SB 304 (Lieu) – Healing Arts: Boards

Introduced February 15, 2013, Chaptered October 3, 2013

This bill revises Business and Professions Code (BPC) sections 159.5, 160, and 160.5 to transfer investigators and medical consultants from the Medical Board of California (MBC) to the Division of Investigation (DOI) within the Department of Consumer Affairs (DCA), extends the sunset date of MBC by four years, and amends the Veterinary Practice Act to extend its sunset date by two years.

According to the author's office, "When the bill left the Senate it would have transferred the peace officer investigators from the MBC to the Health Quality Enforcement Section in the Attorney General's office. The bill now transfers the peace officer investigators and the medical consultants (which are integral to the investigation process) to a newly created Unit in the DCA's DOI. This is a cost-neutral move which will place the investigators under professional peace officer management and direction. This will improve the investigatory process and quality of investigations. It will also move investigations of physician misconduct out from under a regulatory board controlled by physicians."

Assembly Amendments included: (1) changing the author of the bill; (2) adding the Osteopathic Medical Board and the Physician Assistant Board among the boards whose jurisdictional violations are investigated by the Health Quality Investigation Unit (Unit); (3) adding the Physical Therapy Board among the board whose applicants and licensees are investigated by the Department of Justice (DOJ), as specified; (4) adding language to avoid chaptering-out issues with SB 670 (Steinberg); and (5) other technical and clarifying changes.

Portions of this bill relevant to the Board of Psychology:

- Transferring the Unit from MBC to DOI within DCA, and clarifies that the primary responsibility of the Unit is to investigate violations of law or regulation by licensees and applicants within the jurisdiction of MBC, the Board of Podiatric Medicine, the Board of Psychology, the Osteopathic Medical Board, and the Physician Assistant Board, or any entity under the jurisdiction of MBC.

- Clarifies that medical consultant and peace officer positions and all staff suppor for these positions shall be transferred to the Unit.

- Prohibits MBC from being charged an hourly rate, or for investigation costs, for the performance of investigations by the Unit.

- Clarifies that all civil service employees whose functions are transferred to DOI as a result of this bill and who are currently employed by MBC shall retain their positions, status, and rights, as specified.

- Requires the transfer of the Unit to DOI to occur by July 1, 2014.

- Deletes the sunset date on the Health Quality Enforcement Section in the DOJ and vertical enforcement.

- Requires MBC, in consultation with DOJ and DCA, to report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model, by March 1, 2015.

Background

Existing law established the Health Quality Enforcement Section (HQES) within the Department of Justice (DOJ) whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants of the MBC and other specified health-care boards (GC §12529).

Existing law requires that all complaints or relevant information concerning licensees that are within the jurisdiction of the MBC, the California Board of Podiatric Medicine, or the Board of Psychology, be made available to the HQES (GC §12529.5).

Existing law established a vertical enforcement and prosecution model for cases before the MBC.

The Board of Psychology (Board) currently utilizes the Medical Board of California (MBC) for investigation of its enforcement cases. The Board uses vertical enforcement (VE) on a case-by-case basis. The portions of this bill that are relevant to the Board of Psychology are as follows:

SB 231 (Figueroa, Chapter 674, Statutes of 2005) created and established a (VE) pilot program to handle MBC investigations and prosecutions. VE pairs MBC investigators and Health Quality Enforcement Section (HQES) prosecutors from the Attorney General's (AG's) office from the beginning of an investigation to the conclusion of any legal proceedings. The VE program has been operational since 2006, and a number of modifications have been made since its inception to make the program more efficient.

In 2010, VE was extensively studied by Benjamin Frank, LLC. The report, titled Medical Board of California - Program Evaluation made several conclusions, including that the insertion of DAGs into the investigative process did not translate into more positive disciplinary outcomes or a decrease in investigation completion times, and recommended scaling back and optimizing DAG involvement in investigations. The AG's Office took great exception to certain portions of the report, namely the cost of VE in the investigation phase of the case and that greater DAG involvement under the VE model has not translated into greater public protection.

The MBC states that although the investigation timelines have shortened, it is unknown if this is due to VE or if it is due to increased efficiencies in enforcement processes and procedures in general. In order to more fully determine the level of success of the VE program, the MBC and the AG have engaged in discussions of the accumulated data from the VE cases. At this time, the analysis of the VE program by the MBC and the AG has not been fully completed. The Committee anticipates greater detail to be furnished by the Board and the AG's office later in 2013.

