Board of Podiatric Medicine, or other~~
17 ~~appropriate allied health board, as applicable, any of the healing~~
18 ~~arts boards established under this division or under any initiative~~
19 ~~act referred to in this division~~ where the total length of the
20 transcript is under 800 pages and shall notify the appropriate board
21 of any proceeding where the transcript exceeds that length.

22 (b) In any case where a probation report on a licensee is prepared
23 for a court pursuant to Section 1203 of the Penal Code, a copy of
24 that report shall be transmitted by the probation officer to the
25 appropriate board.

26 *SEC. 10. Section 1695.5 of the Business and Professions Code*
27 *is amended to read:*

28 1695.5. (a) The board shall establish criteria for the acceptance,
29 denial, or termination of licentiates in a diversion program. Unless
30 ordered by the board as a condition of licentiate disciplinary
31 probation, only those licentiates who have voluntarily requested
32 diversion treatment and supervision by a committee shall
33 participate in a diversion program.

34 (b) A licentiate who is not the subject of a current investigation
35 may self-refer to the diversion program on a confidential basis,
36 except as provided in subdivision (f).

37 (c) A licentiate under current investigation by the board may
38 also request entry into the diversion program by contacting the
39 board's Diversion Program Manager. The Diversion Program
40 Manager may refer the licentiate requesting participation in the

1 program to a diversion evaluation committee for evaluation of
2 eligibility. Prior to authorizing a licentiate to enter into the
3 diversion program, the Diversion Program Manager may require
4 the licentiate, while under current investigation for any violations
5 of the Dental Practice Act or other violations, to execute a
6 statement of understanding that states that the licentiate understands
7 that his or her violations of the Dental Practice Act or other statutes
8 that would otherwise be the basis for discipline, may still be
9 investigated and the subject of disciplinary action.

10 (d) If the reasons for a current investigation of a licentiate are
11 based primarily on the self-administration of any controlled
12 substance or dangerous drugs or alcohol under Section 1681 of
13 the Business and Professions Code, or the illegal possession,
14 prescription, or nonviolent procurement of any controlled substance
15 or dangerous drugs for self-administration that does not involve
16 actual, direct harm to the public, the board shall close the
17 investigation without further action if the licentiate is accepted
18 into the board's diversion program and successfully completes the
19 requirements of the program. If the licentiate withdraws or is
20 terminated from the program by a diversion evaluation committee,
21 and the termination is approved by the program manager, the
22 investigation shall be reopened and disciplinary action imposed,
23 if warranted, as determined by the board.

24 (e) Neither acceptance nor participation in the diversion program
25 shall preclude the board from investigating or continuing to
26 investigate, or taking disciplinary action or continuing to take
27 disciplinary action against, any licentiate for any unprofessional
28 conduct committed before, during, or after participation in the
29 diversion program.

30 (f) All licentiates shall sign an agreement of understanding that
31 the withdrawal or termination from the diversion program at a time
32 when a diversion evaluation committee determines the licentiate
33 presents a threat to the public's health and safety shall result in the
34 utilization by the board of diversion treatment records in
35 disciplinary or criminal proceedings.

36 (g) ~~Any~~ *The license of a licentiate who is terminated from the*
37 *diversion program for failure to comply with program requirements*
38 *is subject to disciplinary action by the board for acts committed*
39 *before, during, and after participation in the diversion program. A*
40 *licentiate who has been under investigation by the board and has*

1 ~~been terminated from the diversion program by a diversion~~
2 ~~evaluation committee shall be reported by the diversion evaluation~~
3 ~~committee to the board. shall be placed on suspension until the~~
4 ~~licentiate petitions the board for reinstatement of his or her license~~
5 ~~and is granted a probationary or unrestricted license.~~

6 SEC. 11. Section 1695.7 is added to the Business and
7 Professions Code, to read:

8 1695.7. (a) Any third-party vendor under contract with the
9 board for the administration of the diversion program shall report
10 to the program manager within five days any act, by a licentiate,
11 of substantial noncompliance with the program. For purposes of
12 this section, "substantial noncompliance" includes, but is not
13 limited to, a failed drug test, a relapse, refusal to submit to a drug
14 test, failure to comply with any practice limitations, repeated or
15 material failure to comply with other requirements of the program,
16 or termination from the program.

17 (b) Failure by a third-party vendor to comply with this section
18 is grounds for termination of a contract for the administration of
19 the diversion program.

20 SEC. 12. Section 1699.2 is added to the Business and
21 Professions Code, to read:

22 1699.2. This article shall remain in effect only until January
23 1, 2012, and as of that date is repealed, unless a later enacted
24 statute, that is enacted before January 1, 2012, deletes or extends
25 that date.