Senate Bill No. 304

CHAPTER 515

An act to amend Sections 159.5, 160.5, 2001, 2020, 2021, 2135.7, 2177, 2220.08, 2225.5, 2514, 2569, 4800, 4804.5, 4809.5, 4809.7, and 4809.8 of, to amend, repeal, and add Sections 160 and 4836.1 of, to amend and add Section 2006 of, and to add Sections 2216.3, 2216.4, 2403, 4836.2, 4836.3, and 4836.4 to, the Business and Professions Code, to amend Sections 11529, 12529.6, and 12529.7 of, and to amend and repeal Sections 12529 and 12529.5 of, the Government Code, to amend Section 1248.15 of the Health and Safety Code, and to amend, repeal, and add Section 830.3 of the Penal Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor October 3, 2013. Filed with Secretary of State October 3, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 304, Lieu. Healing arts: boards.

(1) Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law authorizes the board to employ an executive director. Existing law provides that those provisions will be repealed on January 1, 2014, and, upon repeal, the board is subject to review by the Joint Sunset Review Committee.

This bill would instead repeal those provisions on January 1, 2018, and subject the board to review by the appropriate policy committees of the Legislature. The bill would authorize the board to employ an executive director by, and with the approval of, the Director of Consumer Affairs.

Existing law authorizes the board to issue a physician and surgeon's license to an applicant who acquired all or part of his or her medical education at a foreign medical school that is not recognized by the board if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state or federal territory and has continuously practiced for a minimum of 10 years prior to the date of application or to an applicant who acquired any part of his or her professional instruction at a foreign medical school that has previously been disapproved by the board if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state or federal territory and has continuously practiced for a minimum of 20 years prior to the date of application. For the purposes of these provisions, the board may combine the period of time that the applicant has held an unlimited and unrestricted license, but requires each applicant to have a minimum of 5 years continuous licensure and practice in a single state or federal territory.

This bill would instead authorize the board to issue a physician and surgeon's license to an applicant who acquired any part of his or her medical education from an unrecognized medical school if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has continuously practiced for a minimum of 10 years prior to the date of application, or from a disapproved medical school if, among other requirements, the applicant has held an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has continuously practiced for a minimum of 12 years prior to the date of application. The bill would reduce the minimum number of years that each applicant must have continuous licensure and practice in a single state or federal territory to 2 years and permit the period of continuous licensure and practice to occur in a Canadian province.

Existing law authorizes the Medical Board of California, if it publishes a directory of its licensees, as specified, to require persons licensed, as specified, to furnish specified information to the board for purposes of compiling the directory.

This bill would require that an applicant and licensee who has an electronic mail address report to the board that electronic mail address no later than July 1, 2014. The bill would provide that the electronic mail address is to be considered confidential, as specified.

Existing law requires an applicant for a physician and surgeon's certificate to obtain a passing score on Step 3 of the United States Medical Licensing Examination with not more than 4 attempts, subject to an exception.

This bill would require an applicant to have obtained a passing score on all parts of that examination with not more than 4 attempts, subject to the exception.

Existing law requires that a complaint, with exceptions, received by the board determined to involve quality of care, before referral to a field office for further investigation, meet certain criteria.

This bill would expand the types of reports that are exempted from that requirement.

Existing law provides for a civil penalty of up to $1,000 per day, as specified, to be imposed on a health care facility that fails to comply with a patient's medical record request, as specified, within 30 days.

This bill would shorten the time limit for compliance to 15 days for those health care facilities that have electronic health records.

Existing law establishes that corporations and other artificial legal entities have no professional rights, privileges, or powers.

This bill would provide that those provisions do not apply to physicians and surgeons or doctors of podiatric medicine enrolled in approved residency postgraduate training programs or fellowship programs.

(2) Existing law, the Licensed Midwifery Practice Act of 1993, provides for the licensure and regulation of licensed midwives by the Medical Board of California. Existing law specifies that a midwife student meeting certain conditions is not precluded from engaging in the practice of midwifery as

part of his or her course of study, if certain conditions are met, including, that the student is under the supervision of a licensed midwife.

This bill would require that to engage in those practices, the student is to be enrolled and participating in a midwifery education program or enrolled in a program of supervised clinical training, as provided. The bill would add that the student is permitted to engage in those practices if he or she is under the supervision of a licensed nurse-midwife.

(3) Existing law provides for the regulation of registered dispensing opticians by the Medical Board of California and requires that the powers and duties of the board in that regard be subject to review by the Joint Sunset Review Committee as if those provisions were scheduled to be repealed on January 1, 2014.

This bill would instead make the powers and duties of the board subject to review by the appropriate policy committees of the Legislature as if those provisions were scheduled to be repealed on January 1, 2018.