26 SEC. 13. Section 2365 of the Business and Professions Code
27 is amended to read:

28 2365. (a) The board shall establish criteria for the acceptance,
29 denial, or termination of participants in the diversion program.
30 Unless ordered by the board as a condition of disciplinary
31 probation, only those participants who have voluntarily requested
32 diversion treatment and supervision by a committee shall
33 participate in the diversion program.

34 (b) A participant who is not the subject of a current investigation
35 may self-refer to the diversion program on a confidential basis,
36 except as provided in subdivision (f).

37 (c) A participant under current investigation by the board may
38 also request entry into the diversion program by contacting the
39 board's Diversion Program Manager. The Diversion Program
40 Manager may refer the participant requesting participation in the

1 program to a diversion evaluation committee for evaluation of
2 eligibility. Prior to authorizing a licentiate to enter into the
3 diversion program, the Diversion Program Manager may require
4 the licentiate, while under current investigation for any violations
5 of the Medical Practice Act or other violations, to execute a
6 statement of understanding that states that the licentiate understands
7 that his or her violations of the Medical Practice Act or other
8 statutes that would otherwise be the basis for discipline may still
9 be investigated and the subject of disciplinary action.

10 (d) If the reasons for a current investigation of a participant are
11 based primarily on the self-administration of any controlled
12 substance or dangerous drugs or alcohol under Section 2239, or
13 the illegal possession, prescription, or nonviolent procurement of
14 any controlled substance or dangerous drugs for self-administration
15 that does not involve actual, direct harm to the public, the board
16 may close the investigation without further action if the licentiate
17 is accepted into the board's diversion program and successfully
18 completes the requirements of the program. If the participant
19 withdraws or is terminated from the program by a diversion
20 evaluation committee, and the termination is approved by the
21 program manager, the investigation may be reopened and
22 disciplinary action imposed, if warranted, as determined by the
23 board.

24 (e) Neither acceptance nor participation in the diversion program
25 shall preclude the board from investigating or continuing to
26 investigate, or taking disciplinary action or continuing to take
27 disciplinary action against, any participant for any unprofessional
28 conduct committed before, during, or after participation in the
29 diversion program.

30 (f) All participants shall sign an agreement of understanding
31 that the withdrawal or termination from the diversion program at
32 a time when a diversion evaluation committee determines the
33 licentiate presents a threat to the public's health and safety shall
34 result in the utilization by the board of diversion treatment records
35 in disciplinary or criminal proceedings.

36 (g) ~~Any~~ *The license of a participant who is* terminated from the
37 diversion program for failure to comply with program requirements
38 ~~is subject to disciplinary action by the board for acts committed~~
39 ~~before, during, and after participation in the diversion program. A~~
40 ~~participant who has been under investigation by the board and has~~

1 ~~been terminated from the diversion program by a diversion~~
2 ~~evaluation committee shall be reported by the diversion evaluation~~
3 ~~committee to the board. shall be placed on suspension until the~~
4 ~~participant petitions the board for reinstatement of his or her~~
5 ~~certificate and is granted a probationary or unrestricted certificate.~~

6 SEC. 14. Section 2365.5 is added to the Business and
7 Professions Code, to read:

8 2365.5. (a) Any third-party vendor under contract with the
9 board for the administration of the diversion program shall report
10 to the program manager within five days any act, by a participant,
11 of substantial noncompliance with the program. For purposes of
12 this section, "substantial noncompliance" includes, but is not
13 limited to, a failed drug test, a relapse, refusal to submit to a drug
14 test, failure to comply with any practice limitations, repeated or
15 material failure to comply with other requirements of the program,
16 or termination from the program.

17 (b) Failure by a third-party vendor to comply with this section
18 is grounds for termination of a contract for the administration of
19 the diversion program.

20 SEC. 15. Section 2372 is added to the Business and Professions
21 Code, to read:

22 2372. This article shall remain in effect only until January 1,
23 2012, and as of that date is repealed, unless a later enacted statute,
24 that is enacted before January 1, 2012, deletes or extends that
25 date.

26 SEC. 16. Section 2663 of the Business and Professions Code
27 is amended to read:

28 2663. (a) The board shall establish and administer a diversion
29 program for the rehabilitation of physical therapists and physical
30 therapist assistants whose competency is impaired due to the abuse
31 of drugs or alcohol. The board may contract with any other state
32 agency or a private organization *or third-party vendor* to perform
33 its duties under this article. The board may establish one or more
34 diversion evaluation committees to assist it in carrying out its
35 duties under this article. Any diversion evaluation committee
36 established by the board shall operate under the direction of the
37 diversion program manager, as designated by the executive officer
38 of the board. The program manager has the primary responsibility
39 to review and evaluate recommendations of the committee.

1 **(b) (1)** *Any state agency or private organization or third-party*
2 *vendor under contract with the board for the administration of the*
3 *diversion program shall report within five days to the program*
4 *manager any act, by a participant, of substantial noncompliance*
5 *with the program. For purposes of this section, "substantial*
6 *noncompliance" includes, but is not limited to, a failed drug test,*
7 *a relapse, refusal to submit to a drug test, failure to comply with*
8 *any practice limitations, repeated or material failure to comply*
9 *with other requirements of the program, or termination from the*
10 *program.*

11 **(2)** *Failure by a state agency or private organization or*
12 *third-party vendor to comply with this subdivision is grounds for*
13 *termination of a contract for the administration of the diversion*
14 *program.*

15 **SEC. 17.** *Section 2666 of the Business and Professions Code*
16 *is amended to read:*

17 2666. (a) Criteria for acceptance into the diversion program
18 shall include all of the following:

19 (1) The applicant shall be licensed as a physical therapist or
20 approved as a physical therapist assistant by the board and shall
21 be a resident of California.

22 (2) The applicant shall be found to abuse dangerous drugs or
23 alcoholic beverages in a manner which may affect his or her ability
24 to practice physical therapy safely or competently.

25 (3) The applicant shall have voluntarily requested admission to
26 the program or shall be accepted into the program in accordance
27 with terms and conditions resulting from a disciplinary action.

28 (4) The applicant shall agree to undertake any medical or
29 psychiatric examination ordered to evaluate the applicant for
30 participation in the program.

31 (5) The applicant shall cooperate with the program by providing
32 medical information, disclosure authorizations, and releases of
33 liability as may be necessary for participation in the program.

34 (6) The applicant shall agree in writing to cooperate with all
35 elements of the treatment program designed for him or her.

36 Any applicant may be denied participation in the program if the
37 board, the program manager, or a diversion evaluation committee
38 determines that the applicant will not substantially benefit from
39 participation in the program or that the applicant's participation

1 in the program creates too great a risk to the public health, safety,
2 or welfare.

3 (b) A participant may be terminated from the program for any
4 of the following reasons:

5 (1) The participant has successfully completed the treatment
6 program.

7 (2) The participant has failed to comply with the treatment
8 program designated for him or her.

9 (3) The participant fails to meet any of the criteria set forth in
10 subdivision (a) or (c).

11 (4) It is determined that the participant has not substantially
12 benefited from participation in the program or that his or her
13 continued participation in the program creates too great a risk to
14 the public health, safety, or welfare. Whenever an applicant is
15 denied participation in the program or a participant is terminated
16 from the program for any reason other than the successful
17 completion of the program, and it is determined that the continued
18 practice of physical therapy by that individual creates too great a
19 risk to the public health, safety, and welfare, that fact shall be
20 reported to the executive officer of the board and all documents
21 and information pertaining to and supporting that conclusion shall
22 be provided to the executive officer. The matter may be referred
23 for investigation and disciplinary action by the board. Each physical
24 therapist or physical therapy assistant who requests participation
25 in a diversion program shall agree to cooperate with the recovery
26 program designed for him or her. Any failure to comply with that
27 program may result in termination of participation in the program.

28 The diversion evaluation committee shall inform each participant
29 in the program of the procedures followed in the program, of the
30 rights and responsibilities of a physical therapist or physical
31 therapist assistant in the program, and the possible results of
32 noncompliance with the program.

33 (c) In addition to the criteria and causes set forth in subdivision
34 (a), the board may set forth in its regulations additional criteria for
35 admission to the program or causes for termination from the
36 program.

37 (d) *The license of a physical therapist or the approval of a*
38 *physical therapy assistant who is terminated from the diversion*
39 *program for failure to comply with program requirements shall*
40 *be placed on suspension until the physical therapist or physical*

1 *therapy assistant petitions the board for reinstatement of his or*
2 *her license or board approval and is granted a probationary or*
3 *unrestricted license or board approval.*

4 *SEC. 18. Section 2669.2 is added to the Business and*
5 *Professions Code, to read:*

6 *2669.2. This article shall remain in effect only until January*
7 *1, 2012, and as of that date is repealed, unless a later enacted*
8 *statute, that is enacted before January 1, 2012, deletes or extends*
9 *that date.*

10 *SEC. 19. Section 2715 of the Business and Professions Code*
11 *is amended to read:*

12 *2715. The board shall prosecute all persons guilty of violating*
13 *the provisions of this chapter.*

14 ~~*Except as provided by Section 159.5, the*~~

15 *The board, in accordance with the provisions of the Civil Service*
16 *Law, may employ such investigators, nurse consultants, and other*
17 *personnel as it deems necessary to carry into effect the provisions*
18 *of this chapter. Investigators employed by the board shall be*
19 *provided special training in investigating nursing practice*
20 *activities.*