(4) Existing law provides for the accreditation of outpatient settings, as defined, by the Medical Board of California, and requires outpatient settings to report adverse events, as defined, to the State Department of Public Health within specified time limits. Existing law provides for the imposition of a civil penalty in the event that an adverse event is not reported within the applicable time limit.

This bill would instead require those outpatient settings to report adverse events to the Medical Board of California within specified time limits and authorize the board to impose a civil penalty if an outpatient setting fails to timely report an adverse event.

(5) Existing law establishes the Medical Quality Hearing Panel, consisting of no fewer than 5 administrative law judges with certain medical training, within the Office of Administrative Hearings. Existing law authorizes those administrative law judges to issue interim orders suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Existing law requires that in all of those cases in which an interim order is issued, and an accusation is not filed and served within 15 days of the date in which the parties to the hearing have submitted the matter, the order be dissolved.

Under existing law, if a healing arts practitioner is unable to practice his or her profession safely due to mental or physical illness, his or her licensing agency may order the practitioner to be examined by specified professionals.

This bill would extend the time in which the accusation must be filed and served to 30 days from the date on which the parties to the hearing submitted the matter. The bill would also provide that a physician and surgeon's failure to comply with an order to be examined may constitute grounds for an administrative law judge of the Medical Quality Hearing Panel to issue an interim suspension order.

Existing law establishes the Health Quality Enforcement Section within the Department of Justice to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of

Psychology, or any committee under the jurisdiction of the Medical Board of California. Existing law provides for the funding for the section, and for the appointment of a Senior Assistant Attorney General to the section to carry out specified duties. Existing law requires that all complaints or relevant information concerning licensees that are within the jurisdiction of the boards served by the Health Quality Enforcement Section be made available to the Health Quality Enforcement Section. Existing law establishes the procedures for processing the complaints, assisting the boards or committees in establishing training programs for their staff, and for determining whether to bring a disciplinary proceeding against a licensee of the boards. Existing law provides for the repeal of those provisions, as provided, on January 1, 2014.

This bill would extend the operation of those provisions indefinitely and make those provisions applicable to the Physical Therapy Board of California and licensees within its jurisdiction.

Existing law establishes, until January 1, 2014, a vertical enforcement and prosecution model for cases before the Medical Board of California and requires the board to report to the Governor and Legislature on that model by March 1, 2012.

This bill would extend the date that report is due to March 1, 2015.

Existing law creates the Division of Investigation within the Department of Consumer Affairs and requires investigators who have the authority of peace officers to be in the division, except that investigators of the Medical Board of California and the Dental Board of California who have that authority are not required to be in the division.

This bill would require, effective July 1, 2014, that investigators of the Medical Board of California who have the authority of a peace officer be in the division and would protect the positions, status, and rights of those employees who are subsequently transferred as a result of these provisions. The bill would also, effective July 1, 2014, create within the Division of Investigation the Health Quality Investigation Unit.

(6) Existing law, the Veterinary Medicine Practice Act, provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board. Existing law repeals the provisions establishing the board, and authorizing the board to appoint an executive officer, as of January 1, 2014. Under existing law, the board is subject to evaluation by the Joint Sunset Review Committee prior to its repeal.

This bill would provide that those provisions are instead repealed as of January 1, 2016. The bill, upon repeal of the board, would require that the board be subject to a specifically limited review by the appropriate policy committees of the Legislature.

Existing law authorizes the board, at any time, to inspect the premises in which veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced and requires that those premises be registered with the board. Existing law requires the board to establish a regular inspection program that will provide for random, unannounced inspections.

This bill would require the board to make every effort to inspect at least 20% of veterinary premises on an annual basis and would exclude from inspection those premises that are not registered with the board.

Existing law requires the board to establish an advisory committee, the Veterinary Medicine Multidisciplinary Advisory Committee, to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of specified provisions and to assist the board in its examination, licensure, and registration programs. Existing law requires the committee to consist of 7 members, with 4 licensed veterinarians, 2 registered veterinary technicians, and one public member.

This bill would expand the number of members on the committee to 9 by including one veterinarian member of the board, to be appointed by the board president, and the registered veterinary technician of the board, both of whom would serve concurrently with their terms of office on the board. The bill would additionally require that the committee serve only in an advisory capacity to the board, as specified. The bill would make other technical and conforming changes.

Existing law authorizes a registered veterinary technician or a veterinary assistant to administer a drug under the direct or indirect supervision of a licensed veterinarian when administered pursuant to the order, control, and full professional responsibility of a licensed veterinarian. Existing law limits access to controlled substances by veterinary assistants to persons who have undergone a background check and who, to the best of the licensee manager's knowledge, do not have any drug- or alcohol-related felony convictions. A violation of these provisions is a crime. Existing law repeals these provisions on January 1, 2015.