21 *The board shall have and use a seal bearing the name “Board of*
22 *Registered Nursing.” The board may adopt, amend, or repeal, in*
23 *accordance with the provisions of Chapter 4.5 (commencing with*
24 *Section 11371); of Part 1; of Division 3; of Title 2 of the*
25 *Government Code, such rules and regulations as may be reasonably*
26 *necessary to enable it to carry into effect the provisions of this*
27 *chapter.*

28 *SEC. 20. Section 2719 is added to the Business and Professions*
29 *Code, to read:*

30 *2719. (a) (1) On or before March 1, 2010, the director shall*
31 *appoint an enforcement program monitor. The director may retain*
32 *a person for this position through a personal services contract,*
33 *the Legislature finding, pursuant to Section 19130 of the*
34 *Government Code, that this is a new state function.*

35 *(2) The director shall supervise the enforcement program*
36 *monitor and may terminate or dismiss him or her from this position.*

37 *(b) The director shall advertise the availability of the*
38 *enforcement program monitor position. The requirements for this*
39 *position shall include, but not be limited to, experience in*
40 *conducting investigations and familiarity with state laws,*

1 regulations and rules, procedures pertaining to the board, and
2 relevant administrative procedures.

3 (c) (1) The enforcement program monitor shall monitor and
4 evaluate the disciplinary system and procedures of the board,
5 making his or her highest priority the reform and reengineering
6 of the board's enforcement program and operations and the
7 improvement of the overall efficiency of the board's disciplinary
8 system.

9 (2) The enforcement program monitor's duties shall be
10 performed on a continuing basis for a period of 19 months from
11 the date of the enforcement program monitor's appointment. These
12 duties shall include, but not be limited to, reviewing and making
13 recommendations with respect to the following: improving the
14 quality and consistency of complaint processing and investigation,
15 reducing the timeframes for completing complaint processing and
16 investigation, reducing any complaint backlog, assessing the
17 relative value to the board of various sources of complaints or
18 information available to the board about licensees in identifying
19 licensees who practice substandard care causing serious patient
20 harm, and assuring consistency in the application of sanctions or
21 discipline imposed on licensees. These duties shall also include
22 reviewing and making recommendations in the following areas:
23 the accurate and consistent implementation of the laws and rules
24 affecting discipline; appropriate application of investigation and
25 prosecution priorities; an assessment of the concerns of the board,
26 the department's Division of Investigation, the Attorney General's
27 Office, the defense bar, licensees, and patients regarding
28 disciplinary matters or procedures; and the board's cooperation
29 with other governmental entities charged with enforcing related
30 laws and regulations regarding nurses.

31 (3) The enforcement program monitor shall also evaluate the
32 effectiveness and efficiency of the board's diversion program and
33 make recommendations regarding the continuation of the program
34 and any changes or reforms required to assure that nurses
35 participating in the program are appropriately monitored and the
36 public is protected from nurses who are impaired due to alcohol
37 or drug abuse or mental or physical illness.

38 (4) (A) The enforcement program monitor shall exercise no
39 authority over the board's disciplinary operations or staff;
40 however, the board, its staff, the department's Division of

1 *Investigation, and the Attorney General's Office shall cooperate*
2 *with him or her with respect to his or her duties.*

3 *(B) The board, its staff, the department's Division of*
4 *Investigation, and the Attorney General's Office shall provide*
5 *data, information, and case files as requested by the enforcement*
6 *program monitor to perform all of his or her duties. The provision*
7 *of confidential data, information, and case files by the board to*
8 *the enforcement program monitor at any time after the appointment*
9 *of the monitor shall not constitute a waiver of any exemption from*
10 *disclosure or discovery or of any confidentiality protection or*
11 *privilege otherwise provided by law that is applicable to the data,*
12 *information, or case files.*

13 *(5) The director shall assist the enforcement program monitor*
14 *in the performance of his or her duties, and the enforcement*
15 *program monitor shall have the same investigative authority as*
16 *the director.*

17 *(d) On or before December 1, 2010, the enforcement program*
18 *monitor shall submit an initial written report of his or her findings*
19 *and conclusions to the board, the department, and the Legislature,*
20 *and be available to make oral reports to each, if requested to do*
21 *so. The enforcement program monitor may also provide additional*
22 *information to either the department or the Legislature at his or*
23 *her discretion and at the request of either the department or the*
24 *Legislature. The enforcement program monitor shall make his or*
25 *her reports available to the public and the media. The enforcement*
26 *program monitor shall make every effort to provide the board with*
27 *an opportunity to reply to any facts, findings, issues, or conclusions*
28 *in his or her reports with which the board may disagree.*