This bill would instead require, until the later of January 1, 2015, or the effective date of a specified legislative determination, a licensee manager to conduct a background check on a veterinary assistant prior to authorizing him or her to obtain or administer a controlled substance by the order of a supervising veterinarian and to prohibit the veterinary assistant from obtaining or administering controlled substances if the veterinary assistant has a drug- or alcohol-related felony conviction. Because a violation of these provisions would be a crime, this bill imposes a state-mandated local program.

This bill would require that, upon the later of January 1, 2015, or the effective date of a specified legislative determination, a veterinary assistant be designated by a licensed veterinarian and hold a valid veterinary assistant controlled substances permit from the board in order to obtain or administer controlled substances. The bill would, as part of the application for a permit, require an applicant to furnish a set of fingerprints to the Department of Justice for the purposes of conducting both a state and federal criminal history record check. The bill would require an applicant for a veterinary assistant controlled substances permit to apply for a renewal of his or her permit on or before the last day of the applicant's birthday month and to update his or her mailing or employer address with the board. The bill would

authorize the board to collect a filing fee, not to exceed $100, from applicants for a veterinary assistant controlled substances permit. Because that fee would be deposited in the Veterinary Medical Board Contingent Fund, which is a continuously appropriated fund, the bill would make an appropriation.

(7) This bill would incorporate additional changes to Section 11529 of the Government Code proposed by SB 670 that would become operative if this bill and SB 670 are enacted and this bill is chaptered last.

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

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

Appropriation: yes.

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

SECTION 1. Section 159.5 of the Business and Professions Code is amended to read:

159.5. (a) (1) There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division.

(2) Except as provided in Section 160, investigators who have the authority of peace officers, as specified in subdivision (a) of Section 160 and in subdivision (a) of Section 830.3 of the Penal Code, shall be in the division and shall be appointed by the director.

(b) (1) There is in the Division of Investigation the Health Quality Investigation Unit. The primary responsibility of the unit is to investigate violations of law or regulation within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Osteopathic Medical Board of California, the Physician Assistant Board, or any entities under the jurisdiction of the Medical Board of California.

(2) The Medical Board of California shall not be charged an hourly rate for the performance of investigations by the unit.

(3) This subdivision shall become operative on July 1, 2014.

SEC. 2. Section 160 of the Business and Professions Code is amended to read:

160. (a) The chief and all investigators of the Division of Investigation of the department and all investigators of the Medical Board of California and the Dental Board of California 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 set forth in this section.

(b) The Division of Investigation of the department, the Medical Board of California, and the Dental Board of California may employ individuals, who are not peace officers, to provide investigative services.

(c) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 160 is added to the Business and Professions Code, to read:

160. (a) The chief and all investigators of the Division of Investigation of the department and all investigators of the Dental Board of California 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 set forth in this section.

(b) The Division of Investigation of the department and the Dental Board of California may employ individuals, who are not peace officers, to provide investigative services.

(c) This section shall become operative on July 1, 2014.

SEC. 4. Section 160.5 of the Business and Professions Code is amended to read:

160.5. (a) All civil service employees currently employed by the Board of Dental Examiners of the Department of Consumer Affairs, whose functions are transferred as a result of the act adding this section shall retain their positions, status, and rights pursuant to Section 19050.9 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The transfer of employees as a result of the act adding this section shall occur no later than July 1, 1999.

(b) (1) All civil service employees currently employed by the Medical Board of California of the Department of Consumer Affairs, whose functions are transferred as a result of the act adding this subdivision shall retain their positions, status, and rights pursuant to Section 19050.9 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The transfer of employees as a result of the act adding this subdivision shall occur no later than July 1, 2014.

(2) The transfer of employees pursuant to this subdivision shall include all peace officer and medical consultant positions and all staff support positions for those peace officer and medical consultant positions.

SEC. 5. Section 2001 of the Business and Professions Code is amended to read:

2001. (a) There is in the Department of Consumer Affairs a Medical Board of California that consists of 15 members, 7 of whom shall be public members.

(b) The Governor shall appoint 13 members to the board, subject to confirmation by the Senate, 5 of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 6. Section 2006 of the Business and Professions Code is amended to read:

2006. (a) Any reference in this chapter to an investigation by the board shall be deemed to refer to a joint investigation conducted by employees of the Department of Justice and the board under the vertical enforcement and prosecution model, as specified in Section 12529.6 of the Government Code.

(b) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 2006 is added to the Business and Professions Code, to read:

2006. (a) Any reference in this chapter to an investigation by the board shall be deemed to refer to a joint investigation conducted by employees of the Department of Justice and the Health Quality Investigation Unit under the vertical enforcement and prosecution model, as specified in Section 12529.6 of the Government Code.