29 *(e) The board shall reimburse the department for all of the costs*
30 *associated with the employment of an enforcement program*
31 *monitor.*

32 *(f) On or before October 1, 2011, the enforcement program*
33 *monitor shall issue a final written report. The final report shall*
34 *include final findings and conclusions on the topics addressed in*
35 *the reports submitted by the monitor pursuant to subdivision (d).*

36 *(g) This section shall become inoperative on October 1, 2011,*
37 *and, as of January 1, 2012, is repealed, unless a later enacted*
38 *statute, that becomes operative on or before January 1, 2012,*
39 *deletes or extends the dates on which it becomes inoperative and*
40 *is repealed.*

1 *SEC. 21. Section 2770.7 of the Business and Professions Code*
2 *is amended to read:*

3 2770.7. (a) The board shall establish criteria for the acceptance,
4 denial, or termination of registered nurses in the diversion program.
5 Only those registered nurses who have voluntarily requested to
6 participate in the diversion program shall participate in the
7 program.

8 (b) A registered nurse under current investigation by the board
9 may request entry into the diversion program by contacting the
10 board. Prior to authorizing a registered nurse to enter into the
11 diversion program, the board may require the registered nurse
12 under current investigation for any violations of this chapter or
13 any other provision of this code to execute a statement of
14 understanding that states that the registered nurse understands that
15 his or her violations that would otherwise be the basis for discipline
16 may still be investigated and may be the subject of disciplinary
17 action.

18 (c) If the reasons for a current investigation of a registered nurse
19 are based primarily on the self-administration of any controlled
20 substance or dangerous drug or alcohol under Section 2762, or the
21 illegal possession, prescription, or nonviolent procurement of any
22 controlled substance or dangerous drug for self-administration that
23 does not involve actual, direct harm to the public, the board shall
24 close the investigation without further action if the registered nurse
25 is accepted into the board's diversion program and successfully
26 completes the requirements of the program. If the registered nurse
27 withdraws or is terminated from the program by a diversion
28 evaluation committee, and the termination is approved by the
29 program manager, the investigation shall be reopened and
30 disciplinary action imposed, if warranted, as determined by the
31 board.

32 (d) Neither acceptance nor participation in the diversion program
33 shall preclude the board from investigating or continuing to
34 investigate, or taking disciplinary action or continuing to take
35 disciplinary action against, any registered nurse for any
36 unprofessional conduct committed before, during, or after
37 participation in the diversion program.

38 (e) All registered nurses shall sign an agreement of
39 understanding that the withdrawal or termination from the diversion
40 program at a time when the program manager or diversion

1 evaluation committee determines the licentiate presents a threat
2 to the public's health and safety shall result in the utilization by
3 the board of diversion treatment records in disciplinary or criminal
4 proceedings.

5 (f) ~~Any~~ *The license of a registered nurse who is terminated from*
6 *the diversion program for failure to comply with program*
7 *requirements is subject to disciplinary action by the board for acts*
8 *committed before, during, and after participation in the diversion*
9 *program. A registered nurse who has been under investigation by*
10 *the board and has been terminated from the diversion program by*
11 *a diversion evaluation committee shall be reported by the diversion*
12 *evaluation committee to the board. shall be placed on suspension*
13 *until the licentiate petitions the board for reinstatement of his or*
14 *her license and is granted a probationary or unrestricted license.*

15 SEC. 22. Section 2770.16 is added to the Business and
16 Professions Code, to read:

17 2770.16. (a) *Any third-party vendor under contract with the*
18 *board for the administration of the diversion program shall report*
19 *within five days to the program manager any act, by a registered*
20 *nurse, of substantial noncompliance with the program. For*
21 *purposes of this section, "substantial noncompliance" includes,*
22 *but is not limited to, a failed drug test, a relapse, refusal to submit*
23 *to a drug test, failure to comply with any practice limitations,*
24 *repeated or material failure to comply with other requirements of*
25 *the program, or termination from the program.*

26 (b) *Failure by a third-party vendor to comply with this section*
27 *is grounds for termination of a contract for the administration of*
28 *the diversion program.*

29 SEC. 23. Section 2770.18 is added to the Business and
30 Professions Code, to read:

31 2770.18. *This article shall remain in effect only until January*
32 *1, 2012, and as of that date is repealed, unless a later enacted*
33 *statute, that is enacted before January 1, 2012, deletes or extends*
34 *that date.*

35 SECTION 1. ~~The Legislature finds and declares all of the~~
36 ~~following:~~

37 (a) ~~Nurse practitioners are registered nurses who have a graduate~~
38 ~~education and clinical training, and who provide a wide range of~~
39 ~~services and care.~~