(b) This section shall become operative on July 1, 2014.

SEC. 8. Section 2020 of the Business and Professions Code is amended to read:

2020. (a) The board, by and with the approval of the director, may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry this chapter into effect. The board may fix the compensation to be paid for services subject to the provisions of applicable state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating medical practice activities.

(b) The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services shall be a charge against it.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 9. Section 2021 of the Business and Professions Code is amended to read:

2021. (a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter to furnish any information as it may deem necessary to enable it to compile the directory.

(b) Each licensee shall report to the board each and every change of address within 30 days after each change, giving both the old and new address. If an address reported to the board at the time of application for licensure or subsequently is a post office box, the applicant shall also provide the board with a street address. If another address is the licensee's address of record, he or she may request that the second address not be disclosed to the public.

(c) Each licensee shall report to the board each and every change of name within 30 days after each change, giving both the old and new names.

(d) Each applicant and licensee who has an electronic mail address shall report to the board that electronic mail address no later than July 1, 2014. The electronic mail address shall be considered confidential and not subject to public disclosure.

(e) The board shall annually send an electronic notice to each applicant and licensee that requests confirmation from the applicant or licensee that his or her electronic mail address is current.

SEC. 10. Section 2135.7 of the Business and Professions Code is amended to read:

2135.7. (a) Upon review and recommendation, the board may determine that an applicant for a physician and surgeon's certificate who acquired his or her medical education or a portion thereof at a foreign medical school that is not recognized or has been previously disapproved by the board is eligible for a physician and surgeon's certificate if the applicant meets all of the following criteria:

(1) Has successfully completed a resident course of medical education leading to a degree of medical doctor equivalent to that specified in Sections 2089 to 2091.2, inclusive.

(2) (A) (i) For an applicant who acquired any part of his or her medical education from an unrecognized foreign medical school, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has held that license and continuously practiced for a minimum of 10 years prior to the date of application.

(ii) For an applicant who acquired any part of his or her professional instruction from a foreign medical school that was disapproved by the board at the time he or she attended the school, he or she holds an unlimited and unrestricted license as a physician and surgeon in another state, a federal territory, or a Canadian province and has held that license and continuously practiced for a minimum of 12 years prior to the date of application.

(B) For the purposes of clauses (i) and (ii) of subparagraph (A), the board may combine the period of time that the applicant has held an unlimited and unrestricted license in other states, federal territories, or Canadian

provinces and continuously practiced therein, but each applicant under this section shall have a minimum of two years continuous licensure and practice in a single state, federal territory, or Canadian province. For purposes of this paragraph, continuous licensure and practice includes any postgraduate training after 24 months in a postgraduate training program that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or postgraduate training completed in Canada that is accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC).

(3) Is certified by a specialty board that is a member board of the American Board of Medical Specialties.

(4) Has successfully taken and passed the examinations described in Article 9 (commencing with Section 2170).

(5) Has not been the subject of a disciplinary action by a medical licensing authority or of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes a pattern of negligence or incompetence.

(6) Has successfully completed three years of approved postgraduate training. The postgraduate training required by this paragraph shall have been obtained in a postgraduate training program accredited by the ACGME or postgraduate training completed in Canada that is accredited by the RCPSC.

(7) Is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

(8) Has not held a healing arts license and been the subject of disciplinary action by a healing arts board of this state or by another state, federal territory, or Canadian province.

(b) The board may adopt regulations to establish procedures for accepting transcripts, diplomas, and other supporting information and records when the originals are not available due to circumstances outside the applicant's control. The board may also adopt regulations authorizing the substitution of additional specialty board certifications for years of practice or licensure when considering the certification for a physician and surgeon pursuant to this section.

(c) This section shall not apply to a person seeking to participate in a program described in Sections 2072, 2073, 2111, 2112, 2113, 2115, or 2168, or seeking to engage in postgraduate training in this state.

SEC. 11. Section 2177 of the Business and Professions Code is amended to read:

2177. (a) A passing score is required for an entire examination or for each part of an examination, as established by resolution of the board.

(b) Applicants may elect to take the written examinations conducted or accepted by the board in separate parts.

(c) (1) An applicant shall have obtained a passing score on all parts of Step 3 of the United States Medical Licensing Examination within not more than four attempts in order to be eligible for a physician's and surgeon's certificate.

(2) Notwithstanding paragraph (1), an applicant who obtains a passing score on all parts of Step 3 of the United States Medical Licensing Examination in more than four attempts and who meets the requirements of Section 2135.5 shall be eligible to be considered for issuance of a physician's and surgeon's certificate.