1 ~~(b) Under current law, nurse practitioners have the same~~
2 ~~statutory authority to provide services and care as do registered~~
3 ~~nurses. However, the law allows those registered nurses who the~~
4 ~~Board of Registered Nursing has determined meet the standards~~
5 ~~for a nurse practitioner to provide care and services beyond those~~
6 ~~specified in statute for registered nurses where those services are~~
7 ~~performed pursuant to standardized procedures and protocols~~
8 ~~developed through collaboration among administrators and health~~
9 ~~professionals, including physicians and surgeons, in the organized~~
10 ~~health care system in which a nurse practitioner practices.~~

11 ~~(c) The Legislature reiterates its intention to allow each~~
12 ~~organized health care system in which a nurse practitioner practices~~
13 ~~to define those services nurse practitioners may perform in~~
14 ~~standardized procedures developed pursuant to Section 2725 of~~
15 ~~the Business and Professions Code.~~

16 ~~(d) Notwithstanding the foregoing, the Legislature finds that~~
17 ~~there may be some ambiguity in current law regarding what~~
18 ~~services and functions to be performed by nurse practitioners may~~
19 ~~be included in standardized procedures and protocols.~~

20 ~~(e) Therefore, to remove this ambiguity, the Legislature hereby~~
21 ~~clarifies that standardized procedures and protocols may include~~
22 ~~the specified services and functions set forth in this act so that~~
23 ~~health care entities may allow nurse practitioners to engage in~~
24 ~~those activities if the entities choose to do so, and that third-party~~
25 ~~payors understand that those services and functions can be~~
26 ~~performed by nurse practitioners if they are included in an entity's~~
27 ~~standardized procedures and protocols.~~

28 ~~SEC. 2.~~

29 ~~SEC. 24.~~ Section 2835.7 is added to the Business and
30 Professions Code, to read:

31 2835.7. (a) In addition to any other practices that meet the
32 general criteria set forth in statute or regulation for inclusion in
33 standardized procedures developed through collaboration among
34 administrators and health professionals, including physicians and
35 surgeons and nurses, pursuant to Section 2725, standardized
36 procedures may be implemented that authorize a nurse practitioner
37 to do any of the following:

38 (1) Order durable medical equipment, subject to any limitations
39 set forth in the standardized procedures. Notwithstanding that

1 authority, nothing in this paragraph shall operate to limit the ability
2 of a third-party payor to require prior approval.

3 (2) After performance of a physical examination by the nurse
4 practitioner and collaboration with a physician and surgeon, certify
5 disability pursuant to Section 2708 of the Unemployment Insurance
6 Code.

7 (3) For individuals receiving home health services or personal
8 care services, after consultation with the treating physician and
9 surgeon, approve, sign, modify, or add to a plan of treatment or
10 plan of care.

11 (b) Nothing in this section shall be construed to affect the
12 validity of any standardized procedures in effect prior to the
13 enactment of this section or those adopted subsequent to enactment.

14 SEC. 25. *Section 3534.1 of the Business and Professions Code*
15 *is amended to read:*

16 3534.1. (a) The examining committee shall establish and
17 administer a diversion program for the rehabilitation of physician
18 assistants whose competency is impaired due to the abuse of drugs
19 or alcohol. The examining committee may contract with any other
20 state agency or a private organization *or a third-party vendor* to
21 perform its duties under this article. The examining committee
22 may establish one or more diversion evaluation committees to
23 assist it in carrying out its duties under this article. As used in this
24 article, "committee" means a diversion evaluation committee. A
25 committee created under this article operates under the direction
26 of the diversion program manager, as designated by the executive
27 officer of the examining committee. The program manager has the
28 primary responsibility to review and evaluate recommendations
29 of the committee.

30 (b) (1) *Any state agency or private organization or third-party*
31 *vendor under contract with the examining committee for the*
32 *administration of the diversion program shall report within five*
33 *days to the program manager any act, by a participant, of*
34 *substantial noncompliance with the program. For purposes of this*
35 *section, "substantial noncompliance" includes, but is not limited*
36 *to, a failed drug test, a relapse, refusal to submit to a drug test,*
37 *failure to comply with any practice limitations, repeated or*
38 *material failure to comply with other requirements of the program,*
39 *or termination from the program.*

1 (2) Failure by a state agency or private organization or
2 third-party vendor to comply with this subdivision is grounds for
3 termination of a contract for the administration of the diversion
4 program.

5 SEC. 26. Section 3534.5 of the Business and Professions Code
6 is amended to read:

7 3534.5. (a) A participant may be terminated from the program
8 for any of the following reasons: ~~(a) the participant has successfully~~
9 ~~completed the treatment program; (b) the participant has failed to~~
10 ~~comply with the treatment program designated for him or her; (c)~~
11 ~~the participant fails to meet any of the criteria set forth in~~
12 ~~subdivision (d); or (d) it is determined that the participant has not~~
13 ~~substantially benefited from participation in the program or that~~
14 ~~his or her continued participation in the program creates too great~~
15 ~~a risk to the public health, safety, or welfare. Whenever~~

16 (1) *The participant has successfully completed the treatment*
17 *program.*

18 (2) *The participant has failed to comply with the treatment*
19 *program designated for him or her.*

20 (3) *The participant fails to meet any of the criteria set forth in*
21 *Section 3534.4.*

22 (4) *It is determined that the participant has not substantially*
23 *benefited from participation in the program or that his or her*
24 *continued participation in the program creates too great a risk to*
25 *the public health, safety, or welfare.*

26 (b) *Whenever an applicant is denied participation in the program*
27 *or a participant is terminated from the program for any reason*
28 *other than the successful completion of the program, and it is*
29 *determined that the continued practice of medicine by that*
30 *individual creates too great a risk to the public health and safety,*
31 *that fact shall be reported to the executive officer of the examining*
32 *committee and all documents and information pertaining to and*
33 *supporting that conclusion shall be provided to the executive*
34 *officer. The matter may be referred for investigation and*
35 *disciplinary action by the examining committee. Each.*

36 (c) *The license of a physician assistant who is terminated from*
37 *the diversion program for failure to comply with program*
38 *requirements shall be placed on suspension until the licentiate*
39 *petitions the board for reinstatement of his or her license and is*
40 *granted a probationary or unrestricted license.*

1 (d) Each physician assistant who requests participation in a
2 diversion program shall agree to cooperate with the recovery
3 program designed for him or her. Any failure to comply with that
4 program may result in termination of participation in the program.

5 The

6 (e) The examination committee shall inform each participant in
7 the program of the procedures followed in the program, of the
8 rights and responsibilities of a physician assistant in the program,
9 and the possible results of noncompliance with the program.

10 SEC. 27. Section 3534.12 is added to the Business and
11 Professions Code, to read:

12 3534.12. This article shall remain in effect only until January
13 1, 2012, and as of that date is repealed, unless a later enacted
14 statute, that is enacted before January 1, 2012, deletes or extends
15 that date.

16 SEC. 28. Section 4365 of the Business and Professions Code
17 is amended to read:

18 4365. (a) The board shall contract with one or more qualified
19 contractors to administer the pharmacists recovery program.

20 (b) (1) Any third-party vendor under contract with the board
21 for the administration of the pharmacists recovery program shall
22 report within five days to the program manager any act, by a
23 participant, of substantial noncompliance with the program. For
24 purposes of this section, "substantial noncompliance" includes,
25 but is not limited to, a failed drug test, a relapse, refusal to submit
26 to a drug test, failure to comply with any practice limitations,
27 repeated or material failure to comply with other requirements of
28 the program, or termination from the program.

29 (2) Failure by a third-party vendor to comply with this
30 subdivision is grounds for termination of a contract for the
31 administration of the pharmacists recovery program.

32 SEC. 29. Section 4369 of the Business and Professions Code
33 is amended to read:

34 4369. (a) Any failure to comply with the treatment contract,
35 determination that the participant is failing to derive benefit from
36 the program, or other requirements of the pharmacists recovery
37 program may result in the termination of the pharmacist's or intern
38 pharmacist's participation in the pharmacists recovery program.

39 ~~The name and license number of a pharmacist or intern pharmacist~~

1 ~~who is terminated from the pharmacists recovery program and the~~
2 ~~basis for the termination shall be reported to the board.~~

3 *(b) The license of a pharmacist or intern pharmacist terminated*
4 *from the pharmacists recovery program for failure to comply with*
5 *program requirements shall be placed on suspension until the*
6 *licentiate petitions the board for reinstatement of his or her license*
7 *and is granted a probationary or unrestricted license.*

8 ~~(b)~~

9 *(c) Participation in the pharmacists recovery program shall not*
10 *be a defense to any disciplinary action that may be taken by the*
11 *board.*

12 ~~(c)~~

13 *(d) No provision of this article shall preclude the board from*
14 *commencing disciplinary action against a licensee who is*
15 *terminated from the pharmacists recovery program.*

16 *SEC. 30. Section 4375 is added to the Business and Professions*
17 *Code, to read:*

18 *4375. This article shall remain in effect only until January 1,*
19 *2012, and as of that date is repealed, unless a later enacted statute,*
20 *that is enacted before January 1, 2012, deletes or extends that*
21 *date.*