SEC. 12. Section 2216.3 is added to the Business and Professions Code, to read:

2216.3. (a) An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall report an adverse event to the board no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. Disclosure of individually identifiable patient information shall be consistent with applicable law.

(b) For the purposes of this section, "adverse event" has the same meaning as in subdivision (b) of Section 1279.1 of the Health and Safety Code.

SEC. 13. Section 2216.4 is added to the Business and Professions Code, to read:

2216.4. If an accredited outpatient setting fails to report an adverse event pursuant to Section 2216.3, the board may assess the accredited outpatient setting a civil penalty in an amount not to exceed one hundred dollars ($100) for each day that the adverse event is not reported following the initial five-day period or 24-hour period, as applicable. If the accredited outpatient setting disputes a determination by the board regarding an alleged failure to report an adverse event, the accredited outpatient setting may, within 10 days of notification of the board's determination, request a hearing, which shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Penalties shall be paid when appeals pursuant to those provisions have been exhausted.

SEC. 14. Section 2220.08 of the Business and Professions Code is amended to read:

2220.08. (a) Except for reports received by the board pursuant to Section 801.01 or 805 that may be treated as complaints by the board and new complaints relating to a physician and surgeon who is the subject of a pending accusation or investigation or who is on probation, any complaint determined to involve quality of care, before referral to a field office for further investigation, shall meet the following criteria:

(1) It shall be reviewed by one or more medical experts with the pertinent education, training, and expertise to evaluate the specific standard of care issues raised by the complaint to determine if further field investigation is required.

(2) It shall include the review of the following, which shall be requested by the board:

(A) Relevant patient records.

(B) The statement or explanation of the care and treatment provided by the physician and surgeon.

(C) Any additional expert testimony or literature provided by the physician and surgeon.

(D) Any additional facts or information requested by the medical expert reviewers that may assist them in determining whether the care rendered constitutes a departure from the standard of care.

(b) If the board does not receive the information requested pursuant to paragraph (2) of subdivision (a) within 10 working days of requesting that information, the complaint may be reviewed by the medical experts and referred to a field office for investigation without the information.

(c) Nothing in this section shall impede the board's ability to seek and obtain an interim suspension order or other emergency relief.

SEC. 15. Section 2225.5 of the Business and Professions Code is amended to read:

2225.5. (a) (1) A licensee who fails or refuses to comply with a request for the certified medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's certified medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. For health care facilities that have electronic health records, failure to provide the authorizing patient's certified medical records to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the certified medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars

($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, up to ten thousand dollars ($10,000), unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

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

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

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

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

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

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

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

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

SEC. 16. Section 2403 is added to the Business and Professions Code, to read:

2403. The provisions of Section 2400 do not apply to physicians and surgeons or doctors of podiatric medicine enrolled in approved residency postgraduate training programs or fellowship programs.

SEC. 17. Section 2514 of the Business and Professions Code is amended to read:

2514. (a) Nothing in this chapter shall be construed to prevent a bona fide student from engaging in the practice of midwifery in this state, as part of his or her course of study, if both of the following conditions are met:

(1) The student is under the supervision of a licensed midwife or certified nurse-midwife, who holds a clear and unrestricted license in this state, who is present on the premises at all times client services are provided, and who is practicing pursuant to Section 2507 or 2746.5, or a physician and surgeon.

(2) The client is informed of the student's status.

(b) For the purposes of this section, a "bona fide student" means an individual who is enrolled and participating in a midwifery education program or who is enrolled in a program of supervised clinical training as part of the instruction of a three year postsecondary midwifery education program approved by the board.

SEC. 18. Section 2569 of the Business and Professions Code is amended to read:

2569. Notwithstanding any other law, the powers and duties of the board, as set forth in this chapter, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 19. Section 4800 of the Business and Professions Code is amended to read:

4800. (a) There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of the following members:

(1) Four licensed veterinarians.

(2) One registered veterinary technician.

(3) Three public members.

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to those issues identified by the appropriate policy committees of the Legislature and shall not involve the preparation or submission of a sunset review document or evaluative questionnaire.

SEC. 20. Section 4804.5 of the Business and Professions Code is amended to read:

4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 21. Section 4809.5 of the Business and Professions Code is amended to read:

4809.5. The board may at any time inspect the premises in which veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced. The board's inspection authority does not extend to premises that are not registered with the board. Nothing in this section shall be construed to affect the board's ability to investigate alleged unlicensed activity or to inspect a premises for which registration has lapsed or is delinquent.

SEC. 22. Section 4809.7 of the Business and Professions Code is amended to read:

4809.7. The board shall establish a regular inspection program that will provide for random, unannounced inspections. The board shall make every effort to inspect at least 20 percent of veterinary premises on an annual basis.

SEC. 23. Section 4809.8 of the Business and Professions Code is amended to read:

4809.8. (a) The board shall establish an advisory committee to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of this chapter and to assist the board in its examination, licensure, and registration programs. The committee shall serve only in an advisory capacity to the board and the objectives, duties, and actions of the committee shall not be a substitute for or conflict with any of the powers, duties, and responsibilities of the board. The committee shall be known as the Veterinary Medicine Multidisciplinary Advisory Committee. The multidisciplinary committee shall consist of nine members. The following members of the multidisciplinary committee shall be appointed by the board from lists of nominees solicited by the board: four licensed veterinarians, two registered veterinary technicians, and one public member. The committee shall also include one veterinarian member of the board, to be appointed by the board president, and the registered veterinary technician member of the board. Members of the multidisciplinary committee shall represent a sufficient

cross section of the interests in veterinary medicine in order to address the issues before it, as determined by the board, including veterinarians, registered veterinary technicians, and members of the public.

(b) Multidisciplinary committee members appointed by the board shall serve for a term of three years and appointments shall be staggered accordingly. A member may be reappointed, but no person shall serve as a member of the committee for more than two consecutive terms. Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur. Board members of the multidisciplinary committee shall serve concurrently with their terms of office on the board.

(c) The multidisciplinary committee shall be subject to the requirements of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Multidisciplinary committee members shall receive a per diem as provided in Section 103 and shall be compensated for their actual travel expenses in accordance with the rules and regulations adopted by the Department of Human Resources.

(e) The board may remove a member of the multidisciplinary committee appointed by the board for continued neglect of a duty required by this chapter, for incompetency, or for unprofessional conduct.

(f) It is the intent of the Legislature that the multidisciplinary committee, in implementing this section, give appropriate consideration to issues pertaining to the practice of registered veterinarian technicians.

SEC. 24. Section 4836.1 of the Business and Professions Code is amended to read:

4836.1. (a) Notwithstanding any other provision of law, a registered veterinary technician or a veterinary assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) Prior to authorizing a veterinary assistant to obtain or administer a controlled substance by the order of a supervising veterinarian, the licensee manager in a veterinary practice shall conduct a background check on that veterinary assistant. A veterinary assistant who has a drug- or alcohol-related felony conviction, as indicated in the background check, shall be prohibited from obtaining or administering controlled substances.

(c) Notwithstanding subdivision (b), if the Veterinary Medical Board, in consultation with the Board of Pharmacy, identifies a dangerous drug, as defined in Section 4022, as a drug that has an established pattern of being diverted, the Veterinary Medical Board may restrict access to that drug by veterinary assistants.

(d) For purposes of this section, the following definitions apply:

(1) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) "Direct supervision" has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) "Drug" has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) "Indirect supervision" has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(e) This section shall become inoperative on the later of January 1, 2015, or the date Section 4836.2 becomes operative, and, as of January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that date, deletes or extends the dates on which it becomes inoperative is repealed.

SEC. 25. Section 4836.1 is added to the Business and Professions Code, to read:

4836.1. (a) Notwithstanding any other law, a registered veterinary technician or a veterinary assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) A veterinary assistant may obtain or administer a controlled substance pursuant to the order, control, and full professional responsibility of a licensed veterinarian, only if he or she meets both of the following conditions:

(1) Is designated by a licensed veterinarian to obtain or administer controlled substances.

(2) Holds a valid veterinary assistant controlled substance permit issued pursuant to Section 4836.2.

(c) Notwithstanding subdivision (b), if the Veterinary Medical Board, in consultation with the Board of Pharmacy, identifies a dangerous drug, as defined in Section 4022, as a drug that has an established pattern of being diverted, the Veterinary Medical Board may restrict access to that drug by veterinary assistants.

(d) For purposes of this section, the following definitions apply:

(1) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) "Direct supervision" has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) "Drug" has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) "Indirect supervision" has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(e) This section shall become operative on the date Section 4836.2 becomes operative.

SEC. 26. Section 4836.2 is added to the Business and Professions Code, to read:

4836.2. (a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars ($100).

(c) The board may deny, suspend, or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may revoke or suspend a veterinary assistant controlled substance permit for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) The board shall revoke a veterinary assistant controlled substance permit upon notification that the veterinary assistant to whom the license is issued has been convicted of a state or federal felony controlled substance violation.

(f) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information, as required by the Department of Justice for all veterinary assistant applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information that it receives pursuant to this section. The Department of Justice shall review any information returned to it from the Federal Bureau of Investigation and compile and disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal level response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee sufficient to cover the cost of processing the request described in this subdivision.