22 *SEC. 31. Section 4870 of the Business and Professions Code*
23 *is amended to read:*

24 *4870. (a) Each veterinarian and registered veterinary technician*
25 *who requests participation in a diversion program shall agree to*
26 *cooperate with the treatment program designed by a diversion*
27 *evaluation committee. Any failure to comply with the provisions*
28 *of a treatment program may result in termination of the*
29 *veterinarian's or registered veterinary technician's participation*
30 *in a program.*

31 *(b) The license of a veterinarian or registration of a registered*
32 *veterinary technician who is terminated from the diversion program*
33 *for failure to comply with program requirements shall be placed*
34 *on suspension until the veterinarian or registered veterinary*
35 *technician petitions the board for reinstatement of his or her license*
36 *or registration.*

37 *SEC. 32. Section 4870.5 is added to the Business and*
38 *Professions Code, to read:*

39 *4870.5. (a) Any third-party vendor under contract with the*
40 *board for the administration of the diversion program shall report*

1 within five days to the appropriate chairperson any act, by a
2 veterinarian or registered veterinary technician, of substantial
3 noncompliance with the program. For purposes of this section,
4 "substantial noncompliance" includes, but is not limited to, a
5 failed drug test, a relapse, refusal to submit to a drug test, failure
6 to comply with any practice limitations, repeated or material
7 failure to comply with other requirements of the program, or
8 termination from the program.

9 (b) Failure by a third-party vendor to comply with this section
10 is grounds for termination of a contract for the administration of
11 the diversion program.

12 SEC. 33. Section 4873.2 is added to the Business and
13 Professions Code, to read:

14 4873.2. This article shall remain in effect only until January
15 1, 2012, and as of that date is repealed, unless a later enacted
16 statute, that is enacted before January 1, 2012, deletes or extends
17 that date.

18 SEC. 34. (a) It is the intent of the Legislature that the
19 Department of Consumer Affairs shall, on or before December
20 31, 2012, establish an enterprise information technology system
21 necessary to electronically create and update healing arts license
22 information, track enforcement cases, and allocate enforcement
23 efforts pertaining to healing arts licensees. The Legislature intends
24 the system to be designed as an integrated system to support all
25 business automation requirements of the department's licensing
26 and enforcement functions.

27 (b) The Legislature also intends the department to enter into
28 contracts for telecommunication, programming, data analysis,
29 data processing, and other services necessary to develop, operate,
30 and maintain the enterprise information technology system.

31 SEC. 35. The Legislature finds and declares all of the following
32 with respect to Section 2835.7 of the Business and Professions
33 Code, as added by Section 24 of this act:

34 (a) Nurse practitioners are registered nurses who have a
35 graduate education and clinical training, and who provide a wide
36 range of services and care.

37 (b) Under current law, nurse practitioners have the same
38 statutory authority to provide services and care as do registered
39 nurses. However, the law allows those registered nurses who the
40 Board of Registered Nursing has determined meet the standards

1 *for a nurse practitioner to provide care and services beyond those*
2 *specified in statute for registered nurses where those services are*
3 *performed pursuant to standardized procedures and protocols*
4 *developed through collaboration among administrators and health*
5 *professionals, including physicians and surgeons, in the organized*
6 *health care system in which a nurse practitioner practices.*

7 *(c) The Legislature reiterates its intention to allow each*
8 *organized health care system in which a nurse practitioner*
9 *practices to define those services nurse practitioners may perform*
10 *in standardized procedures developed pursuant to Section 2725*
11 *of the Business and Professions Code.*

12 *(d) Notwithstanding the foregoing, the Legislature finds that*
13 *there may be some ambiguity in current law regarding what*
14 *services and functions to be performed by nurse practitioners may*
15 *be included in standardized procedures and protocols.*

16 *(e) Therefore, to remove this ambiguity, the Legislature hereby*
17 *clarifies that standardized procedures and protocols may include*
18 *the specified services and functions set forth in this act so that*
19 *health care entities may allow nurse practitioners to engage in*
20 *those activities if the entities choose to do so, and that third-party*
21 *payors understand that those services and functions can be*
22 *performed by nurse practitioners if they are included in an entity's*
23 *standardized procedures and protocols.*

24 *SEC. 36. No reimbursement is required by this act pursuant*
25 *to Section 6 of Article XIII B of the California Constitution for*
26 *certain costs that may be incurred by a local agency or school*
27 *district because, in that regard, this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*

33 *However, if the Commission on State Mandates determines that*
34 *this act contains other costs mandated by the state, reimbursement*
35 *to local agencies and school districts for those costs shall be made*
36 *pursuant to Part 7 (commencing with Section 17500) of Division*
37 *4 of Title 2 of the Government Code.*

O