(g) The board shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1) of subdivision (f).

(h) This section shall become operative upon the later of January 1, 2015, or the effective date of the statute in which the Legislature makes a determination that the board has sufficient staffing to implement this section.

SEC. 27. Section 4836.3 is added to the Business and Professions Code, to read:

4836.3. (a) Each person who has been issued a veterinary assistant controlled substance permit by the board pursuant to Section 4836.2 shall biennially apply for renewal of his or her permit on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the board.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

(d) The fee for filing an application for a renewal of a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed fifty dollars ($50).

(e) This section shall become operative on the date Section 4836.2 becomes operative.

SEC. 28. Section 4836.4 is added to the Business and Professions Code, to read:

4836.4. (a) Every person who has been issued a veterinary assistant controlled substance permit by the board pursuant to Section 4836.2 who changes his or her mailing or employer address shall notify the board of his or her new mailing or employer address within 30 days of the change. The board shall not renew the permit of any person who fails to comply with this section unless the person pays the penalty fee prescribed in Section 4842.5. An applicant for the renewal of a permit shall specify in his or her application whether he or she has changed his or her mailing or employer address and the board may accept that statement as evidence of the fact.

(b) This section shall become operative on the date Section 4836.2 becomes operative.

SEC. 29. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order where, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

SEC. 29.5. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and

Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within

15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

SEC. 30. Section 12529 of the Government Code, as amended by Section 112 of Chapter 332 of the Statutes of 2012, is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Physical Therapy Board of California, or any committee under the jurisdiction of the Medical Board of California.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the boards.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Physical Therapy Board of California, and the committees under the jurisdiction of the Medical Board of California, with the intent that the expenses be proportionally shared as to services rendered.

SEC. 31. Section 12529 of the Government Code, as amended by Section 113 of Chapter 332 of the Statutes of 2012, is repealed.

SEC. 32. Section 12529.5 of the Government Code, as amended by Section 114 of Chapter 332 of the Statutes of 2012, is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, or the Physical Therapy Board of California shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to work on location at the intake unit of the boards described in subdivision (a) to assist in evaluating and screening complaints and to assist in developing uniform standards and procedures for processing complaints.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards in designing and providing initial and in-service training programs for staff of the boards, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the boards shall be made by the executive officer of the boards as appropriate in consultation with the senior assistant.

SEC. 33. Section 12529.5 of the Government Code, as amended by Section 115 of Chapter 332 of the Statutes of 2012, is repealed.

SEC. 34. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

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

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

(e) It is the intent of the Legislature to enhance the vertical enforcement and prosecution model as set forth in subdivision (a). The Medical Board of California shall do all of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

(3) Establish and implement a plan to assist in team building between its enforcement staff and the staff of the Health Quality Enforcement Section in order to ensure a common and consistent knowledge base.

SEC. 35. Section 12529.7 of the Government Code is amended to read:

12529.7. By March 1, 2015, the Medical Board of California, in consultation with the Department of Justice and the Department of Consumer Affairs, shall report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model created under Section 12529.6.

SEC. 36. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The board shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a

written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

(iii) Submit for approval by an accrediting agency a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(D) In addition to the requirements imposed in subparagraph (C), the outpatient setting shall submit for approval by an accreditation agency at the time of accreditation a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations. The plan shall include, at a minimum, that if a patient is being transferred to a local accredited or licensed acute care hospital, the outpatient setting shall do all of the following:

(i) Notify the individual designated by the patient to be notified in case of an emergency.

(ii) Ensure that the mode of transfer is consistent with the patient's medical condition.

(iii) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer.

(iv) Continue to provide appropriate care to the patient until the transfer is effectuated.

(E) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body or in accordance with existing law.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations shall have all of the sites inspected.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the board to protect the public health and safety.

(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the board, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an

ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, "conducting a reasonable investigation" means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision.

SEC. 37. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of

these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Business Oversight designated by the Commissioner of Business Oversight, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Business Oversight. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than 12 persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Branch of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the

Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

(w) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 38. Section 830.3 is added to the Penal Code, to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law,

investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Business Oversight designated by the Commissioner of Business Oversight, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Business Oversight. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than 12 persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Branch of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the

department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

(w) This section shall become operative July 1, 2014.

SEC. 39. Section 29.5 of this bill incorporates amendments to Section 11529 of the Government Code proposed by both this bill and Senate Bill 670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 11529 of the Government Code, and (3) this bill is enacted after Senate Bill 670, in which case Section 29 of this bill shall not become operative.

SEC. 40. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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